

**ALASKA LEGISLATURE** 1197

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994**

27

No. 4

Bill Version: SB 248

(S) Publish Date: 1-14-94

# FISCAL NOTE

## STATE OF ALASKA 1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: An act relating to services for and protection BRU: Senior Services  
of vulnerable adults. Component: Pioneers' Homes  
 Sponsor: \_\_\_\_\_  
 Requestor: Governor COMPONENT SERIAL NO. 1950

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 CF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other						
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME	(2)		
PART-TIME			
TEMPORARY			

Changes in CS SB 248 (HES) have no fiscal impact. This fiscal note is appropriate.

2/16/94 bah  
date Comte Aide(initial)

ANALYSIS: (Attach a separate page in necessary)

Two vacant positions will be transferred to the Senior Services Administration component.

Changes in CSSB 248 (STA) have no fiscal impact. This fiscal note is appropriate.

3/11/94 [Signature]  
date Comte Aide (initial)

Prepared by: Connie J. Sipe, Director Date: \_\_\_\_\_  
Division: Senior Services

Approved by Commissioner: [Signature] Date: 12/27/93  
Agency: Administration

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FISCAL NOTE

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(S) STA  
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STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB 248 (HES)

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to services for and protection of vulnerable adults."  
 Sponsor: Rules Committee  
 Requestor: (S) STA

Department Affected: Administration  
 BRU: Senior Services  
 Component: Senior Services Administration  
 COMPONENT SERIAL NO. 1981

EXPENDITURES/REVENUES: (Thousands of Dollars)

ACTING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	258.5	263.7	268.9	274.3	279.8	285.4
TRAVEL	20.0	20.4	20.8	21.2	21.6	22.1
CONTRACTUAL	264.1	269.4	274.8	280.3	285.9	291.6
SUPPLIES	5.0	5.1	5.2	5.3	5.4	5.5
EQUIPMENT	12.0	12.2	12.5	12.7	13.0	13.2
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.8</b>	<b>605.7</b>	<b>617.8</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	538.0	549.2	560.6	572.3	584.1	596.2
1005 GF/Program Receipts						
1006 GF/MHTIA	21.6	21.6	21.6	21.6	21.6	21.6
OTHER						
<b>TOTAL</b>	<b>559.6</b>	<b>570.8</b>	<b>582.2</b>	<b>593.9</b>	<b>605.7</b>	<b>617.8</b>

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	5	5	5	5	5	5
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Future costs inflated at 2 percent annual increase. This fiscal note reflects the transfer of staff and support for Adult Protection Services to the Senior Services BRU. See fiscal notes from the Department of Health and Social Services for equivalent reductions.

Further analysis is on the attached pages.

Prepared by: Connie J. Sipe, Director  
 Division: Senior Services

Phone: 465-4879  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usera  
 Agency: Department of Administration

Date: 2/18/94

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## FISCAL NOTE

**STATE OF ALASKA  
1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 248 (HES)**

**ANALYSIS:** (continued)

**Transfers:**

1. Transfer from Department of Health and Social Services, Family and Youth Services BRU, Southcentral and Northern Regional Office Components:

Three full-time Social Worker positions, range 16, PCNs 063714, 063426, and 063725.

Total = \$ 195.1

2. Transfer from the Department of Health and Social Services, Purchased Services BRU, Adult Services Component:

Adult foster/residential care, other purchased protective and contractual services.

Total = \$ 364.5

3. Transfer from Department of Administration, Senior Services BRU, Pioneers' Homes Component:

- a. One full-time position (vacant) transferred within the BRU and reclassified to Clerk Typist, Anchorage.
- b. One position will be reclassified to become a Social Worker in Anchorage for adult protective services.

**TOTAL FUNDS TRANSFERRED** 559.6

**Adult Protective Services will use the funds as follows:**

<u>Personal Services:</u>	<u>Months</u>	<u>Subtotal</u>	<u>Total</u>
1 PFT Social Worker III (Fairbanks)	12	66.8	
2 PFT Social Worker III (Anchorage)	24	128.3	
1 PFT Social Worker I (Anchorage)	10	35.1	
1 PFT Clerk Typist (Anchorage)	10	28.3	
<b>TOTAL PERSONAL SERVICES</b>			<b>258.5</b>

**Note:** The division will identify and cross-train personnel in one or more Pioneers' Home in Southeast to handle Adult Protective Services cases in that region on an "as needed" basis.

Travel 20.0

Contractual Services:

Purchased protective services, adult foster/residential	190.0
Lease space	33.0
Telephone (800 number, 24-hour answering/paging)	34.0
Risk Management and other contractual costs	7.1

**TOTAL CONTRACTUAL SERVICES** 264.1

Supplies 5.0

Equipment: software, telephones, computers, furniture 12.0

**TOTAL TRANSFERRED IN FOR PROTECTIVE SERVICES** 559.6

# FISCAL NOTE

218194  
(S) HES, STA, FIN

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO: SB 248

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety

Title: Assist & Protect Vulnerable Adults BRU: Alaska State Troopers

Component: Detachments

Sponsor: S. RULES by Request

Requestor: S. HES COMPONENT SERIAL NO. 799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No significant fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: Lee Ann Lucas Phone: 465-4322

Division: Commissioner's Office Date: 2/2/94

Approved by Commissioner:  Date: 2/2/94

Agency: Richard L. Burton, Dept. of Public Safety

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SB 248

Senate Bill 248

For An Act Entitled: "An Act relating to services for and protection of vulnerable adults; and providing for an effective date."

Senior Legislative Package

This bill is part of a legislative package intended to consolidate and improve services for seniors. The package includes amendments to support a Division of Senior Services within the Department of Administration (HB 378), protection of vulnerable adults (HB 376/SB 248), and licensing of adult facilities (HB 377/SB 249). By divesting itself of adult services, DFYS will be fully focused on services to children, youth and families. Key department staff participated in drafting the content of the package. We believe that moving Adult Protective Services and licensing of adult facilities out of DFYS will improve services to the elderly and to vulnerable adults as the functions are relocated to divisions specializing in those populations. The department urges review and passage of this bill as well as the remaining bills in the package.

Background for Change

In the 1992 legislative session, the department recommended that a Task Force be created to address adult protective services issues which were raised in legislation. The department stated:

DFYS activity in APS is so understaffed that neighbors of victims do not know help is possible and professionals fail to report, assuming an inadequate investigative response. In 1983 the Protection of the Elderly reporting statute was passed, but not funded. Ten years later

- We don't have a full protective services system.
- We don't provide the same level of protection to elderly and vulnerable adults as we do to children.
- We know that we don't have an adequate system.
- We want to do better. So how do we do that?

SB 248

Community members tend to report incidents of suspected abuse or neglect to elderly and vulnerable adult victims, if they perceive the protective services agency as able to effectively respond. Reports of harm have grown from 78 the first year after the reporting law was passed to around 440 in recent years. This is in line with the national average, but we believe that confidence in DFYS' response to adults in need is not there. Since only one in eight cases of abuse or neglect are reported, community confidence in the responding agency is critical.

There are only three workers specializing in Adult Protective Services (two in Anchorage and one in Fairbanks). In all other areas of the state (35 field offices) adult protective services are provided by staff who are assigned to provide protective services to both children and adults. DFYS also relies heavily on other agencies to provide services to adults following the investigation and disposition of a report of harm. The APS program in DFYS has been on the frontage road rather than on the expressway.

This administration created a two tiered collaborative effort in the fall of 1992 to address APS and related issues. Members included an eight member Deputy Commissioner and Director level policy working group from the departments of Administration and Health and Social Services and a separate task force of program specialists. This bill is an outcome of those deliberations. Passage would respond to the concern of the department expressed in 1992. We believe that over time re-locating protective services for adults will result in development of a professional response system.

DEPARTMENTS POSITION

The department strongly supports this bill.

Recommended: Deborah R. Wing Date: 1/21/94

Deborah R. Wing, Director  
Division of Family and Youth Services

Approved: Margaret R. Lowe Date: 1-24-94

Margaret R. Lowe, M.Ed., Ed.S.  
Commissioner  
Department of Health and Social Services

# SENATE COMMITTEE REPORT

DATE: 2/18/94

FURTHER: Finance *c*

DATE TURNED INTO OFFICE: 3-1-94

*find*

State Affairs Committee considered SENATE BILL NO. 248

~~"An Act~~ relating to services for and protection of vulnerable adults and providing for an effective date."

and recommends it be replaced with

and recommends:

replace with CS SB 248 (STA)  
 or  adopt previous CS  
 attaches amendment(s)

same title  
 new title  
 technical title change (HB only)

and report it back as follows

adopts Letter of Intent

further referral to the         

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

*all* **PREVIOUS FISCAL NOTES** *apply to CS*

Department	Date	Zero	Fiscal
DPS	2-2-94	<input checked="" type="checkbox"/>	—
DOA - SSA	12-27-93	—	559.6
DOA - Pioneers	1-14-94	<input checked="" type="checkbox"/>	—
HSS - DF + YS	1-14-94	—	(127.1)
HSS - DF + YS	1-14-94	—	(768)
HSS - Adult 5	1-14-94	—	(364.5)

*2 def's  
4 fin.*

DO PASS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

OTHER RECOMMENDATIONS:

*207*  
 \_\_\_\_\_  
 Mike Miller No Rec  
 \_\_\_\_\_  
 \_\_\_\_\_ No Rec.  
 \_\_\_\_\_  
 \_\_\_\_\_ No Rec.  
 \_\_\_\_\_  
 \_\_\_\_\_ No Rec.  
 \_\_\_\_\_

*Rene L. Man - Amend*

Chair: Signature and Recommendation



# SENATE COMMITTEE REPORT

*Frank* DATE: 1/14/94

FURTHER: STATE AFFAIRS  
FINANCE

Date of 5-Day Notice: 1/27/94  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2/17/94

HES Committee considered SB 248

~~"An Act~~ relating to services for and protection of vulnerable adults and providing for an effective date."

and recommends: and recommends it be replaced with

- replace with \_\_\_\_\_ CS SB 248 (HES)
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

and report it back as follows

- adopts \_\_\_\_\_ Letter of Intent
- further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

*2 of 4 min's*

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
Public Safety	2/2/94	✓	

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
HSS - Purchased Services	1/14/94		(364.5)
HSS - Family Youth Services	1/14/94		(68.0)
HSS Family & Youth Services Administration	1/14/94		(127.1)
Administration	1/14/94	✓	
Administration	1/14/94		559.6

*previous Davis bill #*

Appropriation No Fiscal Note

**DO PASS:**

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*② Mike Miller No Rec*

*J. Duncan No Rec*

*G. E. Sals No Rec*

*Gene A. Murphy No Rec*

*① Steve King Do Pass*

*5 min*

**SB**

**249**

**HFIN**

**FILE**

(11)

Date Referred: April 18, 1994

HOUSE COMMITTEE REPORT  
FURTHER REFERRALS:

Date of Committee Action: 4/27/94

The FINANCE Committee considered:

CSSB 249(HES) am

CS FOR SENATE BILL NO. 249(HES) am

REGULATION OF ASSISTED LIVING HOMES

"An Act relating to assisted living homes; relating to the conversion of an assisted living home to a nursing home; repealing references to residential facilities for dependent adults; abolishing the authority of certain municipalities to license or supervise institutions caring for dependent adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSSB 249(HES) am  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

fiscal impact \_\_\_\_\_

zero fiscal note \_\_\_\_\_

APPROVES PREVIOUS:

fiscal note(s) (3) DHS 3/10/94 (2)  
1/14/94 (1)

zero fiscal note(s) Admin 3/10/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Richard J. [Signature] FOSTER	*	[Signature] Larson		X	
[Signature]		[Signature] Hagley		X	
Terry Martin MARTIN	✓	[Signature] Parnell		X	
		[Signature] Grussendorf		X	
		[Signature] Navare		✓	
		[Signature] Brown		✓	
		[Signature] Themic		X	

[Signature] Larson  
CO CHAIRMAN'S SIGNATURE Larson

**FISCAL NOTE**

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 249 (HES) am**

Revision Date: \_\_\_\_\_

Department Affected: Administration

Title: "An Act relating to assisted living homes . . ."

BRU: Senior Services

Component: Senior Services Administration

Sponsor: Rules Committee

**COMPONENT SERIAL NO. 1981**

Requestor: \_\_\_\_\_

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
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**FUNDING SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Adequate funding is included in the FY 95 budget for the new Division of Senior Services to handle the responsibilities of this bill.

Prepared by: Connie J. Sipe, Director *Connie J. Sipe*

Phone: 465-4422

Division: Senior Services

Date: 5/15/94

Approved by Commissioner: Nancy Bear Usura *Nancy Bear Usura*

Date: 4/22/94

Agency: Department of Administration

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# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

Bill Version: SB 249

(S) Publish Date: 1-14-94

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Assisted Living Homes BRU: Institutions & Admin  
 Component: MH/DD Admin  
 Sponsor: Rules Committee  
 Requestor: Governor's Office COMPONENT SERIAL NO. 310

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	103.3	106.9	110.6	114.5	118.5	122.7
TRAVEL	20.0	20.7	21.4	22.2	23.0	23.8
CONTRACTUAL	20.0	20.7	21.4	22.2	23.0	23.8
SUPPLIES	1.0	1.0	1.1	1.1	1.1	1.2
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>154.3</b>	<b>149.3</b>	<b>154.5</b>	<b>160.0</b>	<b>165.6</b>	<b>171.5</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>					
<b>CHANGES IN REVENUES</b>	<b>0</b>					

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA	154.3	149.3	154.5	160.0	165.6	171.5
Other						
<b>TOTAL</b>	<b>154.3</b>	<b>149.3</b>	<b>154.5</b>	<b>160.0</b>	<b>165.6</b>	<b>171.5</b>

**POSITIONS:**

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Changes in CS SB249 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3/10/94 beb  
 date Comte Aide (initial)

Estimate of current year (FY94) cost \$ \_\_\_\_\_

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

This bill provides for licensure of assisted living homes. These homes would be established primarily to provide a home-like setting for elderly persons and persons with a mental or physical disability who need assistance with activities of daily living.

Currently, the Department of Health and Social Services, Division of Family and Youth Services, licenses adult foster homes and group homes and institutions caring for dependent adults. The bill would delete references to these licensing functions and add a new chapter regarding assisted living homes. Under the bill, the Department of Health and Social Services would license assisted living homes that will be providing care primarily to individuals with a mental or developmental disability. The Department of Administration would license assisted living homes that will be providing care primarily to individuals who have a physical disability.

Prepared by: Quilla R. ... Phone: \_\_\_\_\_  
 Division: Mental Health and Developmental Disabilities Date: 12/29/93  
 Approved by Commissioner: Margaret R. Lowe Date: 12/29/93  
 Agency: Department of Health & Social Services

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**ANALYSIS (cont.):**

who are elderly, or who suffer from dementia but who are not chronically ill.

**Assumptions:**

Based upon the projected workload it is anticipated that the Division of Mental Health and Developmental Disabilities will need two full-time Community Care Licensing Specialists to adequately provide timely inspection of all facilities across the State that serve individuals with a mental or developmental disability.

**Program Summary:**

The cost projections are based upon the following information: Two range 16, Step A full time positions located in Anchorage. These positions will travel statewide to perform inspections, provide technical assistance to facilities for compliance issues and to follow-up on consumer complaints. One position will be transferred from the Division of Family and Youth Services to the Division of Mental Health and Developmental Disabilities.

**Other Expenditures:**

- Travel for each position to perform inspections, provide technical assistance to facilities and follow-up on consumer complaints.
- Contractual services for Anchorage office space, phones systems, copier and data lines; general offices supplies for both positions.
- Equipment, first year purchase of two desk top computers/printers and software for data collection, word processing and statistical reporting; office furniture including desks, chairs, file cabinets, etc.

**Computations:**

All expenditures have been adjusted with an inflation factor of 3.5% for each year after FY95 and carried out to FY2000.

**Economic Impact:**

Assisted Living Program will stimulate the local communities as it will offer new employment opportunities as additional facilities are brought on line across the State and will allow many family care-givers to return to their careers.

Position Title Community Care Licensing Specialist		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District
TYPE OF EXPENDITURE		Amount	<p>Justification</p> <p>The Assisted Living Homes bill provides for licensure of assisted living homes. The homes are established primarily to provide a home-like setting for elderly persons and persons with a mental or physical disability who need assistance with activities of daily living.</p> <p>A licensure function is not one currently performed by the Division of Mental Health and Developmental Disabilities. Additionally, existing staff cannot absorb the additional responsibilities because of the increased workloads associated with Project Choice and the Tefra Option. Therefore, two positions are requested to provide timely inspections and licensing of all facilities across the State that serve individuals with a mental or developmental disability. The positions are responsible for performing inspections, providing technical assistance to facilities for compliance issues, and following up on consumer complaints. These positions are necessary to assure the health and safety of disabled individuals residing in these homes.</p> <p>One position will be transferred from the Division of Family and Youth Services.</p>	
Salary		73.0		
Benefits		30.3		
Premium Pay				
Other				
Total Personal Services		103.3		
Travel		20.0		
Contractual		20.0		
Commodities Supplies		1.0		
Equipment		10.0		
Other				
Total Cost		154.3		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
IA Receipts	1007			
CIP Receipts	1061			
Other	GF/MHTIA 1006	154.3		

**Request For  
New Position**

AGENCY Health and Social Services  
 BRU Institutions & Admin  
 COMPONENT MH/DD Admin

Page 3 of 3  
 Revised Date: \_\_\_\_\_

**FY** 05



FISCAL NOTE

No. 3  
 Version: SB 249  
 (S) Publish Date: 3-10-94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected Health and Social Services  
 Title: An Act relating to assisted living homes BRU: Medical Assistance  
repealing references to residential facilities... Component: Medicaid Non-facility  
 Sponsor: Governor  
 Requestor: Senate HESS COMPONENT SERIAL NO. 229

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	383.2	894.6	1,393.2	2,038.6	2,745.2
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>\$0.0</b>	<b>\$383.2</b>	<b>\$894.6</b>	<b>\$1,393.2</b>	<b>\$2,038.6</b>	<b>\$2,745.2</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	191.6	447.3	696.6	1,019.3	1,372.6
1003 GF Match	0.0	191.6	447.3	696.6	1,019.3	1,372.6
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>\$0.0</b>	<b>\$383.2</b>	<b>\$894.6</b>	<b>\$1,393.2</b>	<b>\$2,038.6</b>	<b>\$2,745.2</b>

Estimate of current year (FY94) impact: 0.0

POSITIONS:

FULL-TIME	0	0	0
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in SSB 249 (HESS) reflect **NO FISCAL CHANGE** from the original fiscal note. This fiscal note is appropriate.  
3/10/94 hah  
 date Comptroller (initial)

ANALYSIS (attach a separate page in necessary)

See attached pages for calculations and assumptions about projected utilization. This fiscal note assumes that a certificate of need will be required before any conversion of an assisted living facility into a nursing home (notwithstanding the expenditure threshold set out in AS 18.07.031); that payment of personal care and nursing services for home health and hospice will be available in assisted living facilities only after FY95, at which time the Div. of Medical Assistance will have drafted regulations to specify the methodology and limits of any payment; and that the bill does not bring assisted living facilities under the rules and interpretations of the Med. Rate Advisory Commission.

Prepared by: Dave W. Williams DW  
 Division: Medical Assistance  
 Approved by: \_\_\_\_\_  
 Commissioner: Margaret R. Lowe, M.Ed., Ed.S. MRL  
 Agency: Department of Health and Social Services

Phone: 465-3355  
 Date: 2/23/94  
 Date: 2/23/94

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Version: SB 249  
(S) Publish Date: 3-10-94

Revision Date: \_\_\_\_\_ Dept. Affected Health and Social Services  
Title: An Act relating to assisted living homes BRU: Medical Assistance Administration  
repealing references to residential facilities... Component: Claims Processing  
Sponsor: Governor  
Requestor: Senate HESS COMPONENT SERIAL NO. 243

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	50.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	50.0
CONTRACTUAL	0.0	39.0	12.2	34.2	51.6	69.6
SUPPLIES	0.0	0.0	0.0	0.0	0.0	50.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	50.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	50.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	50.0
<b>TOTAL OPERATING</b>	<b>\$0.0</b>	<b>\$39.0</b>	<b>\$12.2</b>	<b>\$34.2</b>	<b>\$51.6</b>	<b>\$69.6</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	19.5	6.1	17.1	25.8	34.8
1003 GF Match	0.0	19.5	6.1	17.1	25.8	34.8
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>\$0.0</b>	<b>\$39.0</b>	<b>\$12.2</b>	<b>\$34.2</b>	<b>\$51.6</b>	<b>\$69.6</b>

Estimate of current year (FY94) impact: 0.0

POSITIONS:

FULL-TIME	0	0	0
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in SSB 249 (HESS)  
reflect **NO FISCAL CHANGE** from the original  
fiscal note. This fiscal note is appropriate.  
3/10/94 ban  
date Compt Aide (initial)

ANALYSIS (attach a separate page in necessary)

Contractual costs are for claims processing at \$6.23 per claim. The attached pages provide calculations for estimated costs. Federal participation is available at 50% of costs.

Prepared by: Dave W. Williams DW  
Division: Medical Assistance  
Approved by: \_\_\_\_\_  
Commissioner: Margaret R. Lowe, M.Ed., Ed.S. ML  
Agency: Department of Health and Social Services

Phone: 465-3355  
Date: 2/23/94  
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## ASSUMPTIONS PERTAINING TO FISCAL ANALYSIS OF SB249 AND HB377

A Certificate of Need under AS 18.07.031-111 will be required before any conversion of part or all an assisted living facility, into a nursing home, notwithstanding the expenditure threshold set out in AS 18.07.031; no CON will be required for new construction of assisted living facilities. Medicaid payment of personal care, home health, and hospice services will be available in assisted living homes and assisted living facilities. Assisted living homes and facilities do not qualify as institutional facilities under the purview of the Medicaid Rate Advisory Commission and are not subject to the same rules or interpretations for establishing Medicaid rates.

**MEDICAID SERVICE RATES**

Medicaid payment of Personal Care Services provided in assisted living facilities will be at \$18.00 through enrolled PCA agencies. Similarly, home health and hospice service costs will primarily be paid at the same rate as for a skilled nurse, \$29.69 per hour.

Medical services costs will increase at 5% per year for inflation.

The Division of Medical Assistance will develop regulations under the new section 47 33 340 to limit payment for Medicaid services delivered in or through an assisted living facility to be less than the statewide average Medicaid cost for nursing home care.

**UTILIZATION**

Access to Medicaid services for personal care, home health, and hospice as delivered through or at assisted living homes and facilities will be limited by the number of such homes and facilities built and converted from other licensure. These are assumed to become available at the capacity and year indicated by the Older Alaskan Commission documents: "Long-term Care Alternatives for Alaska's Elderly: A Report, 1993 and Beyond," September, 1993, and "A Blueprint for Home-based Long-term Care for the Elderly in Alaska, 1993 and Beyond," September, 1993, and as further clarified in a memo from the OAC dated February 8, 1994. Those facilities are expected to become available and serve the number of people as indicated below:

Planned construction and capacity in assisted living facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Small homes	0					
Homer Sr Citizens		40				
Small homes		20				
Providence			60			
Small homes			30			
1 or 2 rural centers				40		
Small homes				30		
One large facility					60	
Small homes					40	
Facilities (extrapolated)						60
Homes (extrapolated)						40
Totals	0	60	90	70	100	100
Cumulative Totals		60	150	220	320	420
Percentages of 5 years		4.29%	21.43%	16.67%	23.81%	23.81%

Some people who need the type of Medicaid services that may be delivered in an assisted living facility are already receiving those services at home or other, state-supported facilities. The OAC memo dated February 8, 1993 indicates that perhaps 68 seniors will receive those services at an assisted living home or facility over a five-year period beginning in FY 1996. Other OAC studies indicate a much higher number of seniors may need assisted living services. The following table indicates the identified need of older Alaskans for assisted living services and how much of that need is already addressed by the existing health care system. About 600 Medicaid eligible persons remain unserved.

**Estimated Medicaid Population in Need of Assisted Living**

Age 65+ needing assisted living (from Older Alaskans Commission study, "Long-term Care Alternatives for Alaska's Elderly: A Report," September, 1993)	9,687
Medicaid eligible portion at 20%	1,937

**Resources Already Available to Address Need**

Served by PCA services, FY 94 (From February 1994 DPH report, 330 age 60+ served by Home Care Services program, Medicaid portion.)	330
Assisted living clients served in nursing homes; assumed to be 80% of age 65+, Medicaid eligible utilization indicated by FFY1993 HCFA 2082 report	526
Medicaid eligible assisted living clients served in Pioneers Homes; assumed to be 20% of assisted living and nursing beds February, 1994	69
To be served by aged waiver in 3rd year	401
<b>Total persons already served</b>	<b>1,326</b>

**Unmet Need Medicaid Eligible Age 65+ not served by the existing system**

**611**

In addition to the OAC estimate of 68 people, it is assumed for the purpose of this fiscal note that 5 additional persons between the ages of 21 and 64 not being served under a home and community-based waiver will access services each year beginning in FY96. This 25 person group represents the younger adult population who are disabled according to SSI standards and therefore, qualify for medicaid. Of this five-year total of 93 medicaid recipients (68 OAC and 25 SSI) It is assumed that 30% will be severely impaired and 70% moderately impaired

**COST (medicaid non-facility 229)**

The annual cost of meeting this need is given below and is based upon the FY 94 rates for personal care services and skilled nursing (non-facility) at the number of service hours indicated by the OAC study documents noted above.

<b>Estimated Annual Cost for Services</b>	
<b>Moderately impaired:</b>	
474 hrs of PCS @ \$18.00 per hr	\$8,532
148 hrs. of skilled nursing @ \$29.69	\$4,394
<b>Average cost per recipient</b>	<b>\$12,926</b>
<b>Severely impaired:</b>	
948 hrs of PCS @ \$18.00 per hr	\$17,064
296 hrs. of skilled nursing @ \$29.69 per hr	\$8,788
<b>Average cost per recipient</b>	<b>\$25,852</b>

Cost and utilization produces the estimates given in the table below. A 5% cost increase per year is included as an adjustment for inflation. The number of seniors is spread over the five-year period.

Medicaid Recipients at Assisted Living Homes & Facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Seniors >65	0	10	15	11	16	16
Adults >21 & <6	0	12	12	12	12	12
Total	0	22	27	23	28	28
Cumulative	0	22	48	72	100	128
Mod. impaired/ cost in thousands		15 \$206	34 \$482	50 \$750	70 \$1,098	90 \$1,478
Sev. impaired/ cost in thousands		7 \$177	14 \$413	21 \$643	30 \$941	38 \$1,267
Total cost in thousands		\$383	\$895	\$1,393	\$2,039	\$2,745

### CLAIMS (claims processing 243)

The number of claims submitted per recipient will vary depending upon the method of claims submission. For larger facilities it is assumed that a payment methodology will be established which allows submission of 4 claims per recipient per month for all services. For small homes it is assumed that there will be a claim submitted for every 8 hours of service delivered which is 101 claims per year based on the OAC document estimates. The processing cost of each claim is \$6.23 and a 5% per year increase is assumed for inflation. An estimated \$30,000 in a one-time expenditure will be required for making system changes for a payment methodology that limits the cost for any given recipient to less than the cost of staying a nursing home.

Medicaid Claims Processing for Assisted Living Homes & Facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Small homes/ claims	0	7 707	9 909	24 2,424	38 3,838	49 4,949
Facilities/ claims	0	14 672	18 864	48 2,304	62 2,976	79 3,792
Total claims		1,379	1,773	4,728	6,814	8,741
Cost in thousands		\$9.0	\$12.2	\$34.1	\$51.6	\$69.5
System changes		\$30.0	\$0.0	\$0.0	\$0.0	\$0.0
Total in thousands		\$39.0	\$12.2	\$34.1	\$51.6	\$69.5

Combined Fiscal Note Totals						
	FY95	FY96	FY97	FY98	FY99	FY00
medicaid non-facility 229		383.1	894.6	1,393.2	2,038.6	2,745.2
claims processing 243		9.0	12.2	34.1	51.6	69.5
Totals	\$0.0	\$392.2	\$906.7	\$1,427.3	\$2,090.2	\$2,814.7

# DEPARTMENT OF ADMINISTRATION

## COMMITTEE SUBSTITUTE FOR SENATE BILL 249 (HES) am CREATING LICENSING FOR ASSISTED LIVING HOMES

Governor Hickel introduced this bill for the purpose of promoting the operation of homes that help the elderly to "age in place," and disabled adults to reach their highest level of functioning by integration into the community. The bill's many reforms can be summarized in three key points:

**Respect for residents as consumers.** This bill represents an entirely new approach in Alaska to group homes for adults; discarding the old law's notion of these persons as "dependent," and instead treating them as active consumers of the service of residential care, who should receive adequate disclosure of their contractual rights, and who must be invited to actively participate to the greatest extent possible in all decisions regarding their life and care.

**Allowing access to health care in a homelike setting.** This bill treats the dwelling of each assisted living resident as that person's home, not an institution. This bill allows the resident to have access to any community-based health care services available to the resident, and allows the staff of the home to directly provide certain specified health care services. Under current law, a mentally alert person who can not physically administer all of his own medications or who might be bedridden for five days can not legally be allowed to reside in an adult foster home or residential care center, regardless of the nursing capacity of the home staff or the availability of visiting health care personnel.

**Transfer of licensing responsibility to agencies with programmatic experience with independent living for the elderly or persons with disabilities.** This bill will remove licensure of homes for adults from the purview of the Division of Family and Youth Services. Homes which serve primarily persons with mental or developmental disabilities will be licensed by the Department of Health and Social Services through the Division of Mental Health and Developmental Disabilities. Homes which serve primarily the elderly or physically disabled adults will be licensed by the Department of Administration, through the Division of Senior Services.

These changes will put Alaska among the leading states which have moved toward promotion of "assisted living" as a desirable, less restrictive and more cost-affordable care alternative which can decrease the need for many persons to ever be institutionalized.

## DETAILED ANALYSIS OF CSSB249 (HES)(am)

**Section 1, sec. 47.33.005 lists the purposes of the bill:** to encourage care in homelike settings, to promote aging in place and highest functioning by integration into communities, to establish reasonable standards to protect residents while honoring their independence, to require an assisted living plan for each resident; and to provide each resident or the resident's legal representative the maximum opportunity to participate in designing and carrying out the assisted living plan.

**Sec. 47.33.010. Applicability and Definition.** The bill applies only to homes that serve three or more adults not related to the operator. Small foster home arrangements serving only one or two adults would be "de-regulated" by this bill, and left to private contract. An assisted living home is a facility that provides housing and food service to its residents and provides, either directly or by obtaining the services for the resident, one of, or a combination of both of, the following services:

- (1) assistance with activities of daily living; or
- (2) personal assistance.

The bill specifies several types of facilities not included: correctional facilities, alcohol treatment centers, emergency or runaway shelters, etc.

**Sec. 47.33.020. Health-related Services.** This section of bill allows certain specified health care services to be made available to home residents, either by staff of the home when qualified or by outside caregivers such as home health agencies or private duty nurses.

The homes are not required to provide these health-related services, but must specify up front in writing which ones they will either provide or allow to be provided within the facility. When, in subsections (f), (h), and (i), residents are allowed to receive higher levels of nursing care or to choose to live without higher care, the operator of the home also must specifically agree with the resident's choice, and could instead ask the resident to move to another care setting.

Subsections of Sec. 47.33.020, listed in summary fashion below, in addition to allowing self-administration of medicines in (a), state that a licensed home would be allowed to provide staff, or arrange for or admit the resident's own health care provider, either of whom could:

- (c) help residents with self-administration of medications
- (d) provide "intermittent" nursing care less than 24-hour
- (e) home staff only: under a licensed nurse's training and delegation, perform limited nursing tasks by non-nursing staff

- (f) arrange for licensed nurse from outside the home's staff to provide skilled nursing care
- (g) provide 24 hour skilled nursing care for up to 45 days to avoid transfer out of the home
- (i) provide 24 skilled nursing care beyond 45 days to a terminally ill resident

Note that subsection (h) allows a "non-terminal" resident to stay in the home, with the home's consent, even when the resident has exhausted the 45 days of skilled nursing, the resident and the resident's physician have discussed the consequences and risks and have agreed that the resident wishes to stay in the home while choosing to forego or do without additional 24 hour skilled nursing care.

Note that subsection 47.33.020(b), while allowing the home to provide the health-related services described in (c) - (i), also mandates that the services under (c) - (i) may only be provided "in addition to, and as a supplemental service to, the long-term provision by the home of assistance with the activities of daily living or personal assistance." This subsection is meant to clarify that these assisted living homes are not allowed to act primarily as a nursing home or medical facility.

**Sections 47.33.030 through 47.33.360, Standards for Residents' Rights and the Homes' Duties.** These sections of the bill define the corresponding contractual rights and duties of the assisted living home and the residents, much like the state's landlord-tenant law or the condominium association statutes. These sections of the bill assume that residents, or their legal representatives such as a guardian, will benefit from advance disclosures of contract terms, as well as participating directly in designing and carrying out their own plans of care. Briefly, the sections can be understood fairly well from their titles and the summary below:

- .030 Advance payments, trust accounts, and refunds
- .040 Residents' money and requirements for safekeeping
- .050 Temporary absences; resident's duty to inform home
- .060 House rules; limits on rules and home's duty to disclose to residents
- .070 Resident files; information home must keep available
- .080 Closure or relocation; advance written notice required
- .090 Rate increase; home must give 30 day notice
- .200 Admission; requires resident's consent
- .210 Admission contract required; contents specified
- .220 Assisted living plan required; who participates
- .230 Assisted living plan contents specified



- .240 Evaluation of assisted living plan; how often
- .300 Residents' rights
- .310 Notice of rights; copy in advance and posted in home
- .320 Access to home by advocacy and legal services organizations
- .330 Prohibitions on conduct by home staff contrary to residents' rights
- .340 Resident grievance procedure; must be written
- .350 Retaliation against home resident for exercising rights or making grievance is prohibited
- .360 Involuntary termination of contract; allowable reasons defined, process specified

**Article 4 of the bill deals with licensing,** sections 47.33.400 through 430. In 47.33.400, the bill prohibits a home which meets the bill's definitions from operating without a license, and also allows smaller homes (serving five or fewer residents) to continue to refer to their homes as "adult foster care homes" despite their new licensing category.

**Licensing agencies. 47.33.410.** Homes which provide care primarily for persons with a mental or developmental disability will be licensed by the Department of Health and Social Services. Homes which care primarily for persons who have a physical disability, are elderly, or have dementia (but not chronic mental illness) will be licensed by the Department of Administration. The departments must coordinate their regulations so as to deal with homes which serve overlapping groups of persons or homes whose "primary" care group of residents changes over time.

Both licensing agencies are given the mandate to establish licensure standards by regulation, to license homes under the chapter, to investigate license applicants and licensees for compliance, and to enforce the standards of the chapter and accompanying regulations.

The licensing agencies may contract with private or municipal agencies to investigate and make recommendations for the licensing of homes.

**Standard forms. Sec. 47.33.420.** In keeping with the purpose of the bill to promote and not to discourage the operation of these homes, the two licensing agencies must cooperatively develop and provide standard forms to assist the operators of the home to comply with the requirements of the law (i.e., form admission contracts, residents' rights disclosures, plans of care outlines, etc.).

**In Sec. 47.33.430, the authority of state agencies to impose additional program or care requirements** is preserved when the state is either paying for the care of the resident with state funds, or when the state has the responsibility to certify a home for payment for resident care from federal funds.

(Note that nothing in this proposed bill or in any other current state or federal laws mandate state or federal payment for the care of any person in an assisted living home. The state currently purchases "protective placement" in adult foster homes and adult residential care facilities for some victims of abuse or neglect. Under the newly instituted Medicaid home care waivers, the state may pay for "residential supported living arrangements," meaning personal assistance beyond basic room and board for a very limited number of persons who meet the waiver eligibility requirements.)

**Article 5 deals with procedures for complaints, investigations, adjudicatory proceedings, sanctions and penalties.**

Sec. 47.33.500 deals with complaints. This section specifies that the licensing agencies will investigate complaints, and will protect the identity of the complainant or resident.

Sec. 47.33.510 provides civil immunity to a good faith complainant.

Sec. 47.33.520 defines investigative procedure and powers.

Sec. 47.33.530 requires written notice of alleged violations, of the time and method for curing them, notice of possible sanctions for non-compliance, and notice of the variance process.

Sec. 47.33.540 requires a procedure for self-made reports of compliance by the home.

Sec. 47.33.550 spells out a broad range of administrative sanctions which a licensing agency may invoke, and specifies the grounds and procedures for doing so. Administrative fines of up to \$ 500 per day are allowed, not to exceed \$ 5,000. A procedure is defined for appealing the sanctions, and for suspending the sanctions until the appeal is completed.

Sec. 47.33.560 specifies the constitutionally required due process procedures to be followed in administrative proceedings under this chapter; rights to notice, public hearings with ability to close the hearing to protect a resident's privacy, rights of residents to intervene, notice of the hearing to all residents.

Sec. 47.33.570 make non-compliance with the licensure requirement of 47.33.400 a class B misdemeanor.

**Article 6 contains general provisions:** Sec. 47.33.910 gives the authority to the licensing agencies to collect licensing fees. Sec. 47.33.920 gives the authority to promulgate regulations.

Sec. 47.33.990 contains the general definitions used in the chapter. Special note may want to be taken by the bill's reader of some of the more significant definitions found in this section, specifically:

- (1) "activities of daily living"
- (5) "aging in place"
- (13) "instrumental activities of daily living"
- (15) "personal assistance"
- (19) [resident's] "representative"
- (20) "service coordinator"
- (22) "terminally ill resident."

Sec. 3 of the bill amends the current AS 11.61.220(a), in the criminal code, to include an assisted living home as one of the places where it is would be the crime of criminal misconduct in the fifth degree to knowingly possess a concealed deadly weapon or a firearm.

Sec. 4 of the bill amends current law, AS 18.07.031, the state's "certificate of need" law relative to nursing home construction. Sec. 4 adds a new provision which will forbid the operators of an assisted living home to convert any building or part of a building that was an assisted living home into a nursing home without obtaining approval to do so through the certificate of need process. This section starts by stating that this prohibition against conversion of assisted living homes is not subject to the one million dollar expenditure threshold which now allows construction of nursing homes or conversion of other facilities to nursing home beds or wings without a certificate of need when the cost of conversion or construction is under one million dollars.

**The remainder of the bill affects the transition of duties between the current licensing agency under current law and this bill's new scheme.**

Sec. 5, amends AS 36.30.850(b)(19) in order to continue the exemption from the state procurement code for state-paid contracts for adult residential services provided under the regulations under this chapter.

Sec. 6 amends AS 44.21.240(2), the definition of long term care facility in the statute empowering the long term care ombudsman.

Sec. 7 amends AS 44.62.330(a) by adding this licensing system to the list of procedures covered by the adjudication section of the administrative procedures act.

Sections 8 through 13 amend the current licensing law, AS 47.35, which licenses all child care facilities and homes and all foster homes or residential care facilities "for dependent adults." The only changes are deletions of all references to facilities for adults (leaving only maternity homes and child care facilities).

Sec. 14 amends AS 47.80.140, the licensure and certificate of need statute relating to residential facilities for persons with handicaps, to exempt assisted living homes from that form of licensure and from the certificate of need requirements.

Sec. 15 repeals AS 47.35.075 which had previously allowed first or second class cities or boroughs to license institutions caring for dependent adults. In the new bill, the decision whether to delegate licensing to a local agency will be made by the state under section 47.33.410(f).

**Sec. 16 provides for transition between the old and new licensing systems.** Current regulations remain in effect until new regulations are adopted under the new chapter. Ongoing cases started before the effective date of the chapter continue in effect.

**Sec. 17 provides for preparation of new regulations before the effective date of the chapter.** The licensing agencies are authorized to proceed with adoption of regulations needed to implement the changes in the new chapter, so long as the regulations do not take effect before January 1, 1995.

**Sec.18** contains clarifying instructions to the publishers of the statutes from the revisor of statutes, to renumber various statutes to conform to this new bill.

**Sec. 19** gives section 17 an immediate effective date, so that the agency may proceed immediately with regulation promulgation.

**Sec. 20** gives the rest of the bill an effective date of January 1, 1995.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 14, 1994

The Honorable Ramona Barnes  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Barnes:

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill related to assisted living homes. An assisted living home is a residential facility that serves adults, provides housing and food service, and provides or obtains for the residents assistance with activities of daily living, personal assistance or health-related services. Medical facilities licensed under AS 18.20, such as nursing homes and hospitals, and certain other types of residential facilities (including correctional facilities and emergency shelters) are not classified as assisted living homes under this bill.*

*Although assisted living homes are not health care or medical facilities, they may provide or obtain various health-related services for residents, such as intermittent nursing care, supervision of the resident's self-administration of medications, and needed care and comfort to terminally ill patients who are under the care of a doctor who verifies that the needs of the resident are being met in the assisted living home.*

*The bill is intended to promote the establishment of assisted living homes that will provide a home-like setting as well as certain health-related services or assistance with certain personal activities. Such services will allow the elderly to age in place, rather than having to be transferred to a more institutionalized nursing-home setting, and will allow adults with a physical or mental disability to become integrated into their community.*

*Currently, the Department of Health and Social Services, under AS 47.35, licenses and regulates certain facilities that care for dependent adults. Under this bill, that licensing structure will be deleted and replaced by a new chapter (AS 47.33) that provides for assisted living homes. Responsibility for licensing and regulating the homes will be split between the Department of Health and Social Services and the Department of Administration.*

The Honorable Ramona Barnes

January 14, 1994

Page 2

The Department of Administration will be responsible for licensure of assisted living homes that will be providing care primarily to individuals who are elderly, who have a physical disability, or who suffer from dementia, but who are not diagnosed as chronically mentally ill. Licensure of assisted living homes that will be providing care primarily to individuals with a mental or developmental disability will be the responsibility of the Department of Health and Social Services. Provision is made for joint agency determination of the appropriate licensing agency in cases in which that designation cannot easily be made. The Department of Health and Social Services, division of family and youth services, will continue to license residential homes and facilities for children under AS 47.35. The respective licensing agencies will be responsible for investigating complaints filed regarding assisted living homes and for taking necessary action to protect residents through administrative actions.

The main body of the bill is contained in sec. 1 of the bill, which defines "assisted living home," describes certain services, sets certain operating standards, and provides for licensing and regulations. For example, sec. 1 specifically provides for the safeguarding of money that a resident of an assisted living home deposited with the home for safekeeping and management. Section 1 also requires assisted living homes to keep records regarding residents' care, as well as provide their residents with information regarding residents' rights at the home, including timely notice regarding closure or relocation, notice of any change in rates, and protections in case of an action for involuntary discharge from the home.

Furthermore, the bill states that an individual may not be admitted to an assisted living home without that person's consent, or, if the individual is not competent, the consent of the individual's representative. In addition, an individual may not be admitted as a resident of an assisted living home unless an admission contract has been signed by the individual (or the individual's representative, if appropriate) and the home. The bill also requires that an assisted living plan for a resident be developed, and approved by the resident (or the resident's representative, if appropriate), within 30 days after that resident was admitted to the home. The plan is designed to identify the reasonable wants and needs of the resident and the ways in which those wants and needs will be met.

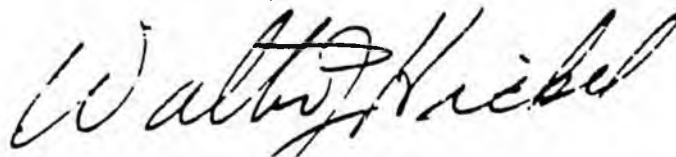
Section 1 of the bill also contains a lengthy list of residents' rights. These rights are designed to protect the residents' privacy and independence and to allow residents to be able to participate in grievance procedures or other remedial actions relating to resident complaints regarding how an assisted living home is providing care. Under the bill, certain complaints may be filed with the appropriate licensing agency; the licensing agencies have investigatory and sanction authority.

The Honorable Ramona Barnes  
January 14, 1994  
Page 3

Sections 2 through 12 of the bill amend existing statutory provisions to acknowledge the provisions in sec. 1 of the bill. Section 13 of the bill contains transition provisions regarding regulations and pending proceedings. Sections 14 and 15 allow the Department of Health and Social Services and the Department of Administration to prepare and adopt, before the effective date of the bill, regulations necessary to implement the bill. The new regulations cannot take effect before the effective date of the bill (January 1, 1995).

I urge your support of this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

Walter J. Hickel  
Governor

DEPARTMENT OF ADMINISTRATION

COMPARISON OF COMPANION BILLS

HB 377 AND CSSB 249 (HES) (am)

RELATING TO ASSISTED LIVING HOMES

---

There are several significant differences between these two versions of the Governor's bill on assisted living homes. Basically, the House heard the bill early in the HESS committee and passed it on without change to House Finance.

The Senate HESS committee held five or six hearings on this bill. During this time, the Department of Administration also conducted a half day public teleconference on the bill and garnered public comment from that meeting and from numerous meetings with the assisted living industry, and the social work and senior community. The Department brought to the Senate HESS committee numerous amendments which the public had urged and in which the department could concur.

Senate HESS adopted all amendments recommended by the department. In addition, the committee added several of its own amendments. The Senate amendments are mutually acceptable to the emerging assisted living industry in our state and to the administration and general public.

**General editorial changes:**

CSSB 249 contains a number of individual editorial changes as well as "global" changes in language, which can be summarized as the substitution throughout the bill of certain "medical" sounding terminology with more "social-model" language to express the same concepts. Examples of these editorial changes are:

Original bill - HB 377

CSSB 249 (HES)

"admission" to a home

"commencement of residency"

"admission contract"

"residential services  
contract"



"discharge" from home

"terminate" the contract

a "bed" for a resident

a "space" for a resident

A number of sections have also been renumbered to accommodate the insertion of new sections.

## SUBSTANTIVE CHANGES FROM HB 377 TO CSSB 249 (HES)

### 1. Changes to Section 1

- 47.33.010:

In 47.33.010(b)(3)(C), the original bill has been changed to delete the delivery of "health-related services" as one of the distinguishing characteristics that may make a facility an assisted living home, rather than just an apartment building with meal service.

The Senate CS recognizes only the provision of "assistance with activities of daily living," or "personal assistance," or a combination thereof, as distinguishing characteristics for licensing applicability. This is consistent with a significant amendment made later in 47.33.020.

- 47.33.020:

Subsection 47.33.020(a). Re-written by legislative drafting, but has the identical meaning as the original bill.

CSSB 249 also inserted a new subsection .020(b). This subsection specifies that although an assisted living home may provide the health-related services allowed by the bill, that such services may only be provided "in addition to" and as a "supplemental service to" the long-term provision to a resident of assistance with activities of daily living or personal assistance.

This section was added to reduce the concern of some nursing homes that these new assisted living homes would be able to compete in the primary business of providing health or medical care without being subject to the same restrictions and standards as licensed nursing homes.

This newly inserted subsection in .020 causes the rest of the section to be numbered differently than the House bill.

- 47.33.020(c) :

Legislative drafting reversed the sentence structure when it rewrote the CSSB 249, but the meaning is identical. Senate subsection (c) is the same as House subsection (b).

- 47.33.020(d) :

Subsection (d) in CSSB 249 is essentially the same as (c) in HB 377, with a slight change at the end of the sentence. Whereas HB 377 limits the provision of intermittent nursing services to state-licensed nurses or state-certified nurses aides, the Senate bill follows the latest January 1994 opinion on scope of practice from the State Nursing Board, and allows the nursing task to be performed by a state-licensed nurse or a person to whom a task has been delegated under the amended subsection (e) immediately following.

- 47.33.020(e) :

This subsection is also re-done in the Senate version in accordance with the latest change in the Board of Nursing's interpretation of what is appropriate "nurse training and delegation" of nursing tasks to persons who are not licensed under the state nurse licensing laws. The Senate change allows the delegation of tasks in an assisted living home to follow the board's interpretation.

- 47.33.030(a):

The Senate inserted, in the fifth line of this subsection, the words "as the rental period is defined in the contract." This answered the concerns of prospective operators of assisted living homes that advance rent payments could not be drawn down upon by the home except on a daily basis. This change is meant to clearly allow the home's contract to specify for instance that if a resident has paid for a monthly "rental period" in advance, that the entire monthly payment may be deducted at the beginning of the rental period from the designated resident trust account.

- 47.33.060(c):

This subsection specifies the types of subjects that may reasonably be included in house rules for the residents of a home. The Senate changes answer concerns from industry representatives, starting with the addition of the word "including" at the end of the first line in (c), which is intended to show that the list of rule subjects is not exclusive. The Senate CS also added a paragraph (c)(7), to include house rules about "physical, verbal, or other abuse of other residents or staff."

- 47.33.070(a):

CSSB 249 deleted subsection (a)(6) from the original bill, which would have required that every resident's file contain a physician's statement at the time of moving into the home. Since not all residents in any home, or perhaps no residents in some homes will necessarily be receiving health-related services directly from the staff of the assisted living homes, the discussion in Senate HESS and with industry representatives led to the decision to delete this requirement. In a later section, the assisted living plan of care was amended to more appropriately address the physician's statements for only the appropriate types of residents.

• 47.33.200:

The Senate deleted subsection .200(b) which was another requirement that persons moving into assisted living homes for "health problems" would have to have a physician's statement on hand within 30 days of entry. Again, this issue was addressed in the later section on assisted living care plans.

• 47.33.230(a)(2) and (a)(3):

The Senate re-wrote (a)(2) and (a)(3) to delete the words "shared responsibility" as they related to the right of both home and resident to evaluate and accept or reject risks associated with care options in the assisted living home setting.

The Senate bill maintains the dual responsibility concept but expresses it in two subsections. (a)(2) now recognizes the resident's right to discuss with all relevant parties, including the home, and then to evaluate and choose the risks that might go with each care option. The new subsection (a)(3) recognizes the right of the assisted living home to similarly evaluate risks and to accept or reject the resident's choice of risks.

• 47.33.230(c):

Subsection (c) originally required a registered nurse to review the portion of any assisted living plan that described how a resident's need for health-related services would be met. After discussion with industry, (c) was rewritten to state that only when the assisted living home provides or arranges for the health-related services to be provided, (as opposed to some outside agency arranging and overseeing the health care), only then does the licensed home have to ensure that a registered nurse reviews the assisted living plan. In addition, the Senate bill includes a new subsection (c)(2), which is where the physician's statement is required to be part of the plan, but only in the same types of circumstances as the nurse review requirement in (c)(1).

- 47.33.230(d) :

The Senate version re-wrote this sentence to remove the requirement from the home that it be the entity to ensure that each assisted living plan be written in language understandable to the resident. This was done to acknowledge that for some residents, their assisted living plan may be written by some agency outside of the home, such a case management agency, and simply concurred in by the home. Whoever prepares a plan must ensure its understandability.

- 47.33.240(a) :

The Senate bill removed references to residents "admitted for health problems," and instead focuses on what type of service the particular assisted living home provides to a particular resident as being the criteria for requiring a re-evaluation of the assisted living plan to be done on at least an annual basis (when the home does not provide or arrange the health-related care), or a three-month basis (when the home does provide health-related services).

Note that subsections 240(b)(1) through (4) were rewritten in a list format in the Senate version, with no substantive change.

- 47.33.300(a)(2) :

In the Senate CS (a)(2)(A) through (D) were slightly re-structured, but still contain the same meaning.

- 47.33.300(a)(6) :

In this subsection guaranteeing that residents have the right to use community services, the Senate inserted new language to clarify that this right is only "at the resident's own expense unless otherwise provided in the residential services contract."

- 47.33.300(a)(10):

The Senate version modifies the resident's right to opportunity for exercise and to go outdoors, by removing the words "at least several times a week."

- 47.33.300(a)(17):

The Senate CS clarifies the resident's right to have access to and participate in advocacy or special interest groups by inserting that this is "at the resident's own expense" unless specified otherwise in contract.

- 47.33.300(a)(18):

Again, the Senate CS clarifies a right, to intervene or participate in adjudicatory hearings held under the chapter--such as licensing administrative sanction hearings--to be a right only "at the resident's own expense."

- 47.33.300, new subsection (c):

This subsection was added in the Senate to clarify that five of the listed residents' rights did not create an obligation for the assisted living home to expend money for the specified rights, unless so provided in the contract. These rights are the rights: to possess personal clothing and property, to engage in private communications with access to a telephone and visits, to manage one's own money, to have access to health care, to receive special meals meeting religious or health restrictions.

- 47.33.320:

The Senate CS amendment deleted a guarantee of access to "representatives of community organizations," but left in the access for advocacy and legal services organizations. The CS also clarifies that the access to the home must be "subject to the resident's consent."

• 47.33.330(a)(2)(C):

The Senate CS re-wrote (C) to clarify that the home's staff may enter the resident's room without first obtaining permission on each and every occasion, when the entry is needed to carry out services specified in the particular resident's assisted living plan to provide services specified in the contract.

• 47.33.330(b):

The Senate CS deleted provisions in this paragraph which spelled out when and how the assisted living home had to contact emergency medical or policy agencies when the home had physically restrained a resident. After discussion, the committee decided that the opening requirement in this subsection more appropriately addressed the problem while ensuring that each home's unique circumstances were considered. The first sentence of the subsection states that the home cannot engage in any physical restraint practices unless it has in place a written physical restraint plan approved by its licensing agency.

• 47.33.360(a)(2):

The Senate CS inserted a reference to a pattern of conduct of harm to the resident's own person as a grounds for termination of contract

• 47.33.360(b):

In the Senate CS, the written notice of termination from the home is no longer required, as in the original bill, to give the date and time for a mandatory "case conference." Instead, the new subsection (b)(2) says the notice must "include an offer by the home to participate in a case conference."

- 47.33.360(c) :

In the original bill, the home had a duty to convene a "case conference" with the resident who was the subject of an involuntary termination of contract ("discharge" in the House bill). In the Senate CS, this subsection now requires the home to participate in such a conference only if so requested by the resident, and the conference is now stated in the bill as being a discussion of "the appropriateness of the contract termination." (The original bill required the appropriateness of involuntary discharge to be based also on a four-part assessment of a resident's needs, benefits and risks of alternatives to the resident's leaving the home, and the availability of alternative places for the resident to live.) After discussion with industry representatives, the Department took to the Senate HESS committee the current streamlined language of this section, which is less burdensome on the home.

- 47.33.520(b) (1) :

The Senate CS added the words "that are relevant to the investigation" to the requirement that a home give access to its records to the licensing agency. This alleviates industry concerns about overly broad investigative demands on a home, and is not objectionable.

- 47.33.550(a) :

The Senate CS changes the term "admissions" to the more non-medical language of "take in new residents."

The Senate CS also inserts two additional types of sanctions that the licensing agency may impose on an assisted living home. In addition to revocation and denial of renewal of the license, suspending operations of or new admissions to the home, and assessing an administrative fine, the CS also permits sanctions in the form of placing "conditions" or "restrictions" on the home's ability to take in new residents or to provide certain types of care otherwise allowed by law.



- 47.33.990(6):

Senate CS is a technical re-write of this sentence defining "assisted living home;" no substantive change.

- 47.33.990(9):

Senate CS has a technical change in the definition of "health-related services" to coincide with the re-numbering of subsections within 47.33.020.

- 47.33.990(12):

The Senate CS amends the definition of "imminent danger" to include danger not only to a resident but also to the staff of the home.

- 47.33.990(16):

The Senate CS deleted subsection (13) defining "individual with a developmental disability" and re-ordered that definition alphabetically as subsection (16) under "person with a developmental disability." The actual definitions are identical.

- 47.33.990(22):

The Senate CS adds a definition for the "terminally ill resident" referred to in the health-related services section, 47.33.020. The department and industry agreed upon a commonly used definition similar to that used by Medicare for hospice care.

## 2. New Section 2 (Senate)

- AS 11.61.195(a):

In the Senate CS, a reference was inserted to include assisted living homes as one of the places where it is a crime to engage in specified types of

Department of Administration  
Comparison of HB 377 and CSSB 249 (HES) (am)

misconduct with a firearm. [As a result of the insertion of several new sections, the original section 2 has become section (5).]

3. New Section 3:

• AS 11.61.220(a):

Another insert to include assisted living homes among the protected places where certain conduct with a firearm or other weapons constitutes a criminal offense. [The former section 3 is now section 6 of the Senate CS.]

4. New Section 4:

• AS 18.07.031:

The Senate CS includes an amendment brought forward by the Department of Health & Social Services to prohibit the conversion of any part of any assisted living home into nursing beds unless the facility completes the process for and obtains a certificate of need from the state for such nursing home beds.

5. New Section 18:

The Senate CS includes an instruction to the revisor of statutes regarding a technical change in the citation in the administrative procedures code which will be needed upon passage of the bill.

6. Sections 18 & 19:

Renumbered in the Senate version to become 19 and 20.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 249 (HES) am**

Revision Date: \_\_\_\_\_

Department Affected: Administration

Title: 'An Act relating to assisted living homes . . .'

BRU: Senior Services

Sponsor: Rules Committee

Component: Senior Services Administration

Requestor: \_\_\_\_\_

**COMPONENT SERIAL NO. 1981**

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

**FUNDING SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Adequate funding is included in the FY 95 budget for the new Division of Senior Services to handle the responsibilities of this bill.

Prepared by: Connie J. Sipe, Director  
 Division: Senior Services

Phone: 465-4422  
 Date: 5/15/94

Approved by Commissioner: Nancy Bear Usera  
 Agency: Department of Administration

Date: 4/12/94

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**SB**

**249**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/22/94

FURTHER:

DATE TURNED INTO OFFICE: 3-23-94

The Finance Committee considered SENATE BILL NO. 249

"An Act relating to assisted living homes; repealing references to residential facilities for dependent adults; and providing for an effective date."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous \_\_\_\_\_ CS SB249 (HES)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
#1 DHS MN/DD	12-29-93		154.3
#3 DHS Medicaid	2-23-94	<del>0</del>	
#4 DHS Claims	2-23-94	<del>0</del>	
#5 DOR	3-8-94	<del>0</del>	

Appropriation No Fiscal Note

**DO PASS:**  
Tim Kelly  
Alan Rios  
Pat Murray  
George ...

**OTHER RECOMMENDATIONS:**  
J. ... No Rec

1. Alan Rios No Rec  
 Co-Chair: Signature/Recommendation

2. Tim Kelly No Rec  
 Co-Chair: Signature/Recommendation

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Bill Version: SB 249

(S) Publish Date: 1-14-94

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Assisted Living Homes BRU: Institutions & Admin  
 Sponsor: Rules Committee Component: MH/DD Admin  
 Requestor: Governor's Office COMPONENT SERIAL NO. 310

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	103.3	106.9	110.6	114.5	118.5	122.7
TRAVEL	20.0	20.7	21.4	22.2	23.0	23.8
CONTRACTUAL	20.0	20.7	21.4	22.2	23.0	23.8
SUPPLIES	1.0	1.0	1.1	1.1	1.1	1.2
EQUIPMENT	10.0					
LAND STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>154.3</b>	<b>149.3</b>	<b>154.5</b>	<b>160.0</b>	<b>165.6</b>	<b>171.5</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>					
<b>CHANGES IN REVENUES</b>	<b>0</b>					

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA	154.3	149.3	154.5	160.0	165.6	171.5
Other						
<b>TOTAL</b>	<b>154.3</b>	<b>149.3</b>	<b>154.5</b>	<b>160.0</b>	<b>165.6</b>	<b>171.5</b>

**POSITIONS:**

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Changes in CS SB249 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3/10/94 beb  
 date Comte Aide (initial)

Estimate of current year (FY94) cost \$ \_\_\_\_\_

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

This bill provides for licensure of assisted living homes. These homes would be established primarily to provide a home-like setting for elderly persons and persons with a mental or physical disability who need assistance with activities of daily living.

Currently, the Department of Health and Social Services, Division of Family and Youth Services, licenses adult foster homes and group homes and institutions caring for dependent adults. The bill would delete references to these licensing functions and add a new chapter regarding assisted living homes. Under the bill, the Department of Health and Social Services would license assisted living homes that will be providing care primarily to individuals with a mental or developmental disability. The Department of Administration would license assisted living homes that will be providing care primarily to individuals who have a physical disability.

Prepared by: Quillie R. ... for Rules Committee Phone: \_\_\_\_\_  
 Division: Mental Health and Developmental Disabilities Date: 12/29/93  
 Approved by Commissioner: Margaret R. Lowe Date: 12/29/93  
 Agency: Department of Health & Social Services

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**ANALYSIS (cont.):**

who are elderly, or who suffer from dementia but who are not chronically ill.

**Assumptions:**

Based upon the projected workload it is anticipated that the Division of Mental Health and Developmental Disabilities will need two full-time Community Care Licensing Specialists to adequately provide timely inspection of all facilities across the State that serve individuals with a mental or developmental disability.

**Program Summary:**

The cost projections are based upon the following information: Two range 16, Step A full time positions located in Anchorage. These positions will travel statewide to perform inspections, provide technical assistance to facilities for compliance issues and to follow-up on consumer complaints. One position will be transferred from the Division of Family and Youth Services to the Division of Mental Health and Developmental Disabilities.

**Other Expenditures:**

- Travel for each position to perform inspections, provide technical assistance to facilities and follow-up on consumer complaints.
- Contractual services for Anchorage office space, phones systems, copier and data lines; general offices supplies for both positions.
- Equipment, first year purchase of two desk top computers/printers and software for data collection, word processing and statistical reporting; office furniture including desks, chairs, file cabinets, etc.

**Computations:**

All expenditures have been adjusted with an inflation factor of 3.5% for each year after FY95 and carried out to FY2000.

**Economic Impact:**

Assisted Living Program will stimulate the local communities as it will offer new employment opportunities as additional facilities are brought on line across the State and will allow many family care-givers to return to their careers.



Position Title Community Care Licensing Specialist		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District
TYPE OF EXPENDITURE		Amount	Justification  The Assisted Living Homes bill provides for licensure of assisted living homes. The homes are established primarily to provide a home-like setting for elderly persons and persons with a mental or physical disability who need assistance with activities of daily living.  A licensure function is not one currently performed by the Division of Mental Health and Developmental Disabilities. Additionally, existing staff cannot absorb the additional responsibilities because of the increased workloads associated with Project Choice and the Tefra Option. Therefore, two positions are requested to provide timely inspections and licensing of all facilities across the State that serve individuals with a mental or developmental disability. The positions are responsible for performing inspections, providing technical assistance to facilities for compliance issues, and following up on consumer complaints. These positions are necessary to assure the health and safety of disabled individuals residing in these homes.  One position will be transferred from the Division of Family and Youth Services.	
Salary		73.0		
Benefits		30.3		
Premium Pay				
Other				
Total Personal Services		103.3		
Travel		20.0		
Contractual		20.0		
Commodities <i>Supplies</i>		1.0		
Equipment		10.0		
Other				
Total Cost		154.3		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
IA Receipts	1007			
CIP Receipts	1061			
Other	GF/MHTIA 1006	154.3		

**Request For  
New Position**

AGENCY Health and Social Services  
 BRU Institutions & Admin  
 COMPONENT MH/DD Admin

**FY** 95

Page 3 of 3  
 Revised Date: \_\_\_\_\_

FISCAL NOTE

No. 3  
 Version: SB 249  
 (S) Publish Date: 3-10-94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected Health and Social Services  
 Title: An Act relating to assisted living homes BRU: Medical Assistance  
repealing references to residential facilities... Component: Medicaid Non-facility  
 Sponsor: Governor  
 Requestor: Senate HESS COMPONENT SERIAL NO. 229

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	383.2	894.6	1,393.2	2,038.6	2,745.2
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>\$0.0</b>	<b>\$383.2</b>	<b>\$894.6</b>	<b>\$1,393.2</b>	<b>\$2,038.6</b>	<b>\$2,745.2</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	191.6	447.3	696.6	1,019.3	1,372.6
1003 GF Match	0.0	191.6	447.3	696.6	1,019.3	1,372.6
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>\$0.0</b>	<b>\$383.2</b>	<b>\$894.6</b>	<b>\$1,393.2</b>	<b>\$2,038.6</b>	<b>\$2,745.2</b>

Estimate of current year (FY94) impact: 0.0

POSITIONS:

FULL-TIME	0	0	0
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in SSB 249 (HESS)  
 reflect **NO FISCAL CHANGE** from the original  
 fiscal note. This fiscal note is appropriate.  
3/10/94 hah  
 date Comte Aide (initial)

ANALYSIS (attach a separate page in necessary)

See attached pages for calculations and assumptions about projected utilization. This fiscal note assumes that a certificate of need will be required before any conversion of an assisted living facility into a nursing home (notwithstanding the expenditure threshold set out in AS 18.07.031); that payment of personal care and nursing services for home health and hospice will be available in assisted living facilities only after FY95, at which time the Div. of Medical Assistance will have drafted regulations to specify the methodology and limits of any payment; and that the bill does not bring assisted living facilities under the rules and interpretations of the Med. Rate Advisory Commission

Prepared by: Dave W. Williams DW  
 Division: Medical Assistance  
 Approved by: Margaret R. Lowe, M.Ed., Ed.S. ML  
 Commissioner: \_\_\_\_\_  
 Agency: Department of Health and Social Services

Phone: 465-3355  
 Date: 2/23/94  
 Date: 2/23/94

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# FISCAL NOTE

Version: SB 249

(C) Publish Date: 3-10-94

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: An Act relating to assisted living homes BRU: Medical Assistance Administration  
repealing references to residential facilities... Component: Claims Processing  
 Sponsor: Governor  
 Requestor: Senate HESS COMPONENT SERIAL NO. 243

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

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	\$0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	\$0.0
CONTRACTUAL	0.0	39.0	12.2	34.2	51.6	69.6
SUPPLIES	0.0	0.0	0.0	0.0	0.0	\$0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	\$0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	\$0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	\$0.0
<b>TOTAL OPERATING</b>	<b>\$0.0</b>	<b>\$39.0</b>	<b>\$12.2</b>	<b>\$34.2</b>	<b>\$51.6</b>	<b>\$69.6</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGES IN REVENUES</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	19.5	6.1	17.1	25.8	34.8
1003 GF Match	0.0	19.5	6.1	17.1	25.8	34.8
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>\$0.0</b>	<b>\$39.0</b>	<b>\$12.2</b>	<b>\$34.2</b>	<b>\$51.6</b>	<b>\$69.6</b>

Estimate of current year (FY94) impact: 0.0

**POSITIONS:**

FULL-TIME	0	0	0
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in CSSB 249 (HES)  
 reflect **NO FISCAL CHANGE** from the original  
 fiscal note. This fiscal note is appropriate.  
3/10/94 ban  
 date Comte Aide (initial)

**ANALYSIS** (attach a separate page in necessary)

Contractual costs are for claims processing at \$6.23 per claim. The attached pages provide calculations for estimated costs. Federal participation is available at 50% of costs.

Prepared by: Dave W. Williams DW  
 Division: Medical Assistance  
 Approved by  
 Commissioner: Margaret R. Lowe, M.Ed., Ed.S. ML  
 Agency: Department of Health and Social Services

Phone: 465-3355  
 Date: 2/23/94  
 Date: 2/23/94

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## ASSUMPTIONS PERTAINING TO FISCAL ANALYSIS OF SB249 AND HB377

A Certificate of Need under AS 18.07.031-111 will be required before any conversion of part or all an assisted living facility into a nursing home, notwithstanding the expenditure threshold set out in AS 18.07.031; no CON will be required for new construction of assisted living facilities. Medicaid payment of personal care, home health, and hospice services will be available in assisted living homes and assisted living facilities. Assisted living homes and facilities do not qualify as institutional facilities under the purview of the Medicaid Rate Advisory Commission and are not subject to the same rules or interpretations for establishing Medicaid rates.

**MEDICAID SERVICE RATES**

Medicaid payment of Personal Care Services provided in assisted living facilities will be at \$18.00 through enrolled PCA agencies. Similarly, home health and hospice service costs will primarily be paid at the same rate as for a skilled nurse, \$29.69 per hour.

Medical services costs will increase at 5% per year for inflation.

The Division of Medical Assistance will develop regulations under the new section 47 33 340 to limit payment for medicaid services delivered in or through an assisted living facility to be less than the statewide average medicaid cost for nursing home care.

**UTILIZATION**

Access to Medicaid services for personal care, home health, and hospice as delivered through or at assisted living homes and facilities will be limited by the number of such homes and facilities built and converted from other licensure. These are assumed to become available at the capacity and year indicated by the Older Alaskan Commission documents: "Long-term Care Alternatives for Alaska's Elderly: A Report, 1993 and Beyond," September, 1993, and "A Blueprint for Home-based Long-term Care for the Elderly in Alaska, 1993 and Beyond," September, 1993, and as further clarified in a memo from the OAC dated February 8, 1994. Those facilities are expected to become available and serve the number of people as indicated below:

Planned construction and capacity in assisted living facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Small homes	0					
Homer Sr Citizens		40				
Small homes		20				
Providence			60			
Small homes			30			
1 or 2 rural centers				40		
Small homes				30		
One large facility					60	
Small homes					40	
Facilities (extrapolated)						60
Homes (extrapolated)						40
<b>Totals</b>	<b>0</b>	<b>60</b>	<b>90</b>	<b>70</b>	<b>100</b>	<b>100</b>
<b>Cumulative Totals</b>		<b>60</b>	<b>150</b>	<b>220</b>	<b>320</b>	<b>420</b>
<b>Percentages of 5 years</b>		<b>14.29%</b>	<b>21.43%</b>	<b>16.67%</b>	<b>23.81%</b>	<b>23.81%</b>

Some people who need the type of medicaid services that may be delivered in an assisted living facility are already receiving those services at home or other, state-supported facilities. The OAC memo dated February 8, 1993 indicates that perhaps 68 seniors will receive those services at an assisted living home or facility over a five-year period beginning in FY 1996. Other OAC studies indicate a much higher number of seniors may need assisted living services. The following table indicates the identified need of older Alaskans for assisted living services and how much of that need is already addressed by the existing health care system. About 600 medicaid eligible persons remain unserved.

## ASSUMPTIONS PERTAINING TO FISCAL ANALYSIS OF SB249 AND SB377

**Estimated Medicaid Population in Need of Assisted Living**

Age 65+ needing assisted living (from Older Alaska's Commission study, "Long-term Care Alternatives for Alaska's Elderly: A Report," September, 1993)	9,687
Medicaid eligible portion at 20%	1,937

**Resources Already Available to Address Need**

Served by PCA services, FY 94 (From February 1994 DPH report, 330 age 60+ served by Home Care Services program, Medicaid portion.)	330
Assisted living clients served in nursing homes; assumed to be 80% of age 65+, Medicaid eligible utilization indicated by FFY1993 HCFA 2082 report.	526
Medicaid eligible assisted living clients served in Pioneers Homes; assumed to be 20% of assisted living and nursing beds February, 1994	69
To be served by aged waiver in 3rd year	401
<b>Total persons already served</b>	<b>1,326</b>

**Unmet Need Medicaid Eligible Age 65+ not served by the existing system**

611

In addition to the OAC estimate of 68 people, it is assumed for the purpose of this fiscal note that 5 additional persons between the ages of 21 and 64 not being served under a home and community-based waiver will access services each year beginning in FY96. This 25 person group represents the younger adult population who are disabled according to SSI standards and therefore, qualify for Medicaid. Of this five-year total of 93 Medicaid recipients (68 OAC and 25 SSI) it is assumed that 30% will be severely impaired and 70% moderately impaired.

**COST (Medicaid non-facility 229)**

The annual cost of meeting this need is given below and is based upon the FY 94 rates for personal care services and skilled nursing (non-facility) at the number of service hours indicated by the OAC study documents noted above.

<b>Estimated Annual Cost for Services</b>	
<b>Moderately impaired:</b>	
474 hrs of PCS @ \$18.00 per hr	\$8,532
148 hrs. of skilled nursing @ \$29.69	\$4,394
<b>Average cost per recipient</b>	<b>\$12,926</b>
<b>Severely impaired:</b>	
948 hrs of PCS @ \$18.00 per hr	\$17,064
298 hrs. of skilled nursing @ \$29.69 per hr	\$8,788
<b>Average cost per recipient</b>	<b>\$25,852</b>

Cost and utilization produces the estimates given in the table below. A 5% cost increase per year is included as an adjustment for inflation. The number of seniors is spread over the five-year period.

Medicaid Recipients at Assisted Living Homes & Facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Seniors >65	0	10	15	11	16	16
Adults >21 & <6	0	12	12	12	12	12
Total	0	22	27	23	28	28
Cumulative	0	22	48	72	100	128
Mod. impaired/		15	34	50	70	90
cost in thousands		\$206	\$482	\$750	\$1,098	\$1,478
Sev. impaired/		7	14	21	30	38
cost in thousands		\$177	\$413	\$643	\$941	\$1,267
Total cost in thousands		\$383	\$895	\$1,393	\$2,039	\$2,745

#### CLAIMS (claims processing 243)

The number of claims submitted per recipient will vary depending upon the method of claims submission. For larger facilities it is assumed that a payment methodology will be established which allows submission of 4 claims per recipient per month for all services. For small homes it is assumed that there will be a claim submitted for every 8 hours of service delivered which is 101 claims per year based on the OAC document estimates. The processing cost of each claim is \$6.23 and a 5% per year increase is assumed for inflation. An estimated \$30,000 in a one-time expenditure will be required for making system changes for a payment methodology that limits the cost for any given recipient to less than the cost of staying a nursing home.

Medicaid Claims Processing for Assisted Living Homes & Facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Small homes/	0	7	9	24	38	49
claims		707	909	2,424	3,838	4,949
Facilities/	0	14	18	48	62	79
claims		672	864	2,304	2,976	3,792
Total claims		1,379	1,773	4,728	6,814	8,741
Cost in thousands		\$9.0	\$12.2	\$34.1	\$51.6	\$69.5
System changes		\$30.0	\$0.0	\$0.0	\$0.0	\$0.0
Total in thousands		\$39.0	\$12.2	\$34.1	\$51.6	\$69.5

Combined Fiscal Note Totals						
	FY95	FY96	FY97	FY98	FY99	FY00
medicaid non-facility 229		383.1	894.6	1,393.2	2,038.6	2,745.2
claims processing 243		9.0	12.2	34.1	51.6	69.5
Totals	\$0.0	\$392.2	\$906.7	\$1,427.3	\$2,090.2	\$2,814.7

# FISCAL NOTE

No. 5

Bill Version: CSSB 249 (HES)

(S) Publish Date: 3-10-94

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected Administration: \_\_\_\_\_  
 Title: "An act relating to assisted living homes, . . ." BRU: Senior Services  
 Component: Pioneers' Homes  
 Sponsor: \_\_\_\_\_  
 Requestor: (S) HES COMPONENT SERIAL NO. 1981

(Thousands of Dollars)

Expenditures/Revenues	FY95	FY96	FY97	FY98	FY99	FY00
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURE</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( 1005 )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

(Thousands of Dollars)

FUND SOURCE	FY95	FY96	FY97	FY98	FY99	FY00
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: \$ 0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Adequate funding is included in the FY95 budget for the new Division of Senior Services to handle the responsibilities of this bill.

Prepared by: Connie J. Sipe, Director Phone: 563-5654  
 Division: Senior Services Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usura Date: 3/8/94  
 Agency: Administration

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Older Alaskans Commission

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Original  
SB 249

Position Paper on Senate Bill 249

ASSISTED LIVING HOMES

The Older Alaskans Commission strongly urges passage of Senate Bill 249 introduced by Governor Hickel. This bill creates Assisted Living as a type of long term care in Alaska for seniors, developmentally or physically disabled adults. The bill would incorporate and expand both adult foster care and adult residential care, and move licensing responsibilities for homes for the elderly to the Division of Senior Services.

OAC wholeheartedly supports the change of philosophy illustrated in this bill, from the old idea of "dependent" adults, to recognition that adults are active consumers of services of residential care. Assisted living homes will carry out this philosophy through adequate disclosure of contractual rights between the home and the resident, and by the active participation and "shared responsibility" of the resident in his or her assisted living care plan and decision making process. This change of philosophy is in accord with the Commission's mission "to ensure honor, dignity, security and independence for older Alaskans and to assist them in maintaining meaningful, quality lives."

Senate Bill 249 will promote homelike environments and provides flexibility in the types of services available in an assisted living home. This bill calls for a contractual agreement between the home and the client that delineates what services will be provided. Unlike current laws on adult foster care and adult residential care, this bill allows residents of assisted living facilities or homes to access community-based health care services in their rooms or apartments. The bill also allows certain health services to be delegated by a nurse to unlicensed home staff who have been trained to perform routine health tasks for a particular resident.

One of the primary features of this bill allows a resident of an assisted living home to receive ongoing "intermittent" nursing services. A resident also can receive up to 45 consecutive days of 24-hour nursing care, if the facility can provide the care or if the resident has access to home nursing care from outside the facility. This means that a resident can remain "at home" during an illness and does not have to move to an acute care or a nursing care facility. After the 45 days, the resident, his or her physician, and the assisted living manager may agree together that the ill resident can continue



living "at home" with reduced level of nursing care or with only personal care assistance. This feature of the bill is vitally important to the Older Alaskans Commission because it allows seniors who do not live with their own family caregivers to have the same care choices and the ability to make decisions regarding their health care and living arrangement.

The Older Alaskans Commission believes that passage of Senate Bill 249 will allow senior citizens to "age in place" and receive the services they need to allow them to continue living in the assisted living home of their choice. The Commission also believes that assisted living will provide a less restrictive and more cost-affordable care alternative which will decrease the need of many people to ever be institutionalized.

*Donald M. Hoover*

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Donald M. Hoover, Chairman  
Older Alaskans Commission

*February 4, 1994*

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Date

SB 249

LO

DoA

February 21, 1994

Governor Walter Hickel  
STATE OF ALASKA  
P. O. Box 110001  
Juneau, AK 99811-0001

Dear Governor Hickel:

I am pleased to report that in general we support SB 248, SB 249, and SB 250 as introduced by your office. However, we strongly suggest that Commission members be allowed to elect their own chair person, rather than an appointed chair as is proposed in SB 250, Sec. 7.

Thank you for your consideration.

With best wishes,

*Bob Huffman*

Bob Huffman, Chairman  
Legislative & Govt. Affairs Comm.  
GRAND IGLOO, PIONEERS OF ALASKA

C. Bill Ray

RECEIVED  
FEB 24 1994

GOVERNOR'S OFFICE

## DEPARTMENT OF ADMINISTRATION

### COMMITTEE SUBSTITUTE FOR SENATE BILL 249 (HES) CREATING LICENSING FOR ASSISTED LIVING HOMES

Governor Hickel introduced this bill for the purpose of promoting the operation of homes that help the elderly to "age in place," and disabled adults to reach their highest level of functioning by integration into the community. The bill's many reforms can be summarized in three key points:

**Respect for residents as consumers.** This bill represents an entirely new approach in Alaska to group homes for adults; discarding the old law's notion of these persons as "dependent," and instead treating them as active consumers of the service of residential care, who should receive adequate disclosure of their contractual rights, and who must be invited to actively participate to the greatest extent possible in all decisions regarding their life and care.

**Allowing access to health care in a homelike setting.** This bill treats the dwelling of each assisted living resident as that person's home, not an institution. This bill allows the resident to have access to any community-based health care services available to the resident, and allows the staff of the home to directly provide certain specified health care services. Under current law, a mentally alert person who can not physically administer all of his own medications or who might be bedridden for five days can not legally be allowed to reside in an adult foster home or residential care center, regardless of the nursing capacity of the home staff or the availability of visiting health care personnel.

**Transfer of licensing responsibility to agencies with programmatic experience with independent living for the elderly or persons with disabilities.** This bill will remove licensure of homes for adults from the purview of the Division of Family and Youth Services. Homes which serve primarily persons with mental or developmental disabilities will be licensed by the Department of Health and Social Services through the Division of Mental Health and Developmental Disabilities. Homes which serve primarily the elderly or physically disabled adults will be licensed by the Department of Administration, through the Division of Senior Services.

These changes will put Alaska among the leading states which have moved toward promotion of "assisted living" as a desirable, less restrictive and more cost-affordable care alternative which can decrease the need for many persons to ever be institutionalized.

## DETAILED ANALYSIS OF CSSB249 (HES)

**Section 1, sec. 47.33.005 lists the purposes of the bill:** to encourage care in homelike settings, to promote aging in place and highest functioning by integration into communities, to establish reasonable standards to protect residents while honoring their independence, to require an assisted living plan for each resident; and to provide each resident or the resident's legal representative the maximum opportunity to participate in designing and carrying out the assisted living plan.

**Sec. 47.33.010, Applicability and Definition.** The bill applies only to homes that serve three or more adults not related to the operator. Small foster home arrangements serving only one or two adults would be "de-regulated" by this bill, and left to private contract. An assisted living home is a facility that provides housing and food service to its residents and provides, either directly or by obtaining the services for the resident, one of, or a combination of both of, the following services:

- (1) assistance with activities of daily living; or
- (2) personal assistance.

The bill specifies several types of facilities not included: correctional facilities, alcohol treatment centers, emergency or runaway shelters, etc.

**Sec. 47.33.020, Health-related Services.** This section of bill allows certain specified health care services to be made available to home residents, either by staff of the home when qualified or by outside caregivers such as home health agencies or private duty nurses.

The homes are not required to provide these health-related services, but must specify up front in writing which ones they will either provide or allow to be provided within the facility. When, in subsections (f), (h), and (i), residents are allowed to receive higher levels of nursing care or to choose to live without higher care, the operator of the home also must specifically agree with the resident's choice, and could instead ask the resident to move to another care setting.

Subsections of Sec. 47.33.020, listed in summary fashion below, in addition to allowing self-administration of medicines in (a), state that a licensed home would be allowed to provide staff, or arrange for or admit the resident's own health care provider, either of whom could:

- (c) help residents with self-administration of medications
- (d) provide "intermittent" nursing care less than 24-hour
- (e) home staff only: under a licensed nurse's training and delegation, perform

limited nursing tasks by non-nursing staff

(f) arrange for licensed nurse from outside the home's staff to provide skilled nursing care

(g) provide 24 hour skilled nursing care for up to 45 days to avoid transfer out of the home

(i) provide 24 skilled nursing care beyond 45 days to a terminally ill resident

Note that subsection (h) allows a "non-terminal" resident to stay in the home, with the home's consent, even when the resident has exhausted the 45 days of skilled nursing, the resident and the resident's physician have discussed the consequences and risks and have agreed that the resident wishes to stay in the home while choosing to forego or do without additional 24 hour skilled nursing care.

Note that subsection 47.33.020(b), while allowing the home to provide the health-related services described in (c) - (i), also mandates that the services under (c) - (i) may only be provided "in addition to, and as a supplemental service to, the long-term provision by the home of assistance with the activities of daily living or personal assistance." This subsection is meant to clarify that these assisted living homes are not allowed to act primarily as a nursing home or medical facility.

**Sections 47.33.030 through 47.33.360. Standards for Residents' Rights and the Homes' Duties.**

These sections of the bill define the corresponding contractual rights and duties of the assisted living home and the residents, much like the state's landlord-tenant law or the condominium association statutes. These sections of the bill assume that residents, or their legal representatives such as a guardian, will benefit from advance disclosures of contract terms, as well as participating directly in designing and carrying out their own plans of care. Briefly, the sections can be understood fairly well from their titles and the summary below:

- .030 Advance payments, trust accounts, and refunds
- .040 Residents' money and requirements for safekeeping
- .050 Temporary absences; resident's duty to inform home
- .060 House rules; limits on rules and home's duty to disclose to residents
- .070 Resident files; information home must keep available
- .080 Closure or relocation; advance written notice required
- .090 Rate increase; home must give 30 day notice
- .200 Admission; requires resident's consent
- .210 Admission contract required; contents specified
- .220 Assisted living plan required; who participates

- .230 Assisted living plan contents specified
- .240 Evaluation of assisted living plan; how often
- .300 Residents' rights
- .310 Notice of rights; copy in advance and posted in home
- .320 Access to home by advocacy and legal services organizations
- .330 Prohibitions on conduct by home staff contrary to residents' rights
- .340 Resident grievance procedure; must be written
- .350 Retaliation against home resident for exercising rights or making grievance is prohibited
- .360 Involuntary termination of contract; allowable reasons defined, process specified

**Article 4 of the bill deals with licensing,** sections 47.33.400 through 430. In 47.33.400, the bill prohibits a home which meets the bill's definitions from operating without a license, and also allows smaller homes (serving five or fewer residents) to continue to refer to their homes as "adult foster care homes" despite their new licensing category.

**Licensing agencies, 47.33.410.** Homes which provide care primarily for persons with a mental or developmental disability will be licensed by the Department of Health and Social Services. Homes which care primarily for persons who have a physical disability, are elderly, or have dementia (but not chronic mental illness) will be licensed by the Department of Administration. The departments must coordinate their regulations so as to deal with homes which serve overlapping groups of persons or homes whose "primary" care group of residents changes over time.

Both licensing agencies are given the mandate to establish licensure standards by regulation, to license homes under the chapter, to investigate license applicants and licensees for compliance, and to enforce the standards of the chapter and accompanying regulations.

The licensing agencies may contract with private or municipal agencies to investigate and make recommendations for the licensing of homes.

**Standard forms, Sec. 47.33.420.** In keeping with the purpose of the bill to promote and not to discourage the operation of these homes, the two licensing agencies must cooperatively develop and provide standard forms to assist the operators of the home to comply with the requirements of the law (i.e., forms for residential services contracts, residents' rights disclosures, plans of care outlines, etc.).

**In Sec. 47.33.430, the authority of state agencies to impose additional program or care requirements** is preserved when the state is either paying for the care of the resident with state funds, or when the state has the responsibility to certify a home for payment for resident care from federal funds.

(Note that nothing in this proposed bill or in any other current state or federal laws mandate state or federal payment for the care of any person in an assisted living home. The state currently purchases "protective placement" in adult foster homes and adult residential care facilities for some victims of abuse or neglect. Under the newly instituted Medicaid home care waivers, the state may pay for "residential supported living arrangements," meaning personal assistance beyond basic room and board for a very limited number of persons who meet the waiver eligibility requirements.)

**Article 5 deals with procedures for complaints, investigations, adjudicatory proceedings, sanctions and penalties.**

Sec. 47.33.500 deals with complaints. This section specifies that the licensing agencies will investigate complaints, and will protect the identity of the complainant or resident.

Sec. 47.33.510 provides civil immunity to a good faith complainant.

Sec. 47.33.520 defines investigative procedure and powers.

Sec. 47.33.530 requires written notice of alleged violations, of the time and method for curing them, notice of possible sanctions for non-compliance, and notice of the variance process.

Sec. 47.33.540 requires a procedure for self-made reports of compliance by the home.

Sec. 47.33.550 spells out a broad range of administrative sanctions which a licensing agency may invoke, and specifies the grounds and procedures for doing so. Administrative fines of up to \$ 500 per day are allowed, not to exceed \$ 5,000. A procedure is defined for appealing the sanctions, and for suspending the sanctions until the appeal is completed.

Sec. 47.33.560 specifies the constitutionally required due process procedures to be followed in administrative proceedings under this chapter; rights to notice, public hearings with ability to close the hearing to protect a resident's privacy, rights of residents to intervene, notice of the hearing to all residents.

Sec. 47.33.570 make non-compliance with the licensure requirement of 47.33.400 a class B misdemeanor.

**Article 6 contains general provisions:** Sec. 47.33.910 gives the authority to the licensing agencies to collect licensing fees. Sec. 47.33.920 gives the authority to promulgate regulations.

Sec. 47.33.990 contains the general definitions used in the chapter. Special note may want to be taken by the bill's reader of some of the more significant definitions found in this section, specifically:

- (1) "activities of daily living"
- (5) "aging in place"
- (13) "instrumental activities of daily living"
- (15) "personal assistance"
- (19) [resident's] "representative"
- (20) "service coordinator"
- (22) "terminally ill resident."

Sec. 3 of the bill amends the current AS 11.61.220(a), in the criminal code, to include an assisted living home as one of the places where it would be the crime of criminal misconduct in the fifth degree to knowingly possess a concealed deadly weapon or a firearm.

Sec. 4 of the bill amends current law, AS 18.07.031, the state's "certificate of need" law relative to nursing home construction. Sec. 4 adds a new provision which will forbid the operators of an assisted living home from converting any building or part of a building that was an assisted living home into a nursing home without obtaining approval to do so through the certificate of need process. This section starts by stating that this prohibition against conversion of assisted living homes is not subject to the one million dollar expenditure threshold which now allows construction of nursing homes or conversion of other facilities to nursing home beds or wings without a certificate of need when the cost of conversion or construction is under one million dollars.

**The remainder of the bill affects the transition of duties between the current licensing agency under current law and this bill's new scheme.**

Sec. 5, amends AS 36.30.850(b)(19) in order to continue the exemption from the state procurement code for state-paid contracts for adult residential services provided under the regulations under this chapter.



Sec. 6 amends AS 44.21.240(2), the definition of long term care facility in the statute empowering the long term care ombudsman.

Sec. 7 amends AS 44.62.330(a) by adding this licensing system to the list of procedures covered by the adjudication section of the administrative procedures act.

Sections 8 through 13 amend the current licensing law, AS 47.35, which licenses all child care facilities and homes and all foster homes or residential care facilities "for dependent adults." The only changes are deletions of all references to facilities for adults (leaving only maternity homes and child care facilities).

Sec. 14 amends AS 47.80.140, the licensure and certificate of need statute relating to residential facilities for persons with handicaps, to exempt assisted living homes from that form of licensure and from the certificate of need requirements.

Sec. 15 repeals AS 47.35.075 which had previously allowed first or second class cities or boroughs to license institutions caring for dependent adults. In the new bill, the decision whether to delegate licensing to a local agency will be made by the state under section 47.33.410(f).

**Sec. 16 provides for transition between the old and new licensing systems.**

Current regulations remain in effect until new regulations are adopted under the new chapter. Ongoing cases started before the effective date of the chapter continue in effect.

**Sec. 17 provides for preparation of new regulations before the effective date of the chapter.** The licensing agencies are authorized to proceed with adoption of regulations needed to implement the changes in the new chapter, so long as the regulations do not take effect before January 1, 1995.

Sec.18 contains clarifying instructions to the publishers of the statutes from the revisor of statutes, to renumber various statutes to conform to this new bill.

Sec. 19 gives section 17 an immediate effective date, so that the agency may proceed immediately with regulation promulgation.

Sec. 20 gives the rest of the bill an effective date of January 1, 1995.

**SENATE BILL NO. 249**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 1/14/94**  
**Referred: HES, STA, FIN**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to assisted living homes; repealing references to residential**  
2 **facilities for dependent adults; and providing for an effective date."**

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

4 **\* Section 1. AS 47 is amended by adding a new chapter to read:**

5 **CHAPTER 33. ASSISTED LIVING HOMES.**

6 **ARTICLE 1. PURPOSE; APPLICABILITY; SERVICES; OPERATIONS.**

7 **Sec. 47.33.005. PURPOSE. The purpose of this chapter is to**

8 **(1) contribute to the development of a system of care by encouraging**  
9 **the establishment of assisted living homes that provide a homelike environment for**  
10 **elderly persons and persons with a mental or physical disability who need assistance**  
11 **with the activities of daily living;**

12 **(2) promote the establishment of homes that help**

13 **(A) the elderly to age in place; and**

14 **(B) adults with a physical or mental disability to become**

1 integrated into the community and to reach their highest level of functioning;

2 (3) establish standards that will protect residents of assisted living  
3 homes, while at the same time promoting an environment that will encourage resident  
4 growth and independence, without discouraging the establishment and continued  
5 operation of those homes;

6 (4) require that a resident of an assisted living home have an assisted  
7 living plan that identifies the services that will be used to meet the resident's  
8 reasonable wants and needs; and

9 (5) provide a resident of an assisted living home, or the resident's  
10 representative, with the opportunity to participate to the fullest extent possible in the  
11 design and implementation of the resident's assisted living plan and in any decisions  
12 involving the resident's care.

13 **Sec. 47.33.010. APPLICABILITY; DEFINITION OF ASSISTED LIVING**  
14 **HOME.** (a) This chapter applies to assisted living homes operated in the state that  
15 serve three or more adults.

16 (b) "Assisted living home" means a residential facility that

17 (1) serves adults who are not related to the owner of the facility by  
18 blood or marriage;

19 (2) provides housing and food service to its residents; and

20 (3) provides or obtains, or offers to provide or obtain, one or more of  
21 the following for its residents:

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

23 (B) personal assistance;

24 (C) health-related services.

25 (c) "Assisted living home" does not include

26 (1) a correctional facility;

27 (2) a facility for treatment of alcoholism, regulated under AS 47.37;

28 (3) an emergency shelter;

29 (4) a medical facility, including a nursing home, licensed under  
30 AS 18.20;

31 (5) a program for runaway minors licensed under AS 47.10; or

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(6) a maternity home licensed under AS 47.35.

Sec. 47.33.020. HEALTH-RELATED SERVICES. (a) Nothing in this chapter prohibits an assisted living home resident's self-administration of that resident's medications, unless the resident's assisted living plan specifically provides otherwise.

(b) Notwithstanding a limitation imposed by AS 08 or by a regulation adopted under AS 08, an assisted living home may supervise a resident's self-administration of medications, if self-administration of medications is included in the resident's assisted living plan. That supervision may be performed by any home staff person and may include

- (1) reminding a resident to take medication;
- (2) opening a medication container or prepackaged medication for a resident;
- (3) reading a medication label to a resident;
- (4) observing a resident while the resident takes medication;
- (5) checking a resident's self-administered dosage against the label of the medication container;
- (6) reassuring a resident that the resident is taking the dosage as prescribed; and
- (7) directing or guiding, at the request of the resident, the hand of a resident who is administering the resident's own medications.

(c) An assisted living home may provide intermittent nursing services to a resident who does not require 24-hour nursing services and supervision. Intermittent nursing services may be provided only by a nurse licensed under AS 08.68 or by a nurse aide who has completed a training and competency evaluation program required under 42 U.S.C. 1395i-3.

(d) An individual who is on the staff of an assisted living home and who is neither a nurse licensed under AS 08.68 nor a nurse aide described in (c) of this section may perform a nursing task in that home if

- (1) the authority to perform that nursing task is delegated to that individual by a nurse licensed under AS 08.68; and
- (2) that nursing task is specified in regulations adopted by the Board

1 of Nursing as a task that may be delegated.

2 (e) A resident who needs skilled nursing care may, with the consent of the  
3 assisted living home, arrange for that care to be provided in the home by a nurse  
4 licensed under AS 08.68 if that arrangement does not interfere with the services  
5 provided to other residents.

6 (f) As part of a plan to avoid transfer of a resident from the home for medical  
7 reasons, the home may provide, through the services of a nurse who is licensed under  
8 AS 08.68, 24-hour skilled nursing care to the resident for not more than 45 consecutive  
9 days.

10 (g) If a resident has received 24-hour skilled nursing care for the 45-day limit  
11 set by (f) of this section, the resident or the resident's representative may elect to have  
12 the resident remain in the home without continuation of 24-hour skilled nursing care  
13 if the home agrees to retain the resident after

14 (1) the home and either the resident or the resident's representative  
15 have consulted with the resident's physician;

16 (2) the home and either the resident or the resident's representative  
17 have discussed the consequences and risks involved in the election to remain in the  
18 home; and

19 (3) the portion of the resident's assisted living plan that relates to  
20 health-related services has been revised to provide for the resident's health-related  
21 needs without the use of 24-hour skilled nursing care, and the revised plan has been  
22 reviewed by a registered nurse licensed under AS 08.68 or by the resident's attending  
23 physician.

24 (h) A terminally ill resident may remain in the home if (1) the home and either  
25 the resident or the resident's representative agree that the resident may remain in the  
26 home; and (2) the resident is under the care of a physician who certifies that the needs  
27 of the resident are being met in the home. The time limitation of (f) of this section  
28 does not apply in the case of a terminally ill resident.

29 **Sec. 47.33.030. ADVANCE PAYMENTS.** (a) An assisted living home may  
30 not require a resident or prospective resident of the home or a resident or prospective  
31 resident's representative, to make an advance payment to the home except as security

1 for performance of the contract or as advance rent for the immediately following rental  
2 period. If a home requires a resident or prospective resident to make an advance  
3 payment for security or as advance rent,

4 (1) the home shall promptly deposit the money in a designated trust  
5 account in a financial institution, separate from other money and property of the home;

6 (2) the home may not represent on a financial statement that the  
7 advance payment money is part of the assets of the home;

8 (3) the advance payment money may be used only for the account of  
9 the resident;

10 (4) the home shall notify the resident or the resident's representative,  
11 in writing, of the name and address of the depository in which the advance payment  
12 money is being held; and

13 (5) the home shall provide to the resident or the resident's  
14 representative the terms and conditions under which the advance payment money may  
15 be withheld by the home.

16 (b) An assisted living home shall establish a written policy for the refund of  
17 unused advance payments in the event of the discharge or death of a resident. The  
18 policy must provide that a resident is entitled to a prorated refund of the unused  
19 portion of an advance payment, less reasonable charges for damages to the home  
20 resulting from other than normal use.

21 Sec. 47.33.040. RESIDENTS' MONEY. (a) Except for advance payments  
22 under AS 47.33.030, an assisted living home may not require a resident of the home  
23 to deposit with the home money that belongs to the resident. The provisions of (a) of  
24 this section do not apply to money that constitutes an advance payment under  
25 AS 47.33.030.

26 (b) An assisted living home may accept, for safekeeping and management,  
27 money that belongs to a resident. The home shall establish a written policy for the  
28 management of such money and shall act in a fiduciary capacity with respect to that  
29 money, in accordance with regulations adopted by the licensing agency. A home is  
30 not required to accept money that belongs to a resident.

31 Sec. 47.33.050. TEMPORARY ABSENCE. (a) An assisted living home may

1 agree to reserve a bed for a resident of the home who is temporarily absent from the  
2 home and plans to return to the home. The absent resident, or the resident's  
3 representative, shall notify the home in writing if the resident's plan to return to the  
4 home changes.

5 (b) Until the assisted living home receives written notice that an absent  
6 resident does not intend to return to the home, the home may charge the resident an  
7 agreed-upon daily rate during the resident's absence from the home.

8 Sec. 47.33.060. HOUSE RULES. (a) An assisted living home may establish  
9 house rules, subject to the limitations provided for under this chapter.

10 (b) An assisted living home shall give a copy of the house rules to a  
11 prospective resident or the prospective resident's representative before the prospective  
12 resident's admission to the home, and shall post the house rules in a conspicuous place  
13 in the home.

14 (c) House rules may address

15 (1) times and frequency of use of the telephone;

16 (2) hours for viewing and volume for listening to television, radio, and  
17 other electronic equipment that could disturb other residents;

18 (3) visitors;

19 (4) movement of residents in and out of the home;

20 (5) use of personal property; and

21 (6) use of tobacco and alcohol.

22 (d) An assisted living home may not adopt a house rule that unreasonably  
23 restricts a right of a resident provided for under this chapter or under any other  
24 provision of law.

25 Sec. 47.33.070. RESIDENT FILES. (a) An assisted living home shall  
26 maintain, for each resident of the home, a file that includes

27 (1) the name and birthdate, and, if provided by the resident, the social  
28 security number of the resident;

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

31 (3) a statement of what actions, if any, the resident's representative is

1 authorized to take on the resident's behalf;

2 (4) a copy of the resident's assisted living plan;

3 (5) a copy of the admission contract between the home and the  
4 resident;

5 (6) the physician's statement required under AS 47.33.200(b), and any  
6 subsequent physicians' statements;

7 (7) a notice, as required under AS 47.33.030, regarding the depository  
8 in which the resident's advance payment money is being held;

9 (8) written acknowledgement by the resident or the resident's  
10 representative that the resident has received a copy of and has read, or has been read  
11 the

12 (A) resident's rights under AS 47.33.300;

13 (B) resident's right to pursue a grievance under AS 47.33.340;

14 (C) resident's right to protection from retaliation under  
15 AS 47.33.350;

16 (D) provisions of AS 47.33.510, regarding immunity; and

17 (E) home's house rules;

18 (9) an acknowledgement and agreement relating to home safekeeping  
19 and management of the resident's money, as required by AS 47.33.040;

20 (10) a copy of the resident's living will, if any; and

21 (11) a copy of any power of attorney or other written designation of  
22 an agent, representative, or surrogate by the resident.

23 (b) An assisted living home shall retain a resident's file for at least one year  
24 after the resident is discharged from the home.

25 Sec. 47.33.080. CLOSURE OR RELOCATION; CHANGE OF MAILING  
26 ADDRESS. (a) No later than 90 days before the voluntary closing or relocation of  
27 an assisted living home, the home shall provide written notice of the closure or  
28 relocation to the licensing agency, each resident of the home, all representatives of  
29 residents, and all service coordinators for residents.

30 (b) No later than 14 days before a change of an assisted living home's mailing  
31 address, the home shall provide written notice of the change to the licensing agency,



1 each resident of the home, all representatives of residents, and all service coordinators  
2 for residents.

3 Sec. 47.33.090. RATE INCREASE. An assisted living home may not increase  
4 the rate charged for services provided by the home unless the home notifies each  
5 resident or the resident's representative of the increase at least 30 days before the  
6 increase is to take effect.

7 ARTICLE 2. ADMISSIONS; ASSISTED LIVING PLAN.

8 Sec. 47.33.200. ADMISSION. (a) An individual may not be admitted to an  
9 assisted living home without that individual's consent, or, if the individual is not  
10 competent, the consent of the individual's representative.

11 (b) If an individual is being admitted for health problems, at the time of or  
12 within 30 days after that individual's admission to the home, the home shall obtain,  
13 and place in that resident's file, a physician's statement regarding that resident.

14 Sec. 47.33.210. ADMISSION CONTRACTS. (a) An individual may not be  
15 admitted as a resident of an assisted living home unless a representative of the home  
16 and either the individual or the individual's representative sign an admission contract  
17 that complies with the provisions of this section. Upon signing of the admission  
18 contract, the home shall give the resident and the resident's representative, if any, a  
19 copy of the contract and place a copy in the resident's file.

20 (b) An admission contract must

21 (1) specifically describe the services and accommodations to be  
22 provided by the assisted living home;

23 (2) set out the rates charged by the home;

24 (3) specifically describe the rights, duties, and obligations of the  
25 resident, other than those specified in this chapter;

26 (4) set out the policies and procedures for discharge of a resident as  
27 provided for in this chapter;

28 (5) state the amount and purpose of any advance payments required by  
29 the home; and

30 (6) set out the home's policy for refund of advance payments in the  
31 event of the discharge or death of the resident.

1           Sec. 47.33.220. ASSISTED LIVING PLAN REQUIRED. An assisted living  
2 home shall ensure that an assisted living plan for a resident of the home is developed,  
3 and approved by the resident or the resident's representative, within 30 days after the  
4 resident was admitted to the home. The assisted living plan must be developed by the  
5 resident or the resident's representative with participation from

- 6                   (1) the resident's service coordinator, if any;
- 7                   (2) representatives of providers of services to the resident; and
- 8                   (3) the administrator of the home.

9           Sec. 47.33.230. ASSISTED LIVING PLAN CONTENTS; DISTRIBUTION.

10          (a) An assisted living plan for a resident of an assisted living home must

11                   (1) promote the resident's participation in the community and increased  
12 independence through training and support, in order to provide the resident with an  
13 environment suited to the resident's needs and best interests; and

14                   (2) recognize the shared responsibility of the home and the resident or  
15 the resident's representative to evaluate the risks associated with each option when  
16 making decisions pertaining to the resident's abilities, preferences, and service needs.

17          (b) An assisted living plan for a resident must identify and describe

18                   (1) the resident's specific strengths and limitations in performing the  
19 activities of daily living;

20                   (2) any physical disabilities and impairments, and the medical, health,  
21 emotional, mental health, or other problems that are relevant to the services needed by  
22 the resident;

23                   (3) the resident's preference in roommates, living environment, food,  
24 recreational activities, religious affiliation, and relationships and visitation with friends,  
25 family members, and others;

26                   (4) any specific activities of daily living with which the resident needs  
27 assistance;

28                   (5) how assistance with the activities of daily living will be provided  
29 or arranged for by the home;

30                   (6) the frequency of the resident's training for independent living, if  
31 habilitation is part of the plan;

1 (7) the resident's need for personal assistance and how those needs will  
2 be met by home staff or another service provider from the community;

3 (8) the resident's need for health-related services and how that need  
4 will be met;

5 (9) the resident's reasonable wants and the services that will be used  
6 to meet those wants.

7 (c) The assisted living home shall ensure that a registered nurse licensed under  
8 AS 08.68 reviews the portion of an assisted living plan that describes how the  
9 resident's need for health-related services will be met.

10 (d) An assisted living home shall prepare a resident's assisted living plan in  
11 writing, in language that can be understood by the resident.

12 (e) If an individual's reasonable wants and needs can be met by a particular  
13 assisted living home and a decision is made to admit the individual to that home, the  
14 assisted living plan shall be approved, dated, and signed by the administrator of that  
15 home and either the resident or the resident's representative.

16 (i) The assisted living plan shall be retained by the home in the resident's file.  
17 The home shall provide a copy of the plan to the resident and to the resident's  
18 representative, if any.

19 Sec. 47.33.240. EVALUATION OF ASSISTED LIVING PLAN. (a) An  
20 assisted living home resident or the resident's representative, and the home  
21 administrator or the administrator's designee, shall evaluate the resident's assisted  
22 living plan, determine whether the plan is meeting the resident's reasonable wants and  
23 needs, and revise the plan if necessary. At the request of the resident or the resident's  
24 representative, the resident's service coordinator, if any, and family members may  
25 participate in the evaluation. For a resident admitted for health problems, the  
26 evaluation must be done at three-month intervals. For a resident admitted for reasons  
27 other than health problems, the evaluation must be done at least at one-year intervals,  
28 and must be done more often if requested by the resident, the resident's representative,  
29 or the home.

30 (b) The administrator or the administrator's designee shall (1) document the  
31 results of the evaluation in the resident's record; (2) sign and date any revisions to the

1 resident's assisted living plan; (3) place a copy of the revisions in the resident's file;  
2 and (4) provide the resident and the resident's representative, if any, with a copy of  
3 the revisions.

4 ARTICLE 3. RESIDENTS' RIGHTS.

5 Sec. 47.33.300. RESIDENTS' RIGHTS. (a) A resident of an assisted living  
6 home has the right to

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

8 (2) be treated with consideration and respect for personal dignity,  
9 individuality, and the need for privacy, including

10 (A) privacy in a medical examination or health-related  
11 consultation;

12 (B) privacy in the resident's room or portion of a room;

13 (C) privacy in bathing and toileting, except for any assistance  
14 in those activities that is specified in the resident's assisted living plan; and

15 (D) privacy in the maintenance of personal possessions and the  
16 right to keep at least one cabinet or drawer locked;

17 (3) possess and use personal clothing and other personal property,  
18 unless the home can demonstrate that the possession or use of certain personal property  
19 would be unsafe or an infringement of the rights of other residents;

20 (4) engage in private communications, including

21 (A) receiving and sending unopened correspondence;

22 (B) having access to a telephone, or having a private telephone  
23 at the resident's own expense; and

24 (C) visiting with persons of the resident's choice, subject to  
25 visiting hours established by the home;

26 (5) close the door of the resident's room at any time, including during  
27 visits in the room with guests or other residents;

28 (6) participate in and benefit from community services and activities  
29 to achieve the highest possible level of independence, autonomy, and interaction with  
30 the community;

31 (7) manage the resident's own money;

- 1 (8) participate in the development of the resident's assisted living plan;  
2 (9) share a room with a spouse if both are residents of the home;  
3 (10) have a reasonable opportunity to exercise at least several times a  
4 week, and to go outdoors at regular and frequent intervals, when weather permits;  
5 (11) exercise civil and religious liberties;  
6 (12) have access to adequate and appropriate health care and health  
7 care providers of the resident's own choosing, consistent with established and  
8 recognized standards within the community;  
9 (13) self-administer the resident's own medications, unless specifically  
10 provided otherwise in the resident's assisted living plan;  
11 (14) receive meals that are consistent with religious or health-related  
12 restrictions;  
13 (15) receive the prior notice of relocation of the home or involuntary  
14 discharge of the resident required by AS 44.47.080 and 44.47.360, respectively;  
15 (16) present to the home grievances and recommendations for change  
16 in the policies, procedures, or services of the home;  
17 (17) have access to and participate in advocacy or special interest  
18 groups;  
19 (18) intervene or participate in, or refrain from participating in,  
20 adjudicatory proceedings held under this chapter, unless provided otherwise by other  
21 law; and  
22 (19) reasonable access to home files relating to the resident, subject to  
23 the constitutional right of privacy of other residents of the home.

24 (b) An assisted living home may not establish or apply a policy, procedure, or  
25 rule that is inconsistent with or contrary to a right provided by this section or by other  
26 law.

27 Sec. 47.33.310. NOTICE OF RIGHTS. (a) At the time an individual is  
28 admitted as a resident of an assisted living home, the home shall provide the resident  
29 and the resident's representative, if any, with a copy of the rights set out in  
30 AS 47.33.300. The home shall obtain from the resident or the resident's representative  
31 a signed and dated acknowledgement stating that the resident has read or been read the

1 rights, understands the rights, and has had any questions about the rights answered by  
2 the home.

3 (b) An assisted living home shall post in a prominent place in the home

4 (1) a copy of the rights set out in AS 47.33.300;

5 (2) the name, address, and phone number of the long term care  
6 ombudsman hired under AS 44.21.231 and, if relevant to residents, of the advocacy  
7 agency for persons with a developmental disability or mental illness;

8 (3) the telephone number of an information or referral service for  
9 vulnerable adults; and

10 (4) a copy of the grievance procedure established under AS 47.33.340.

11 Sec. 47.33.320. ACCESS TO ASSISTED LIVING HOME. An assisted living  
12 home shall allow advocates, representatives of community organizations, and  
13 representatives of community legal services programs access to the home, at reasonable  
14 times, to

15 (1) visit with residents of the home and to make personal, social, and  
16 legal services available to residents;

17 (2) distribute educational and informational materials to advise residents  
18 and their representatives of their rights; and

19 (3) assist residents or residents' representatives in asserting legal rights  
20 or claims.

21 Sec. 47.33.330. PROHIBITIONS. (a) An assisted living home, including staff  
22 of the home, may not

23 (1) deprive a resident of the home of the rights, benefits, or privileges  
24 guaranteed to the resident by law;

25 (2) enter a resident's room without first obtaining permission, except

26 (A) during regular, previously announced, fire, sanitation, or  
27 other licensing inspections;

28 (B) when a condition or situation presents an imminent danger;

29 (C) as required by the resident's assisted living

30 plan; or

31 (D) for other vital health or safety reasons;

1 (3) impose religious beliefs or practices upon a resident or require a  
2 resident to attend religious services;

3 (4) place a resident under physical restraint unless the resident's own  
4 actions present an imminent danger to the resident or others;

5 (5) place a resident under chemical restraint; this paragraph does not  
6 prevent a resident from voluntarily taking tranquilizers, or other medication, prescribed  
7 by a licensed physician;

8 (6) compel a resident to perform services for the home, except as  
9 contracted for by the resident and the home or as provided for in the resident's assisted  
10 living plan; or

11 (7) restrain, interfere with, coerce, discriminate against, or retaliate  
12 against a resident for asserting a right specified by this chapter or by other law.

13 (b) An assisted living home may not physically restrain a resident unless the  
14 home has a written physical restraint procedure that has been approved by the licensing  
15 agency. If an assisted living home physically restrains a resident because the  
16 resident's own actions present an imminent danger to the resident or others, the home  
17 shall immediately seek assistance from appropriate medical, emergency, or police  
18 personnel and shall notify the resident's representative, if any. The home shall  
19 terminate the physical restraint as soon as the resident no longer presents an imminent  
20 danger.

21 (c) An owner, administrator, employee, or agent of an assisted living home  
22 may not act as a representative of a resident.

23 Sec. 47.33.340. RESIDENT GRIEVANCE PROCEDURE. (a) An assisted  
24 living home shall establish a written grievance procedure for handling complaints of  
25 residents of the home. At the time an individual is admitted as a resident of an  
26 assisted living home, the home shall give a copy of the grievance procedure to the  
27 resident and the resident's representative, if any.

28 (b) The grievance procedure established under this section shall provide that  
29 a resident and the resident's representative have the right to

30 (1) present both a written and an oral explanation of the resident's  
31 grievance;

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

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

5 Sec. 47.33.350. RETALIATION AGAINST HOME RESIDENT. (a) An  
6 assisted living home may not take retaliatory action against a resident of that home if  
7 the resident or the resident's representative

8 (1) exercises a right provided by this chapter or by other law;

9 (2) appears as a witness, or refuses to appear as a witness, in an  
10 adjudicatory proceeding regarding the home;

11 (3) files a civil action alleging a violation of this chapter; or

12 (4) claims a violation of this chapter before a state or federal agency  
13 having jurisdiction over the home or its employees.

14 (b) Discharge of a resident by an assisted living home within 60 days after the  
15 resident engages in an activity described in (a) of this section creates a rebuttable  
16 presumption that the discharge was retaliatory.

17 (c) At the time, or before, an individual is admitted as a resident of an assisted  
18 living home, the home shall give the resident and the resident's representative, if any,  
19 written notice of the protection from retaliation provided under this section.

20 Sec. 47.33.360. INVOLUNTARY DISCHARGE. (a) An assisted living home  
21 may not discharge a resident of the home against the resident's will, except

22 (1) for medical reasons;

23 (2) for engaging in a documented pattern of conduct that is harmful to  
24 other residents or to home staff;

25 (3) for violation of the terms of the admission contract, including  
26 failure to pay costs incurred under the contract;

27 (4) when emergency discharge is ordered by the resident's physician;

28 (5) when the home is closing; or

29 (6) when the home can no longer provide or arrange for services in  
30 accordance with the resident's needs and the resident's assisted living plan.

31 (b) At least 30 days before discharging a resident under (a)(2), (3), (5), or (6)



1 of this section, the assisted living home shall provide written notice of the proposed  
2 discharge to the resident or the resident's representative, and to the resident's service  
3 coordinator if any. The notice shall state

4 (1) the basis for the discharge;

5 (2) the resident's right to contest the discharge, in the manner provided  
6 in the resident's admission contract; and

7 (3) the time and date of the case conference required under (c) of this  
8 section.

9 (c) Before discharging a resident under (a)(2), (3), (5), or (6) of this section,  
10 the assisted living home shall hold a case conference in which the resident; the  
11 resident's representative, if any; the resident's advocate, if any; the resident's service  
12 coordinator, if any; the home administrator; and appropriate care providers determine  
13 the appropriateness of the discharge based on an assessment of

14 (1) the resident's needs and preferences;

15 (2) the ability of the assisted living home, alternative facilities, family  
16 members, friends, or other individuals or agencies to provide the care and services the  
17 resident requires;

18 (3) the benefits and risks involved with alternatives to discharge and  
19 the shared responsibility of the assisted living home and the resident in assuming risks  
20 associated with the alternative and

21 (4) the proximity of alternative facilities to the resident's family and  
22 friends.

23 (d) If a home discharges a resident under this section, the home shall cooperate  
24 with the resident; the resident's service coordinator, if any; and the resident's  
25 representative, if any, in making arrangements to relocate the resident.

#### 26 ARTICLE 4. LICENSING.

27 Sec. 47.33.400. LICENSE REQUIRED. (a) A person may not maintain or  
28 operate an assisted living home that is subject to this chapter unless that home is  
29 licensed under this chapter.

30 (b) A person may not use the term "assisted living home" or "assisted living  
31 facility" in connection with services to be provided or obtained unless the home or

1 facility meets the definition of an assisted living home in AS 47.33.010(b).

2 (c) To be licensed as an assisted living home, a facility must meet the  
3 licensure requirements of this chapter and of regulations adopted under this chapter.

4 (d) Nothing in this chapter prohibits an assisted living home that is licensed  
5 under this chapter and that serves five or fewer residents from using the term "adult  
6 foster home" or "assisted living foster home" in connection with that facility.

7 Sec. 47.33.410. LICENSING AGENCY. (a) The Department of Health and  
8 Social Services is the licensing agency responsible for licensing assisted living homes  
9 that will be providing care primarily to individuals with a mental or developmental  
10 disability.

11 (b) The Department of Administration is the licensing agency responsible for  
12 licensing assisted living homes that will be providing care primarily to individuals who  
13 have a physical disability, who are elderly, or who suffer from dementia, but who are  
14 not diagnosed as chronically mentally ill.

15 (c) The Department of Administration and the Department of Health and  
16 Social Services shall confer and jointly determine, in accordance with regulations, the  
17 appropriate licensing agency for an assisted living home

18 (1) that, at the time of application for a license, appears to meet  
19 the criteria in both (a) and (b) of this section;

20 (2) for which, at the time of application for a license, the  
21 appropriate licensing agency is not clear under the criteria in (a) and (b) of this  
22 section;

23 (3) that, during the term of a license issued under this chapter,  
24 wishes to relinquish the license issued by one licensing agency and replace the  
25 license with one issued by the other licensing agency; or

26 (4) that, at the time of the assisted living home's license  
27 renewal under this chapter, is described in (1), (2), or (3) of this subsection.

28 (d) A licensing agency shall

29 (1) establish, by regulation, requirements and standards for licensure  
30 and renewal of a license under this chapter;

31 (2) license assisted living homes in accordance with this chapter and