

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3006

## The key provisions of CSSB 125(JUD):

- Barrier conditions to employment in the care provider field will be defined in a consolidated *regulation* definition, with an objective of defining one, or as close to one as possible, common, consistent set of conditions to apply to all provider types.
  - There may be a need to distinguish between barriers to adult care vs. children's care.
- All service providers with direct patient contact must be background checked including volunteers who have regular contact with individuals who receive services
- Charges of a barrier crime may be sufficient to bar employment.
- An employee misconduct registry will be implemented for maintaining employment barrier conditions that may not be reflected elsewhere.
- A standard waivers process will be defined.
- A standard appeals process will be implemented.



## Excerpt from just one of the current regulatory crosswalks

### I.1.1 SUMMARY OF EXISTING AND PROPOSED NEW SAFETY AND SANITATION STANDARDS TO CERTAIN FACILITIES PROVIDING CARE TO CHILDREN AND TO ADULT RESIDENTS February 16, 2005

**NOTES TO READER: REQUIREMENTS, INCLUDING APPLICABILITY, ARE SUBJECT TO CHANGE AFTER REVIEW OF PUBLIC COMMENTS AND BEFORE ADOPTION.**

Bracketed numbers = number of persons licensed for care, if requirements differ by size of facility

"E" = existing requirement (but may differ in proposal) "N" = new requirement "--" = not applicable (unless licensed for more than one category of care)  
\* = a more stringent requirement applies

ALH = assisted living home; FH = foster home; FGH = foster group home; RGH = residential child care group home; RCCC = residential child care center;  
CCH = child care home; CCGH = child care group home; CCC = child care center; RPTC = residential psychiatric treatment center for children;  
MH = maternity home; AP = approved provider (child care assistance)

REQUIREMENT	ALH	FH	FGH	RGH	RCCC	CCH	CCGH	CCC	RPTC	MH	AP
<b>7 AAC 10.610. Life and fire safety</b>											
<b>Based on existing child care licensing, 4 AAC 62.510; existing residential child care, 7 AAC 50.510; existing ALH, 7 AAC 75.270</b>											
(b)(1) -- Meet state code for fire safety in 13 AAC 50 and 13 AAC 55 or more stringent if required by local authorities	-- [1-5] E [6+]	E	E	E	E	E	E	E	N	N	
(b)(2) -- municipal building code approvals	-- [1-5] E [6+]	N	N	N	N	N	N	N	N	N	
(b)(3) and (c) -- fire safety inspection	E	E	E	E	E	E	E	E	E	E	
(d)--disaster preparedness emergency evacuation plan	E	E	E	E	E	E	E	E	E	E	
(e) -- emergency evacuation drill	E	E	E	E	E	E	E	E	E	E	
(f) -- keep records of emergency drills	E [1-5] N [6+]	E	E	E	E	E	E	E	E	E	
(g) notification of fire or other emergency	N	N	N	N	N	N	N	N	N	N	
(h) carbon monoxide detector	N	N	N	N	N	N	N	N	N	N	
(i)(1) --at least two means of emergency escape, at least one of which is exterior door	E [1-5] -- [6+]	E	E	E	*	E	*	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(2) -- one means of escape from basement	N [1-5]	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(3) -- fully-opening window in each bedroom	E	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	E	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(4) -- screens do not prevent emergency escape	E	N	N	N	N	N	N	N	N	N	

## Sectional Analysis of House CS for CSSB 125 (FIN) (Licensing)

*(Prepared by the Department of Health and Social Services and the Department of Law, May 6, 2005)*

House CS for CSSB 125 (FIN) would centralize the licensing and administration of certain covered entities into a new chapter, and would centralize background check and registry functions for entities and individual service providers who are licensed or certified by the Department of Health and Social Services (DHSS) or who receive payments from the DHSS for providing services.

### **1. Addition of a new chapter to centralize licensing and administration of covered entities (Sections 34 and 35):**

Sections 34 and 35 add a new chapter regarding centralized licensing to title 47. The new sections do the following:

- require that certain entities obtain a license, and describe application requirements;
- provide for provisional and biennial licenses;
- provide for notice and appeal when a license is denied or made conditional;
- provide a construct for filing and investigation of complaints against an entity;
- give the DHSS a right of access to entities for inspection;
- require the DHSS to prepare a report following an investigation;
- provide for the immediate revocation or suspension of a license, for other enforcement actions, and for civil fines;
- provide for notice and appeal of enforcement actions;
- provide immunity to the DHSS, hospice volunteers, and entities in certain situations;
- provide for criminal penalties for violation of the licensing chapter;
- provide for the confidentiality of certain information and DHSS intradepartmental access to information.

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

Section 19 adds new background check and registry sections to the chapter dealing with the general administration of welfare, social services, and institutions (AS 47.05). The new sections are as follows:

- The new background check and registry sections are made applicable to any individual or entity that is required to be licensed or certified by the DHSS, or that is eligible to receive payments from the DHSS to provide for the health, safety, or welfare of persons.
- Individuals who will be associated with an entity as owner, fiduciary, operator, employee, or volunteer are required to provide fingerprints to the DHSS so that the DHSS can do a background check on the individual.
- An individual who has been charged with or convicted of a crime that is inconsistent with the standards for licensure or certification may not be associated with an entity or individual service provider as owner, operator, fiduciary, employee, or volunteer. If the entity associates with such an individual, the entity may not be issued or have renewed a license or certification, or may be ineligible to receive a payment from the DHSS to provide services.
- The DHSS must provide for a confidential centralized civil registry that consists of the following information:
  - 1) decisions, judgments, orders, and adjudications finding that the relevant individual committed medical assistance fraud, abuse, neglect, or exploitation of a child, senior citizen, or vulnerable adult;
  - 2) orders that a license or certification was denied, suspended, revoked, or conditioned.
- Employers, employees, and volunteers would be required to report to the DHSS when they are subject to a decision, order, judgment, or adjudication under 1 above; and employers would be required to report allegations of employee or volunteer fraud, abuse, neglect, or exploitation to the DHSS.
- Information on the registry would be available to authorized licensed entities and individual service providers for employment decisions, and authorized governmental agencies.

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

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

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

Sections 1 – 18, 20 – 33, and 36 - 42 set out conforming amendments and changes to reflect the bill's centralizing of licensing and administrative functions in AS 47.32. The subjects affected include:

- the definition of "hospital" in AS 09.65.095(b) (sec. 2) and AS 09.65.096(d) (sec. 3);
- the identification of a child care facility related to misconduct involving a weapon under AS 11.61.195(a) (sec. 4) and 11.61.220(a) (sec. 5);
- the conversion of a nursing facility to a nursing home under AS 18.07.031(b) (sec.6);
- the definitions of "department," "governmental unit," and "hospital" under AS 18.20.130 (sec. 7);
- sanctions regarding nursing facilities under AS 18.20.310 (sec. 8);
- the definition of "health care provider" under AS 18.23.070 (sec. 9) and AS 09.55.560 (sec. 1);
- facility compliance with health and safety laws and licensing requirements under AS 18.26.220 (sec. 10);
- the definition of "child adoption agency" in AS 18.50.950 (sec. 11);
- health maintenance organizations' requirement regarding regulation of hospitals under AS 21.86.030(c) (sec. 12);
- maintenance of records by a child placement agency under AS 25.23.185(c) (sec. 13);
- licensing fees under AS 37.05.146(c) (sec. 14);

- makes APA applicable to registry hearings under AS 44.62.330(a) (sec. 15);
- jurisdiction of the Office of Administrative Hearings under AS 44.64.030 (sec. 16);
- investigation of reports of abuse, neglect, or misappropriation of property under AS 47.05.010(15) (sec. 17) and AS 47.05.055(a) (sec. 18);
- runaway minors under AS 47.10.141 (sec. 20) and runaway shelters under AS 47.10.392 (sec. 21) and 47.10.399 (sec. 22);
- the definition of “foster care” under AS 47.10.990 (sec. 23) and “secure residential treatment center” under AS 47.10.990 and AS 47.12.990 (secs. 24 – 25);
- a report of harm under AS 47.24.013(a) (sec. 26);
- minimum daily reimbursement rates under AS 47.24.017(d) (sec. 27);
- grants for child care facilities under AS 47.25.071(b) (sec. 28);
- the definition of “child care facility” and “day care facility” under AS 47.25.095 (secs. 29 – 30);
- the definition of “assisted living home” under AS 47.25.195(f) (sec. 31);
- the definition of “evaluation facility” under AS 47.30.915 (sec. 32) and AS 47.31.100 (sec. 33);
- assisted living homes under AS 47.33.010 (sec. 36) and 47.33.070 (sec. 37);
- licensing and supervision under AS 47.40.021 (sec. 38) and AS 47.40.110 (sec. 39);
- Pioneer Homes under AS 47.55.010 (sec. 40);
- the definition of “long-term care facility” under AS 47.62.090 (sec. 41);
- AS 47.80.140 regarding licensing and certificates of need is repealed and readopted to reflect the centralizing of licensing in AS 47.32 (sec. 42).

**V. Repealers (Sections 43 - 51):**

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

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

Section 45 repeals certain statutes governing hospitals and nursing facilities.

Section 46 repeals a reference to AS 47.35, which is repealed by this bill.

Sections 47 and 48 repeal certain statutory provisions regarding the applicability of administrative adjudication.

Section 49 repeals certain statutes governing assisted living homes.

Section 50 repeals certain statutes governing child care facilities, child placement agencies, child treatment facilities, foster homes, and maternity homes.

Section 51 repeals certain statutory definitions related to alcohol treatment.

**VI. Applicability (Sections 52 and 53):**

Sections 52 and 53 set out the applicability of the bill to applications and requests depending on when submitted.

**VII. Transition (Sections 54 - 57):**

Section 54 sets out the transition rules for entities currently licensed or approved.

Section 55 sets out the transition rules for entities with applications pending for more than 90 days.

Section 56 sets out the transition rules for certain entities with pending application and other requests.

Section 57 allows the DHSS to proceed to adopt regulations under the bill.

**VIII. Certification (Section 58)**

Section 58 requires the lieutenant governor to certify to the revisor of statutes the effective date of certain regulations.

**IX. Effective date (Sections 59 – 61):**

Section 59 sets out an immediate effective date for secs. 52, 55, and 57.

Section 60 sets out an effective date of the earlier of the effective date of regulations adopted under sec. 57(b) or March 1, 2006, for sections 19 and 35 of the bill.

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

## CHANGES MADE TO SB 125

### Changes made by CSSB 125 (HES)

1. Adds runaway shelters as an entity required to be licensed. It defines "runaway shelter" as a facility housing a runaway child.
2. Makes the background check and registry provisions effective when regulations are adopted or March 1, 2006, whichever is earlier; it also makes the section applicable to applications for licensure filed within 30 days before the effective date.
3. Repeals references to AS 47.35 in AS 44.64.030, which sets out the jurisdiction of the office of administrative hearings, and adds a reference to AS 47.32, the new licensing chapter.
4. Adds an exception to the crime of knowingly possessing a firearm within the grounds of or on a parking lot adjacent to a licensed child care facility to allow a person 21 years of age or older to possess an unloaded firearm in the trunk of a motor vehicle or encased within the vehicle.

### Changes made by CSSB 125 (JUD)

1. Adds "volunteer" as a type of health or child care worker whose name may be added to the centralized registry if the volunteer commits medical assistance fraud, abuse, neglect, or exploitation.
2. Adds administrative "decisions" to the list of information that can be placed on the centralized registry.
3. Adds a requirement that an entity, individual service provider, employee, or volunteer report to the Department of Health and Social Services within 24 hours of the issuance of a court decision, order, judgment, or adjudication that the entity, individual service provider, employee, or volunteer committed medical assistance fraud, abuse, neglect, or exploitation.
4. Adds a requirement that an entity or individual service provider report to the Department of Health and Social Services within 24 hours of learning of an allegation that an employee, volunteer, or former employee or volunteer committed medical assistance fraud, abuse, neglect, or exploitation within the last 10 years.
5. Makes the centralized registry confidential but allows information to be released to authorized entities and individual service providers for employment purposes, and to governmental agencies.

6. Adds immunity for individuals who make a report of misconduct and for employers for employment decisions based on the registry; it also adds a presumption of good faith.
7. Adds "owner, officer, director, member, or partner of an entity" to the definition of "entity."
8. Adds two references to "medical assistance fraud" to make the background check and registry section internally consistent.
9. Moves the background check immunity section from the licensing chapter to the background check section.
10. Makes the Administrative Procedures Act applicable to certain hearings under the licensing section and to hearings under the registry section.
11. Makes the definition of "assisted living home" consistent in AS 47.32 and 47.33 and adds "offers personal assistance" to the definition.
12. Repeals two statutory references to AS 47.35 where rendered irrelevant by the bill's change to licensed entities instead of licensed individuals.
13. Clarifies that the Department of Health and Social Services may develop policies, programs, and planning related to licensure and operation of entities *as defined by regulation*.
14. Reverts back to existing statutory language in the provision that states that the issuance of a license by the Department of Health and Social Services does not obligate it to place or maintain an individual in an entity or to provide financial support to an entity.
15. Amends the definition of "nursing facility" to state that it include a facility that is primarily engaged in providing rehabilitative services.

Changes made by SFIN

None.

Changes made by SRLS

None.

Changes made on Senate floor

None.

Changes made by House CS for CSSB 125 (FIN)

1. Added a reference to the background check immunity section in the section dealing with complaints and investigations in the licensing chapter (AS 47.32.090).
2. Made technical changes to a transition section of the bill (sec. 54(b)).

Changes made in HRLS

None.

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

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

Revision Date/Time (Note if correction):

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

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR Component No. 245

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

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

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

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

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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

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

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSSB 125(JUD)  
(S) Publish Date: 5/1/05

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

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

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Kathryn Daughhete, Director  
Division: Administrative Services  
Approved by: Kathryn Daughhete for David Marquez, Attorney General  
Agency: Department of Law

Phone: 465-3673  
Date/Time: 4/12/05 3:49 PM  
Date: 4/12/2005

**SB**

**125**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 3 2005

SENATE FINANCE  
COMMITTEE

DATE: 5/1/05

FURTHER:

DATE TURNED  
IN TO OFFICE: 3 May 2005

Finance Committee considered

SENATE BILL NO. 125

## SB 125 LICENSING MEDICAL OR CARE FACILITIES

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

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS SB 125 (JUD)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
H&SS	4/28/05			✓	#2
LAW	4/12/05			✓	#3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			



MAY 3 2005

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSSB 125(JUD)  
(S) Publish Date: 5/1/05

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

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

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

Prepared by: Kathryn Daughhotee, Director  
Division: Administrative Services  
Approved by: Kathryn Daughhotee for David Marquez, Attorney General  
Agency: Department of Law

Phone: 465-3673  
Date/Time: 4/12/05 3:49 PM  
Date: 4/12/2005

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
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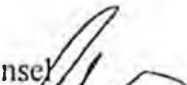
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 3, 2005

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

**TO:** Representative Ralph Seekins, Chair  
House Judiciary Committee  
Attn: Brian Hove

**FROM:** Jean Mischel  
Legislative Counsel 

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

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

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

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

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

JMM:jad  
05-248.jad

Enclosure

COMMITTEE COPY

SB125



FRANK H. MURKOWSKI  
GOVERNOR  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 1, 2005

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

Dear President Stevens:

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

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

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

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

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

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The Honorable Ben Stevens  
March 1, 2005  
Page 2

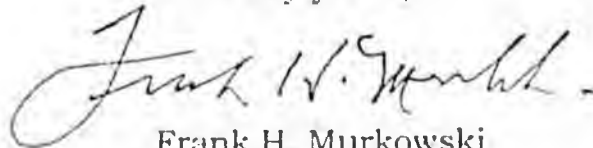
Alaska's long-term care system. This grant, in conjunction with the provisions of the legislation I am proposing today will:

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

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

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski  
Governor

Enclosure



# **PUBLIC HEALTH**

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

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

Dr. Richard Mandsager, M.D.  
Director, Division of Public Health  
Alaska Department of Health and Social Services

5/03/2005

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



- The existing statutory and regulatory environment is a complex patchwork, with holes, duplication and unnecessary variants.
  - Agencies which offer more than one type of care services must meet different requirements for licensing created by evolving program standards and historical licensing criteria.
  - These differences limit the flexibility of licensing staff to operate across different program types.
  - There is no compelling rationale to maintain these differences, and much benefit to be derived from eliminating them.
- Some provider types are not covered today, for either requirements of licensing or background check requirements, or both.
- Some individuals can currently pass a background screen, who shouldn't.
- Tracking of required care provider information has not been consistent.
- Existing requirements can also raise the costs to care provider applicants.

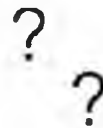
"Recruiting and hiring ... is an area we cannot afford even a single failure of the system." Matthew Jones, Executive Director, Assets Inc.

## **The existing regulation of long term care has not prevented instances of abuse and neglect.**

- A supported living home provider was misappropriating funds from a resident. There is no requirement for the home to be licensed, and no background review had been conducted on the provider.
- An assisted living home attendant was fired for mistreatment, and the facts presented to law enforcement. No charges were filed and the case was dropped. This person remains eligible to work as a care provider.
- Three Alaska Nurse Aides were found by investigative agencies to be mistreating residents in a nine month period. Well after the mandatory reporting time period, two of these findings had not been entered into the registry.
  - One of the two involved physical violence.
- In another state, a person was involved in a stabbing in a convenience store. Months later, this person, recognized by someone who had been in the store, was found working as a long term care provider.
- Personal Care Attendants, who are typically listed by multiple employment agencies, must submit separate fingerprint-based background checks for each agency, at significant cost and duplication of effort.

**Besides the gaps in the oversight process and risks to Alaskans in care, there is significant cost and effort to provide the required management of care programs.**

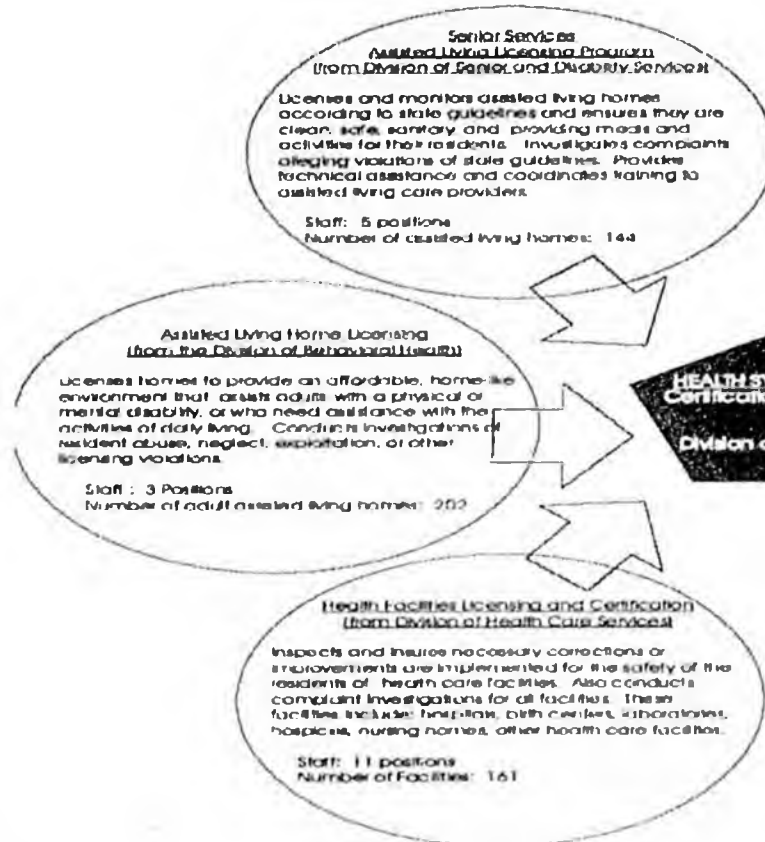
- Currently, 19 programs are administered under at least 12 different statutory schemes for licensure by DHSS.
  - The complexity of the different standards and program compliance requirements have resulted in a cumbersome administrative structure.
  - Care providers are faced with a patchwork of regulations and sometimes conflicting requirements for service delivery, particularly the agencies that operate multiple types of care services.
    - For example, under current practices a Care Coordinator might be employable at one agency, but not acceptable to another agency. And an individual acceptable for Care Coordination would not be acceptable to an Assisted Living Home, or an Assisted Living Home employee might not be employable in Child Care.
    - Yet many of the care agencies operate in all these programs
  - Licensing and Certification surveyors/licensing staff must learn and deal with the variants of each service program.
  - A consolidated program promotes greater depth in staff expertise and cross training.
- Three licensing program units have been consolidated within Public Health, but the programs they manage still must be uniquely administered.



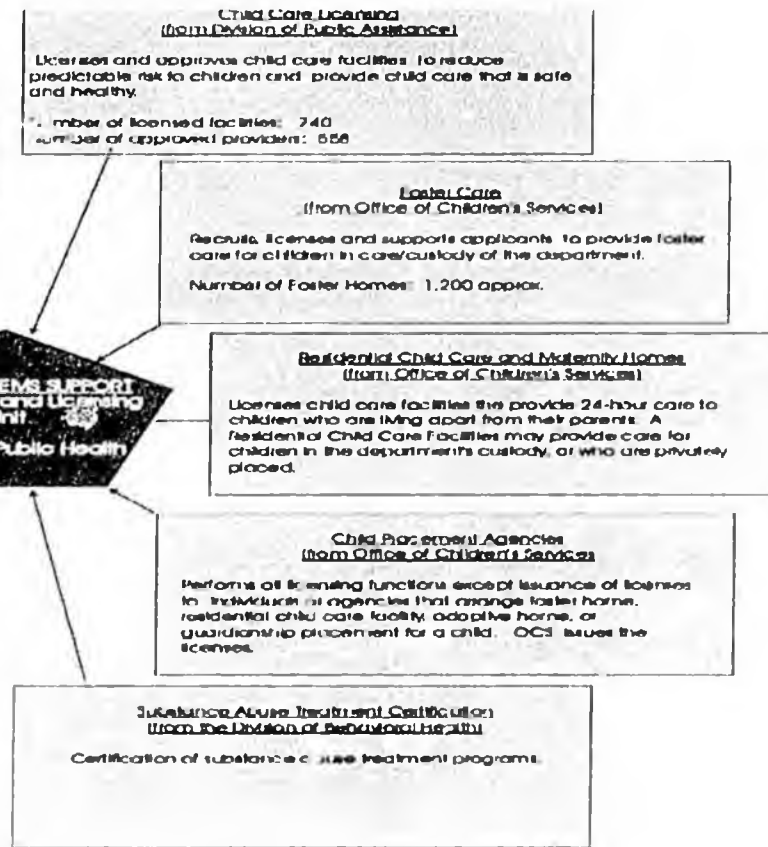
# The three units that have been consolidated represent Phase I of the consolidation process.

## Department of Health and Social Services Certification and Licensing Integration Project

### Phase I – FY 2005



### Potential Phase II - FY 2006 – 2009



**HEALTH SYSTEMS SUPPORT  
Certification and Licensing Unit**  
Division of Public Health

**Our aim is to reduce predictable risk, improve quality of care, foster patient rights, and advance public health, safety and welfare.**

- **Centralized Licensing and Related Administrative Procedures, for:**

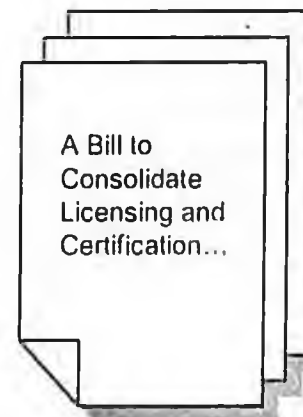
- |                             |                      |  |
|-----------------------------|----------------------|--|
| Ambulatory Surgical Centers | Home Health Agencies | Residential Child Care Facilities      |
| Assisted Living Homes       | Hospices             | Residential Psychiatric Treatment Ctrs |
| Child Care Facilities       | Hospitals            | Rural Health Clinics                   |
| Child Placement Agencies    | ICF/MRs              | *Supported Living Homes                |
| Foster Homes                | Maternity Homes      | *Personal Care Attendants              |
| Freestanding Birth Centers  | Nursing Facilities   | *Case Mgmt/Care Coordination           |
|                             |                      | *Adult Day Care/Respite                |

- **Defines and Consolidates:**

- Definitions
- Requirements to get a license
- License renewal process
- Requirements for a background check
- Conditions for denial of license
- Complaints process and appeals
- Enforcement actions and penalties
- Confidentiality requirements

\* Subject to background check provisions only

[Licensed Certified Both]



# How CSSB 125(JUD) impacts the existing statutory definition of current DHSS licensed programs...

18.20.075-085	Hospital reg, risk mgmt, inspection
18.20.300	Nursing Facilities - state policy
18.20.305-390	Nursing regs, penalties, appeals, fines, ...
47.33.005-090	ALH Purpose, applicability, payments, rules, ...
47.33.200-360	ALH rights, grievances, contracts
18.18.100	Hospice licensing requirements
18.18.200	Volunteer Hospice licensing requirements
18.18.300-340	General Hospice requirements
18.18.390	Hospice definitions
18.18.490	HHA definitions
18.20.230-260	Hospital charges
14.43.148	Defines nonrenewal of licenses in general Amended to include children and A/DA licensing
18.20.130	Defines nonrenewal of licenses in general
47.33.990	ALH Definitions, removed references to controlled subs.
47.37.270	Removed selected definitions related to treatment facilities
18.05.040(a)(10)	Direct Entry Midwifery free standing birth centers
18.18.005-040	Hospice regulation
18.20.090-120	Disclosure of information, penalties
18.18.350	Hospice disclosure requirements
18.18.410-470	Home Health Agencies
18.20-18.20.070	Hospitals and intermediate care facility licensing
18.20.302	Criminal background check, nursing employees
47.33.100	ALH criminal background checks
47.33.400-920	ALH Licensing process & procedures
47.35.005-260	Maternity, RPTCs, childrens services process and procedures

Retained  
Retained  
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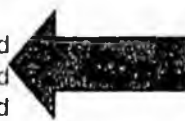
Other changes are in the bill, but they are primarily references to this added section

moved to regulation  
moved to regulation  
moved to regulation  
moved to regulation  
moved to regulation  
moved to regulation



**Revised Regulations**

Amended  
Amended  
Amended  
Amended



Proposed C&L Consolidation Bill 47.32.000

Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed



Note: "move to regulation" removes a regulatory level of detail from statute, but retains the spirit and intent of the statute in the forthcoming regulatory rewrite.

Requirements being added to administrative code. The subject area will be included in the regulatory code, and will be subject to public comment, hearing, and public input and background check requirements.

## **What's in CSSB 125(JUD)?**

- **Addition of a new chapter to centralize licensing and administration of covered entities:**
  - Defines what entities must be licensed
  - Defines license conditions, appeals, complaint process
  - Defines DHSS rights and responsibilities
  - Provides confidentiality protections
  - Provides criminal penalties for violations
- **Addition of a new article to centralize background checks and registry functions:**
  - Defines who is required to have background checks
  - Provides for regulatory definition of barrier conditions
  - Requires a centralized registry be created and maintained
- **Updates to existing statutes (see previous page)**
- **Establishes the timeline for implementation**

## The key provisions of CSSB 125(JUD):

- Barrier conditions to employment in the care provider field will be defined in a consolidated *regulation* definition, with an objective of defining one, or as close to one as possible, common, consistent set of conditions to apply to all provider types.
  - There may be a need to distinguish between barriers to adult care vs. children's care.
- All service providers with direct patient contact must be background checked including volunteers who have regular contact with individuals who receive services
- Charges of a barrier crime are sufficient to bar employment.
- An employee misconduct registry will be implemented for maintaining employment barrier conditions that may not be reflected elsewhere.
- A standard waivers process will be defined.
- A standard appeals process will be implemented.



## Excerpt from just one of the current regulatory crosswalks

### 1.1.1 SUMMARY OF EXISTING AND PROPOSED NEW SAFETY AND SANITATION STANDARDS TO CERTAIN FACILITIES PROVIDING CARE TO CHILDREN AND TO ADULT RESIDENTS February 16, 2005

**NOTES TO READER: REQUIREMENTS, INCLUDING APPLICABILITY, ARE SUBJECT TO CHANGE AFTER REVIEW OF PUBLIC COMMENTS AND BEFORE ADOPTION.**

Bracketed numbers = number of persons licensed for care, if requirements differ by size of facility

"E" = existing requirement (but may differ in proposal)    "N" = new requirement    "--" = not applicable (unless licensed for more than one category of care)  
\* = a more stringent requirement applies

ALH = assisted living home; FH = foster home; FGH = foster group home; RGH = residential child care group home; RCCC – residential child care center;  
CCH = child care home; CCGH = child care group home; CCC = child care center; RPTC = residential psychiatric treatment center for children;  
MH = maternity home; AP = approved provider (child care assistance)

REQUIREMENT	ALH	FH	FGH	RGH	RCCC	CCH	CCGH	CCC	RPTC	MH	AP
<b>7 AAC 10.610. Life and fire safety</b>											
<b>Based on existing child care licensing, 4 AAC 62.510; existing residential child care, 7 AAC 50.510; existing ALH, 7 AAC 75.270</b>											
(b)(1) -- Meet state code for fire safety in 13 AAC 50 and 13 AAC 55 or more stringent if required by local authorities	-- [1-5] E [6+]	E	E	E	E	E	E	E	N	N	
(b)(2) -- municipal building code approvals	-- [1-5] E [6+]	N	N	N	N	N	N	N	N	N	
(b)(3) and (c) -- fire safety inspection	E	E	E	E	E	E	E	E	E	E	
(d)--disaster preparedness emergency evacuation plan	E	E	E	E	E	E	E	E	E	E	
(e) -- emergency evacuation drills	E	E	E	E	E	E	E	E	E	E	
(f) - keep records of emergency drills	E [1-5] N [6+]	E	E	E	E	E	E	E	E	E	
(g) notification of fire or other emergency	N	N	N	N	N	N	N	N	N	N	
(h) carbon monoxide detector	N	N	N	N	N	N	N	N	N	N	
(i)(1) –at least two means of emergency escape, at least one of which is exterior door	E [1-5] -- [6+]	E	E	E	*	E	*	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(2) – one means of escape from basement	N [1-5]	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(3) – fully-opening window in each bedroom	E	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	E	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(4) – screens do not prevent emergency escape	E	N	N	N	N	N	N	N	N	N	

# STATE OF ALASKA

GOVERNOR

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH  
DIRECTOR'S OFFICE

FRANK H. MURKOWSKI,

P.O. BOX 110610  
JUNEAU, ALASKA 99811-0610  
PHONE: (907) 465-3092  
FAX (907) 586-1877

March 31, 2005

The Honorable Fred Dyson  
State Senate  
Alaska State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Dyson:

Following the first hearing of SB 125 before Senate HESS, your office forwarded a list of questions from the HESS Committee for our consideration and response. Our detailed response to those questions follows.

- 1. AS 47.32.010(b): Which category contains ABORTION FACILITIES?  
Abortion facilities would be included in the Ambulatory Surgical Center licensure. There may be physicians who perform abortions in their private offices, which are not licensed by the State of Alaska.
- 2. AS 47.32.010(b): Are any of these health centers currently without licensure requirements?  
No, but the bill does add licensure for a new category of health care provider (rural health clinics to be called "frontier extended stay clinics") being created under a pilot project with The Department of Health and Human Services, Health Resources and Services Administration.
- 3. Will any health centers currently required to be licensed be freed from licensure requirements?  
No currently licensed facility will be exempted from licensure. However, there is transitional language that would require a facility that is currently licensed who is seeking renewal to be subject to the new provisions in AS 47.32.
- 4. AS 47.32.020(a): Which entities will be exempt? Why? The only exemption anticipated at this time to continue under regulation is rural health clinics that are not a frontier extended stay clinic.
- 5. AS 47.32.030(a)(3)(D): Which applicants would be eligible for waivers, variances, and exemptions? Why should these classes be exempt, and other classes be required? All applicants would be eligible to apply for waivers, variances and exemptions.
- U. AS 47.32.030(a)(9): Why not, instead of waiving the requirements, consider them fulfilled, and thus licensed (and overseen by DHSS)? All we are waiving is the application process; they will be deemed licensed. We prefer to waive the requirement rather than deeming requirements fulfilled.

- 7 • AS 47.32.030(a)(9)(C): Ease our apprehension to allow federal requirements to dictate whether or not we require licensure. Federal law in the Social Security Act specifically exempts federal hospitals and other federal health providers from State licensure.
- 8 • AS 47.32.050: Why would anyone get a provisional license if they meet all of the requirements of a standard license? The intent of this section is to accommodate new facilities/entities. A provisional license is intended to give a new provider some time to demonstrate its ability to maintain licensure compliance before a standard license is issued.
- 9 • AS 47.32.100(b): Explain why the department would decline to investigate a complaint if they have contradicting information. The language does not state that the department would decline to investigate a complaint if it had contradicting information. The intent is to assure a determination of merit is made following a review of all information provided. Frequently complaints are received for which there is no regulatory authority to investigate, or the information is not sufficient or is clearly spurious and would be a waste of time and resources to investigate.
- 10 • AS 47.32.110: Even confidential records? How does this interact with HIPAA? HIPAA allows regulatory agencies with oversight authority to review confidential records. The licensing agency is under the same HIPAA requirements as the provider.
- 11 • AS 47.32.150(b): Why "may" instead of "shall" regarding whether or not the department conducts a follow-up inspection? It depends on the nature of the noncompliance. Some type of follow-up is always done, but it is not always necessary to be onsite to verify compliance. For example, if a facility is cited for noncompliance with fire safety in-service training, it would not be necessary to verify compliance with an onsite visit to the facility to review documentation of in-service training when that information can be faxed to the licensing agency.
- 12 • AS 47.32.150(c): Why "may" instead of "shall" regarding whether or not the department conducts a follow-up inspection? Again, for the same reasons stated above.
- 13 • AS 47.32.160: Why doesn't AS 44.64.060 not apply? The concept of this section was to provide for a substantive administrative hearing for the more serious actions taken during an investigation, e.g., revocation or suspension of a license. Numerous discussions took place as to how this section would tie into the creation of the central hearing panel under AS 44.64. Those discussions resulted in a determination that we would want an APA-type hearing and would support having those hearings administered by the central panel. Therefore, the reference that 44.64.060 does not apply should be changed to indicate that it does apply. It should be noted that if we opt into the central panel for these types of hearings, the APA would apply pursuant to AS 44.64.060(a). Therefore, the Department will be offering an amendment to clarify this section along with other conforming amendments.
- 14 • AS 47.32.170(b): Why protect a single class of health care professional? And a volunteer at that? Why should volunteers not be subject to the same standards? Existing law provides immunity for hospice volunteers from liability for damages for personal injury, wrongful death, or property damage for an act or omission committed in the course of hospice-related duties unless the

act or omission constituted gross negligence, recklessness, or intentional misconduct. Including this language is simply a carry-over from existing law.

- 15 ▪ **AS 47.05.300: Who is required to receive a background check? Who is not required?** Essentially, anyone who comes in contact with residents in care, in any capacity, or who owns or operates a facility providing services for the facility types enumerated, is required to undergo a background check.
- 16 ▪ **AS 47.05.310(a): Why should a criminal charge, rather than a conviction, disqualify a person?** In order to establish a program of true quality, life, safety and health concerns are the building blocks of all quality assurance. This starts with the hiring of excellent, qualified staff and involves criminal background histories, fingerprints and a series of reference checks. It is our opinion that it is important to at least include charges under the discretionary bar of the criminal background check, which already exists under AS 47.35. Further it is our opinion that on occasion, persons who are charged with a crime may have those charges dismissed or reduced for a variety of reasons but not necessarily because the crime was not committed. Those individuals should be carefully screened to ensure they meet the basic standards which we would require of any person employed by a licensed entity charged with the care of vulnerable adults and children.
- 17 ▪ **AS 47.05.330: Will the Criminal Registry be accessible to the public? If so, why?** This is not a criminal registry, but a civil registry. At this point the department is assuming the document would be public.
- 18 ▪ **Will this new process affect the Certificate of Need process?** No.
- 19 ▪ **Justify removing legislative oversight from the licensing process since many processes previously outlined in statute will be covered in regulation.** Both processes provide oversight. Direct legislative involvement in the regulatory process is guaranteed under AS 24.20. This bill does not remove much of the legislative oversight that currently exists in statute; rather it consolidates the process into a single statutory chapter. The provision of health and social services is a rapidly expanding and changing field, both in terms of clients to be served and the technology utilized in service delivery. To optimize its capacity to be responsive to such changes the Department must have the ability to react and respond in a timely fashion. Having the authority to make changes in regulations will improve that response process. Further, it simplifies that need for flexibility for everyone: legislators, administrators, licensers, and providers.
- 20 ▪ **How can the creation of a database not cost any money according to the fiscal note? How can streamlining the licensing process not save any money according to the fiscal note?** The cost associated with creating the database is covered by federal grant funding recently awarded to the Department as part of a pilot program to identify efficient, effective and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct client access employees. While streamlining will reduce costs, it will also put the Department in a cost neutral position by applying the anticipated savings against the documented 15% annual growth rate in licensed assisted livings homes, and other waived services.

I appreciate the opportunity to respond to the Committee's questions and concerns with regard to SB 125, and look forward to continued open and productive dialogue as the legislation continues to move through committee review.

Sincerely,

A handwritten signature in cursive script that reads "Richard Mandsager". The signature is written in black ink and is positioned above the printed name and title.

Richard Mandsager  
Director

cc: Deb Erickson, Deputy Director  
Virginia Stonkus, Certification and Licensing

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 1, 2005

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

Dear President Stevens:

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

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

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

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

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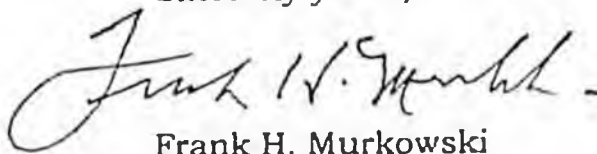
Alaska's long-term care system. This grant, in conjunction with the provisions of the legislation I am proposing today will:

- Improve monitoring and enforcement of life, health, and safety regulations for all DHSS long term-care programs.
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- Improve the overall safety and security of vulnerable individuals in state licensed and certified long-term care programs.

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

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski  
Governor

Enclosure

## Sectional Analysis of SB 125 (Licensing)

*(Prepared by the Department of Health and Social Services and the Department of Law, March 4, 2005)*

SB 125 would centralize the licensing and administration of certain covered entities into a new chapter, and would centralize background check and registry functions for entities and individual service providers who are licensed or certified by the Department of Health and Social Services (DHSS) or who receive payments from the DHSS for providing services.

### **I. Addition of a new chapter to centralize licensing and administration of covered entities (Section 1):**

Section 1 adds a new chapter regarding centralized licensing to title 47. The new sections do the following:

- require that certain entities obtain a license, and describe application requirements;
- provide for provisional and biennial licenses;
- provide for notice and appeal when a license is denied or made conditional;
- provide a construct for filing and investigation of complaints against an entity;
- give the DHSS a right of access to entities for inspection;
- require the DHSS to prepare a report following an investigation;
- provide for the immediate revocation or suspension of a license, for other enforcement actions, and for civil fines;
- provide for notice and appeal of enforcement actions;
- provide immunity to the DHSS, hospice volunteers, and entities in certain situations;
- provide for criminal penalties for violation of the licensing chapter;
- provide for the confidentiality of certain information and DHSS intradepartmental access to information.

## **II. Addition of a new article to centralize background checks and registry functions (Section 17):**

Section 17 adds new background check and registry sections to the chapter dealing with the general administration of welfare, social services, and institutions (AS 47.05). The new sections are as follows:

- The new background check and registry sections are made applicable to any individual or entity that is required to be licensed or certified by the DHSS, or that is eligible to receive payments from the DHSS to provide for the health, safety, or welfare of persons.
- Individuals who will be associated with an entity as owner, fiduciary, operator, employee, or volunteer are required to provide fingerprints to the DHSS so that the DHSS can do a background check on the individual.
- An individual who has been charged with or convicted of a crime that is inconsistent with the standards for licensure or certification may not be associated with an entity or individual service provider as owner, operator, fiduciary, employee, or volunteer. If the entity associates with such an individual, the entity may not be issued or have renewed a license or certification, or may be ineligible to receive a payment from the DHSS to provide services.
- The DHSS must provide for a centralized registry that consists of the following information:
  - 1) judgments, orders, and adjudications finding that the relevant individual committed abuse, neglect, or exploitation of a child, senior citizen, or vulnerable adult;
  - 2) orders that a license or certification was denied, suspended, revoked, or conditioned.

## **III. Conforming amendments (Sections 2 – 16, 18 – 32)**

Sections 2 – 16 and 18 – 32 set out conforming amendments and changes to reflect the bill's centralizing of licensing and administrative functions in AS 47.32. The subjects affected include:

- the definition of "hospital" in AS 09.65.095(b) (sec. 3) and AS 09.65.096(d) (sec. 4);

- the identification of a child care facility related to misconduct involving a weapon under AS 11.61.195(a) (sec. 5) and 11.61.220(a) (sec. 6);
- the conversion of a nursing facility to a nursing home under AS 18.07.031(b) (sec.7);
- the definition of "health care provider" under AS 18.23.070 (sec. 8) and AS 09.55.560 (sec. 2);
- facility compliance with health and safety laws and licensing requirements under AS 18.26.220 (sec. 9);
- the definition of "child adoption agency" in AS 18.50.950 (sec. 10);
- health maintenance organizations' requirement regarding regulation of hospitals under AS 21.86.030(c) (sec. 11);
- maintenance of records by a child placement agency under AS 25.23.185(c) (sec. 12);
- the definition of "license" under AS 25.27.244(s) (sec. 13);
- licensing fees under AS 37.05.146(c) (sec. 14);
- investigation of reports of abuse, neglect, or misappropriation of property under AS 47.05.010(15) (sec. 15) and AS 47.05.055(a) (sec. 16);
- the definition of "foster care" under AS 47.10.990 (sec. 18) and "secure residential treatment center" under AS 47.10.990 and AS 47.12.990 (secs. 19 – 20);
- a report of harm under AS 47.24.013(a) (sec. 21);
- minimum daily reimbursement rates under AS 47.24.017(d) (sec. 22);
- grants for child care facilities under AS 47.25.071(b) (sec. 23);
- the definition of "child care facility" and "day care facility" under AS 47.25.095 (secs. 24 – 25);
- the definition of "assisted living home" under AS 47.25.195(t) (sec. 26);

- the definition of "evaluation facility" under AS 47.30.915 (sec. 27) and AS 47.31.100 (sec. 28);
- licensing and supervision under AS 47.40.021 (sec. 29) and AS 47.40.110 (sec. 30);
- the definition of "long-term care facility" under AS 47.62.090 (sec. 31);
- AS 47.80.140 regarding licensing and certificates of need is repealed and readopted to reflect the centralizing of licensing in AS 47.32 (sec. 32).

**IV. Repealers (Sections 33 - -39):**

Section 33 repeals a reference to 47.35, which would be repealed by this bill.

Section 34 repeals certain statutes governing hospice and home care programs.

Section 35 repeals certain statutes governing hospitals and nursing facilities.

Section 36 repeals certain statutory provisions regarding the applicability of administrative adjudication.

Section 37 repeals certain statutes governing assisted living homes.

Section 38 repeals certain statutes governing child care facilities, child placement agencies, child treatment facilities, foster homes, and maternity homes.

Section 39 repeals certain statutory definitions related to alcohol treatment.

**V. Applicability (Section 40):**

Section 40 sets out the applicability of the bill to applications and requests depending on when submitted.

**VI. Transition (Sections 41 - 43):**

Section 41 sets out the transition rules for entities currently licensed or approved.

Section 42 sets out the transition rules for certain entities with pending application and other requests.

Section 43 allows the DHSS to proceed to adopt regulations under the bill.

**VII. Effective date (Sections 44 – 46):**

Section 44 sets out an immediate effective date for secs. 40, 42, and 43.

Section 45 sets out an effective date of July 1, 2006, for section 32.

Section 46 sets out an effective date of July 2, 2005, for the remainder of the bill.

Position Paper on Senate Bill 125 Offered by Rod Betit, President ASHNHA  
Before Senate Health, Education & Social Services Standing Committee  
March 14, 2005

Mr. Chairman, members of the Committee, I am Rod Betit, President of the Alaska State Hospital & Nursing Home Association. ASHNHA's membership includes all but one of the 31 hospitals and nursing homes throughout the State.

ASHNHA supports the Department in its efforts to bring greater administrative efficiency to its broad array of licensing responsibilities. This is an extremely important role of the Department in assuring that Alaskans receive appropriate care in a variety of medical and protective settings.

While we support this legislation overall, we do recommend the Committee consider a few sections of the bill for purposes of clarifying the policy outcome the Department is attempting to achieve. These provisions include the following sections:

**Sec. 47.32.060(c) Lines 13-16:**

As written this language would grant an automatic extension no matter when a facility files an application for renewal if the department cannot complete its review by the expiration date. The facility that files the day before its current license expires is treated the same as the one which files 90 days before expiration. What is the incentive to file timely?

**Sec. 47.32.140. (a) Lines 29-33:**

This is a very serious section of the licensing provision with very serious implications for all concerned if not implemented well. If the department takes this extraordinary action it should only be with the express approval of the Commissioner, in writing, with a clear written finding that continued care by the provider would be more injurious than attempting to correct the deficiencies while banning any new admissions to the program.

If this action is taken by the Department, it must be clear who is responsible for the care of the patients/residents/children from the moment the license is revoked. Clearly the provider will no longer have legal authority to direct the care of the impacted individuals. The Department would have to immediately designate a temporary manager of the facility and assume all day-to-day operational responsibilities, financial liabilities for operation of the program and liability for any care provided until the situation is resolved. This is very tricky business with a great deal of liability for the State. I have actually done this in both Alaska and Utah and I can tell you this no place for the weak of heart.

If the Department chooses to close the facility and transfer the patients it must be clear that the responsibility rests with the State to achieve this without harm to any of the residents. This would include finding appropriate beds, arranging medical transportation appropriate for each patient's medical condition, coordinating with families/guardians, and monitoring of the patients health status throughout the transfer process until the patients/residents are settled into their new facility. Again, this is a monumental task.

ASHNHA  
ALASKA STATE HOSPITAL AND NURSING HOME ASSOCIATION

**Position Paper on Senate Bill 125 Offered by Rod Betit, President ASHNHA**  
**Before Senate Health, Education & Social Services Standing Committee**  
**March 14, 2005**

- Back in the late 1970's while employed by the Alaska Dept of Health & Social Services I actually exercised a "cease and desist" order against the management of a Fairbanks nursing home. I personally took possession of the facility. I had accompanying me additional administrative staff, extra nursing staff from around the State, and law enforcement to maintain order during the transition. This "takeover" had a successful outcome some weeks later as the facility was sold to Fairbanks Memorial Hospital and has had a solid patient care reputation ever since. However, there were many points at which something could have gone wrong and the State could have been liable.
- While in Utah I exercised similar closure orders against 4 additional facilities with reasonable outcomes. The State's actions were upheld in each instance. However, each caused me to lose more hair. In each of these cases I installed a Temporary Administrator reporting directly to me, and we proceeded to transfer all patients to other facilities as quickly as could be arranged. This usually took 7 to 14 days to complete safely. As State Health Director I was personally responsible for these actions until completed.
- The State has time to refine when and how this provision would be used, and placing those guidelines in rulemaking. I would encourage the Department to do so working with ASHNHA, the AG and other potentially impacted parties. We are quite fortunate to have a very competent, thoughtful Commissioner at DHSS who could lead us through this process.

*par 13*

**AS 47.32.170(a) Lines 16-18:**

- I understand this provision is primarily intended to protect the State's employees and agents. While it might be feasible to provide immunity to employees and agents, ASHNHA does <sup>NOT</sup> agree that the State should be immune from compensating for economic consequences to a provider if the action was ultimately found to be excessive. Likewise, the State should not be immune from compensating for any harm suffered by a patient as a direct result of fallout from a license revocation action.
- With <sup>to</sup> respect to protecting employees, the Commissioner or any DHSS employee can be sued in their personal capacity for any harm suffered to patients, loss of pay to employees, loss of revenue to contractors or vendors, economic impact on a provider etc. This language may be of little help to shield them from those forms of personal liability. You may want to consider adding language that permits the State to pay for some private legal counsel for the Commissioner and key employees if they are sued in their personal capacity. Generally, state employment rules do not provide this coverage leaving the employees to pay for their own legal counsel to defend themselves when a personal action is brought, and the AG is unsuccessful in redirecting it to their professional capacity.

**AS 47.32.900(2)(A) Page 15, Lines 25-03 on page 16:**

- This section defines an "Assisted Living Home". Services that may be provided in an assisted living environment need to be better defined. For example, this definition would make it appear that it is not permissible to accept a resident that is incapable of managing their own medication or that requires any nursing care. There have been many cases in other states where people requiring this level of "medical care" are cared for in assisted living homes, even when the extent of those services goes beyond what is reasonable to provide in that setting. The language would seem to suggest that the need for these kinds of medical services would preclude their placement in an assisted living home. Further, a key

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indicator of a person's ability to live independently in an assisted living home is their physical capacity to egress the building in the event of a fire unassisted. There is no mention of this standard in the proposed language so it is unclear whether that is the intent or not.

Again, ASHNHA believes that the changes embodied in SB 125 represent an important step in improving the licensing responsibilities of the Department and we generally support it; however, we believe the above concerns should be addressed before the bill leaves this Committee to make its intent clear to all concerned.

Mr. Chairman that concludes my comments.

**Contact Info:**

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526 Main St, Juneau 586-3881

## NEW PROVISIONS IN SB 125 (LICENSING BILL)

<u>New under SB 125</u>	<u>Current law</u>
1. (Sec. 1) AS 47.32.010(b)(8) makes all hospices and hospice programs subject to the same licensing and administrative provisions.	1. For-profit and volunteer hospice programs treated differently under licensing scheme.
2. AS 47.32.030(a)(9) allows the department to waive the application requirements for an entity if it can show it has otherwise met them.	2. No like provision.
3. AS 47.32.100(b) permits the department to consolidate complaints that an entity has violated an applicable statute or regulation.	3. No provision for consolidating complaints.
4. AS 47.32.120(b) allows the department to seek license revocation when an entity denies access to the department that is statutorily allowed.	4. No provision allowing the department to seek revocation of license when denied access.
5. AS 47.32.130(a)(2) requires the department to include in its report of investigation or inspection any enforcement action it intends to take.	5. No provision requiring the department to include enforcement action in report of investigation or inspection.
6. AS 47.32.140(b) provides for a two-stage notice of immediate suspension or revocation of license.	6. No provision for a two-stage notice of immediate suspension or revocation.
7. AS 47.32.150(d)(7) allows the department to close an entity as an enforcement action regardless of whether the entity is licensed.	7. No provision allowing for closure of entities that are not licensed.

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| 8.  | AS 47.32.150(d) allows the department to include an entity on the centralized abuse registry as an enforcement action.   | 8.  | No centralized abuse registry exists.   |
| 9.  | AS 47.32.150(i) permits the department to allow an entity whose license has been revoked to seek licensure if the ownership, control, or management of the entity changes.   | 9.  | No such provision.  |
| 10. | AS 47.32.160(a) requires the use of an administrative law judge for hearings on certain enforcement actions.   | 10. | Administrative law judge not required for any hearings.   |
| 11. | AS 47.32.160(b) makes the Administrative Procedures Act apply to hearings on certain types of sanctions, while providing for informal hearings for other types of sanctions. | 11. | Administrative Procedures Act applies to all hearings, with the exception of hearings regarding nursing facilities. |
| 12. | AS 47.32.170(c) makes an entity immune from liability for employment decisions based on information obtained under a criminal history check.                                 | 12. | No similar immunity provision.  |
| 13. | AS 47.32.190(a) makes a complaint, investigation, inspection, and records related to these things confidential.  | 13. | Only the identity of the complainant and the individual receiving services made confidential.                       |
| 14. | AS 47.32.200 gives the public health and public assistance divisions access to any information compiled or retained by other divisions of the department.                    | 14. | No similar access provision.  |

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| 15. AS 47.32.210(c) requires an entity to notify the department within 24 hours of having knowledge of an <i>allegation</i> or <i>suspicion</i> of abuse, neglect, or misappropriation of money or property; it also requires the entity to conduct an investigation and make a written report to the department within five days.                     | 15. No similar provision for notification based on suspicion or allegation.  |
| 16. (Sec. 17) AS 47.05.300 makes the background check and registry provisions applicable to entities that receive money from the state to provide services.  | 16. Background check provisions not applicable to entities that are eligible to receive money from the state, only licensed or certified entities. |
| 17. AS 47.05.310(a) prohibits an individual from owning or being a principal, officer, director, member, or partner of an entity if the individual has been charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the standards of licensure or certification. | 17. No similar provision regarding individuals who own or have an ownership interest or control.   |
| 18. AS 47.05.310(c)(2) prohibits the department from issuing or renewing a license or certification for an entity if the individual who is applying appears on the centralized abuse registry.   | 18. No like provision.   |

19. AS 47.05.310(d)(1) requires an entity to provide of release of information for a criminal history check for an individual who *intends* to become an owner, officer, director, partner, member, or principal.

20. AS 47.05.330 sets out the centralized registry, which will contain information regarding orders, judgments, and adjudications that an individual committed abuse, neglect, or exploitation of a child or vulnerable adult, and orders that an entity had its license revoked, suspended, conditioned, or denied.

19. No like provision.

20. No centralized abuse registry.

FREQUENTLY ASKED QUESTIONS RE: BACKGROUND CHECKS  
REGISTRIES AND OTHER DATABASES

**Q1. What is the difference between a criminal and civil background check?**

**A1.** Fingerprint capture and background checks that are conducted by state or local law enforcement agencies (sheriff's offices, police departments, state police, correctional facilities, courts), or federal agencies (FBI, Drug Enforcement Agency, Bureau of Alcohol, Tobacco, Firearms and Explosives) as the result of illegal or alleged illegal activity, are considered to be "criminal" background checks.

Background checks and fingerprint capture related to employment, licensing, adoption, name changes, and other non-criminal justice purposes are considered to be "civil" background checks.

**Q2. Is it possible for a state to conduct a background check only using the potential employee's name and social security number?**

**A2.** No. Section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), PL 108-173, requires both the state criminal history record search and the FBI IAFIS record search to be conducted utilizing a 10 rolled fingerprint-based search. Criminal history background checks based only on non-unique identifiers (e.g., name, social security number, race, sex, date of birth) are known to result in a significant number of errors, producing both "false positive" and "false negative" results.

A false positive occurs when individuals are erroneously associated with criminal records that actually relate to other individuals with similar names and other identifiers. A false negative occurs when a name check fails to find the criminal records of an individual who provide inaccurate identification information either at the time of the arrest or when applying for a job. False negatives may also be attributed to misspellings or other such errors.

The state criminal history records search must access the state's repository of criminal justice information by utilizing a 10-rolled fingerprint check. This may be done either electronically (e.g., live-scan), by facsimile transmission or digitized paper fingerprint card (e.g., dead- or card-scan) or by mail or courier delivery of paper fingerprint cards (e.g., via hard card).

**Q3. Who is a direct access employee? What employee categories are subject to the background check requirements?**

**A3.** Section 307 of the MMA defines a direct access client employee as, "Any individual (other than a volunteer) that has access to a client or resident of a long-term care facility or provider through employment or through a contract with such facility or provider, as determined by the state." Alaska proposes to expand this category to develop through the regulation process the ability to include volunteers who have unsupervised direct access to vulnerable populations.

Examples of direct access client employee categories might include physicians, psychiatrists, licensed practical nurses, registered nurses, social workers, therapists, nurse aides, home health aides, personal care workers, feeding assistants, and support staff such as house keepers, book keepers, etc., who have direct access to our clients or client belongings.

**Q4. What are the parameters of the background check?**

- A4. The background check, as required under section 307 of the MMA, includes a search of:
- Any available registries (including the state's nurse aide registry) that would likely contain disqualifying information about the applicant; and
  - State criminal history record search through a 10 rolled fingerprint-based check, utilizing State criminal records; and
  - National criminal history record search through a 10 rolled fingerprint-based check of the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation (FBI)

**Q5. Can a background check be used for multiple providers? For example, if a nurse aide works at two different nursing homes, can the same background check be used for both providers?**

- A5. Each covered provider must conduct a new background check on each prospective direct client access employee. If the state agency is completing the state and IAFIS criminal history record search, the state may develop procedures when the same person applies concurrently for employment with multiple long-term care providers. This would allow the background check process and the fitness determination response to be coordinated among multiple providers, eliminating the need for the applicant to provide multiple sets of fingerprints and run separate background check searches.

However, this does not mean that a background check conducted on a direct client access employee for one provider may subsequently be used when the same individual seeks employment with another provider in the future, regardless of the length of time that has passed. Only if employment at multiple providers is sought at the same time, may the background check be used for multiple providers.

Alaska proposes to establish a procedure to retain the fingerprint records, thus eliminating the need for multiple fingerprint captures.

**Q6. Alaska proposes to implement a "rap back" or flagging process. Do we have to conduct a full background check each time a prospective direct client access employee is hired?**

- A6. When a state establishes a "rap back" or flagging process, the direct client access employee's civil fingerprints remain on file with the state law enforcement agency, and the designated state agency will be notified if a state criminal history record is established for the individual, or any time new information is added to an existing state criminal history record. If the state agency is making the fitness determination, it will only be necessary to search:

- Available registries, including the state nurse aide registry and other nurse aide registries, if appropriate
- Other databases, as determined by the state, and
- FBI's IAFIS system.

Once again, the check may be terminated at any stage disqualifying information is obtained.

**Q7. Are states required to check the state nurse aide registry for all prospective employees, including nurses, physical therapists and physicians?**

**A7.** Section 307 of the MMA requires facilities or providers to, "check any available registries that would be likely to contain disqualifying information about a prospective employee of a long-term care facility or provider." The state nurse aide registry must always be checked for all prospective nurse aide applicants, as a registry "likely to contain disqualifying information."

**Q8. Are pilot states required to check other state nurse aide registries?**

**A8.** The facility or provider is required to, "check any available registries that would be likely to contain disqualifying information about a prospective employee."

**Q9. How long does the nurse aide registry maintain the record of an aide who has a substantiated finding?**

**A9.** Federal regulations require state nurse aide registries to permanently maintain the name of a nurse aide who has a substantiated finding of abuse, neglect or misappropriation of property. A limited exception exists for substantiated findings of neglect. State agencies must establish a process for a nurse aide to petition the state to remove his or her name from the nurse aide registry. The state may remove the aide's name from the registry, if the state determined the employment and personal history of the aide does not reflect a pattern of abusive behavior or neglect, and the neglect involved in the original finding was a singular occurrence.

**Q10. What national databases could be searched under the background check requirements?**

**A10.** In addition to the state nurse aide registry check, it may be appropriate to check other national databases. Other national databases include the Medicare Exclusion Database (MED), Fraud Investigation Database (FID), the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB). It is anticipated that these databases will be checked in limited circumstances, as appropriate for each employee category.

**Q11. What is the difference between "rolled" fingerprints and "flat" fingerprints?**

**A11.** "Rolled" fingerprint impressions are made by rolling the thumb or finger from nail edge to nail edge. Rolled impressions give all the needed ridge characteristics for accurate classification.

"Flat" fingerprint impressions are made simply by pressing the four fingers on a fingerprint card at a slight angle. Thumbs are then printed by inking and pressing them on the block next to the plain finger impressions. While flat impressions may sometimes show characteristics that are distorted in rolled prints, they do not provide all the needed ridge characteristics currently required by state criminal history record repositories and the FBI's IAFIS, the most accurate classification.

## National Criminal History Check

**Q12. How is the national criminal history check completed?**

**A12.** The national criminal history check is completed by conducting a 10-rolled fingerprint-based search of the Integrated Automated Fingerprint Identification System (IAFIS).

The IAFIS is a national fingerprint and criminal history system maintained by the Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division. The IAFIS provides automated fingerprint search capabilities, latent print searching capability, electronic image storage, and electronic exchange of fingerprints and responses, 24 hours a day, 365 days a year. The IAFIS contains the fingerprints and corresponding criminal history information for more than 48 million persons whose records are included in the Criminal Master File. The fingerprints and corresponding criminal history information are submitted voluntarily by local, state, and federal law enforcement agencies.

**Q13. Does the FBI maintain all fingerprint records submitted to IAFIS?**

**A13.** No. The FBI does not maintain a record of IAFIS fingerprint submissions conducted for civil purposes (e.g., employment, licensing). However, the FBI permanently maintains fingerprint records submitted by law enforcement agencies for criminal justice purposes.

**Q14. What is the expected response time for fingerprint submissions to the FBI?**

**A14.** If fingerprints are submitted electronically (via live-scan or card-scan technology), the expected response time for ten-print fingerprint submissions is within 24 hours for civil purposes. Alaska will be submitting its fingerprint submissions electronically.

If fingerprints are submitted in hard copy format, the expected FBI/CJIS processing time is approximately two weeks from the date on which CJIS receives the submission to the time a response is sent to the requesting entity.

**Q15. What is a Rap Sheet?**

**A15.** An FBI Identification Record, often referred to as a Criminal History Record or Rap Sheet, is a listing of certain information taken from fingerprint submissions retained by the FBI in connection with arrests. The Identification Record includes the name of the agency that submitted the fingerprints to the FBI, the date of arrest, the arrest charge, and

the disposition of the arrest, if known to the FBI. All arrest data included in an Identification Record is obtained from fingerprint submissions, disposition reports and other reports submitted by agencies having criminal justice responsibilities.

Dispositions include adjudications that have been modified or dropped and the findings of a court. Dispositions are submitted by criminal justice agencies, which include State Identification Bureaus, arresting agencies (sheriff's offices, police departments, state police, correctional facilities) courts, and federal agencies (FBI, Drug Enforcement Agency, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Marshals, Immigration and Naturalization Services).

**Q16. Do states have to wait for the results from the state criminal records check before submitting fingerprints to the FBI?**

**A16. No.** States do not have to wait for the results of one check (e.g., the state registries check or the state criminal history records check) to be completed before moving on to the next level. However, states may establish procedures to allow for the background check to be terminated at any stage at which disqualifying information is obtained about a prospective direct patient access employee.

**Q17. Are states required to submit fingerprints of all prospective direct client access employees to the FBI, even if disqualifying information is found at the state level?**

**A17. No.** Section 307(b)(2)(B)(1) of the MMA, Elimination of Unnecessary Checks, stipulates that states must establish a procedure that permits a care facility or provider to terminate the background check at any stage at which disqualifying information regarding a prospective direct patient access employee is obtained (e.g., nurse aide registries, employee misconduct registries, OIG Exclusions List, other databases, state criminal history record, FBI IAFIS record). Therefore, it is not necessary to submit all fingerprints to the FBI, if disqualifying information is found earlier in the background check process.

**Q18. Must a state agency use the FBI IAFIS response only to make a fitness determination for care employees, pursuant to section 307 of the MMA, or can the information be shared with other state agencies for other purposes? This information would be useful for other state licensing or employment decisions (e.g., teachers, etc.).**

**A18. A state agency that has requested and received the FBI's response for a long term care applicant, pursuant to section 307 of the MMA, may share the results with other state agencies to assist in making licensing and/or employment decisions only if:**

(a) those are approved purposes pursuant to federal law (including state statutes enacted pursuant to Public Law 92-544), and

(b) both reasons are indicated on the fingerprint submission.

**Q19. Can a state agency that uses the FBI IAFIS information to make a fitness determination for long term care employees, pursuant to section 307 of the MMA, provide a determination to multiple facilities or providers?**

A19: Upon the direction of the applicant, concurrently with the fingerprint submissions or no later than the state's receipt of the FBI's response, a state agency may disseminate either the determination or the FBI's Criminal History Record Information (CHRI), depending on the jurisdiction, to multiple facilities/providers.

**Q20. Can facilities or providers share their FBI background check results with other health care employers as long as the information is used to make a fitness determination?**

A20. No. Under federal law, an employer may only use the results of the FBI criminal history record check (whether a state's determination or the CHRI) for its own purposes and may not share the information with another employer.

### **Disqualifying Information & Fitness Determination**

**Q21. What is a fitness determination?**

A21. A fitness determination is the review of the background check results (i.e., available registries and other databases, state and national criminal history search), and the decision as to whether a prospective hire is eligible to work as a direct client access employee of a licensed facility or provider, based on the absence of any disqualifying information, as determined by the state.

**Q22. What criteria should be used to make the fitness determination?**

A22. Section 307 of the MMA stipulates that a health care facility or provider may not knowingly employ any direct client access employee who has any "disqualifying information."

"Disqualifying information" is defined as a conviction for a relevant crime or a finding of patient or resident abuse. The term "conviction for a relevant crime" means any Federal or State criminal conviction for any offense described in section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7). The disqualifying offenses, as required under section 307 of the MMA include the following:

- **Conviction of program-related crimes**
  - Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under title XVIII [42 USC § 1395 et. seq] or under any State health care program.

- **Conviction relating to patient abuse**
  - Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.
- **Felony conviction related to health care fraud**
  - Any individual or entity that has been convicted for an offense which occurred after the date of the enactment (August 21, 1996) of the Health Insurance Portability and Accountability Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.
- **Felony conviction related to controlled substance**
  - Any individual or entity that has been convicted for an offense which occurred after the date of the enactment (August 21, 1996) of the Health Insurance Portability and Accountability Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.
- **Finding of patient or resident abuse.**
  - Any substantiated finding by a State agency under section 1819(g)(1)(C) or 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i-3(g)(1)(C), 1396r(g)(1)(C)) or a Federal agency that a direct patient access employee has committed (A) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; and (B) such other types of offenses as a participating State may specify for purposes of conducting the pilot program in such State.

**Q23. What does "conviction for a relevant crime" mean?**

**A23.** This means any Federal or state criminal conviction for any offense described in section 1128(a) of the Social Security Act (42 U.S.C. 1320a- 7); and other such types of offenses a State may specify for purposes of conducting the background check process in that State.

The offenses described in section 1128(a) of the Social Security Act are convictions for criminal offenses related to the delivery of an item or service under the Medicare program or any state health care program (e.g., Medicaid), convictions related to patient abuse, felony convictions relating to health care fraud and felony convictions relating to controlled substances.

**Q24. What is the definition of "conviction?"**

A24. A conviction is the final legal judgment entered after a finding of guilt. States determine what constitutes a conviction for the purpose of their background check process (including the effect of post-conviction relief), in accordance with state law.

**Q25. What is a "substantiated finding?"**

A25. A substantiated finding is the final decision by a governmental agency. After completing an investigation, a governmental agency makes a decision whether an allegation, based on the preponderance of evidence, did in fact, occur. If so, the allegation results in a "substantiated finding." Due process is provided to the accused in the form of a fair hearing. Examples of substantiated findings by governmental agencies include adult abuse and/or neglect, child abuse and/or neglect, public assistance fraud, etc.

**Q26. Can states include additional crimes or substantiated findings to the list provided in section 307 of the MMA?**

A26. Yes. States can include other disqualifying crimes for their specific program's definition of "disqualifying information," in addition to the convictions listed in section 307 of the MMA.

### Appeals Process

**Q27. Will Alaska establish an appeal process as part of the state's background check program?**

A27. Yes. Section 307 of the MMA requires each state to develop a process in which a prospective applicant may file an appeal regarding the results of the background check.

A prospective employee may choose to appeal the results of a background check for various reasons. These reasons include, but are not limited to:

- Inaccurate information obtained through the background check process (registries, state criminal history records, or national criminal history records).
- Inaccurate interpretation (by state agency or provider) of the background check results obtained.
- Disagreement with the state agency or provider fitness determination.

**Q28. Why should the state need to establish the appeal process if the request is due to inaccurate FBI results?**

A28. Because applicants who are denied employment on the basis of a background check may file an appeal for multiple reasons, the state must ensure the overall process is coordinated among the various agencies involved and that the applicant is afforded due process. While some information may be obtained from the search of national criminal records, it is at the state level where the interpretation of that information and fitness determination occurs. For example, if a fitness determination is made based on

incomplete information (e.g., arrest information with missing disposition) the state will have policies and procedures in place for tracking down the missing disposition.

**Q29. Scenario: An applicant is disqualified based on disqualifying information obtained from a registry and/or databases search and the background check is terminated. The applicant subsequently appeals the decision and the disqualification is overturned. Should the background check resume from the point at which it was terminated, or is the applicant simply deemed qualified at that point?**

A29. The background check would resume from the point at which it was terminated. An applicant would need to pass through the entire background check process before being deemed qualified to work as a direct patient access employee. It is possible that some additional disqualifying information may be discovered further on in the process.

SB125

### How an entry is made in the Misconduct Registry

- Everything begins with a "report of harm". It can originate from a resident, another employee, a family member, or an officer or administrator of a facility. Reports are made to the Certification and Licensing (C&L) investigative unit. The owner or administrator of the facility may also choose to take action (i.e., terminate the employee, file a report with the police, or take other punitive action.) However, as a condition of licensure, the owner/administrator must report the incident to C&L investigative unit.
- C&L will then conduct the same level of investigation as would be done for a report of abuse, neglect or misconduct involving a Certified Nurse Aide:
  - C&L will first determine how to proceed with the "report of harm." It may require an on-site review, but not always.
  - The C&L investigative unit conducts the caregiver misconduct investigation in the same manner and fashion as is currently performed on a report of harm concerning a Certified Nurse Aide: either a determination that abuse, neglect or misconduct has occurred, or a determination that the report of harm cannot be substantiated.
- If it is a "substantiated finding", the facility administrator, the complainant, and the subject of the investigation are notified in writing. At this point, the subject must be immediately terminated if still employed. The subject is informed that he/she has to appeal the substantiated finding within a specific time frame (15 or 30 days, to be determined in regulation.) This is an administrative hearing under the existing statutory definition of hearings.
- If the subject declines to appeal, the finding is immediately entered into the Employee Misconduct Registry. Entry consists of "identifying information" (i.e., name, DOB and/or SSN) and an indication of "substantiated finding" (as would be done in the Certified Nurse Aide Registry if the subject is a certified nurse aide).
- If the subject chooses to have a hearing, until the hearing is completed he/she is prohibited from employment as a care provider, but entry is not made on the Employee Misconduct Registry.
- At the completion of the hearing, if the finding is upheld, the subject is then entered into the registry and is permanently barred from employment in the caregiver field. If the finding is not upheld, the subject may reapply for employment as a caregiver. No entry will be made in the Employee Misconduct Registry.



# **PUBLIC HEALTH**

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

## SB 125, a Bill to Consolidate DHSS Licensing, Certification and Background Check Functions

Dr. Richard Mandsager, M.D.  
Director, Alaska Department of Health and Social Services  
Division of Public Health

3/14/2005

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



- The existing statutory and regulatory environment is a complex patchwork, with holes, duplication and unnecessary variants.
  - Agencies which offer more than one type of care services must meet different requirements for licensing created by evolving program standards and historical licensing criteria.
  - These differences limit the flexibility of licensing staff to operate across different program types.
  - There is no compelling rationale to maintain these differences, and much benefit to be derived from eliminating them.
- Some provider types are not covered today, for either requirements of licensing or background check requirements, or both.
- Some individuals can currently pass a background screen, who shouldn't.
- Tracking of required care provider information has not been consistent.
- Existing requirements can also raise the costs to care provider applicants.

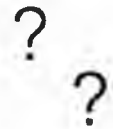
"Recruiting and hiring ... is an area we cannot afford even a single failure of the system." Matthew Jones, Executive Director, Assets Inc.

## **The existing regulation of long term care has not prevented instances of abuse and neglect.**

- A supported living home provider was misappropriating funds from a resident. There is no requirement for the home to be licensed, and no background review had been conducted on the provider.
- An assisted living home attendant was fired for mistreatment, and the facts presented to law enforcement. No charges were filed and the case was dropped. This person remains eligible to work as a care provider.
- Three Alaska Nurse Aides were found by investigative agencies to be mistreating residents in a nine month period. Well after the mandatory reporting time period, two of these findings had not been entered into the registry.
  - One of the two involved physical violence.
- In another state, a person was involved in a stabbing in a convenience store. Months later, this person, recognized by someone who had been in the store, was found working as a long term care provider.
- Personal Care Attendants, who are typically listed by multiple employment agencies, must submit separate fingerprint-based background checks for each agency, at significant cost and duplication of effort.

**Besides the gaps in the oversight process and risks to Alaskans in care, there is significant cost and effort to provide the required management of care programs.**

- Currently, 19 programs are administered under at least 12 different statutory schemes for licensure by DHSS.
  - The complexity of the different standards and program compliance requirements have resulted in a cumbersome administrative structure.
  - Care providers are faced with a patchwork of regulations and sometimes conflicting requirements for service delivery, particularly the agencies that operate multiple types of care services.
    - For example, under current practices a Care Coordinator might be employable at one agency, but not acceptable to another agency. And an individual acceptable for Care Coordination would not be acceptable to an Assisted Living Home, or an Assisted Living Home employee might not be employable in Child Care.
    - Yet many of the care agencies operate in all these programs
  - Licensing and Certification surveyors/licensing staff must learn and deal with the variants of each service program.
  - A consolidated program promotes greater depth in staff expertise and cross training.
  
- Three licensing program units have been consolidated within Public Health, but the programs they manage still must be uniquely administered.

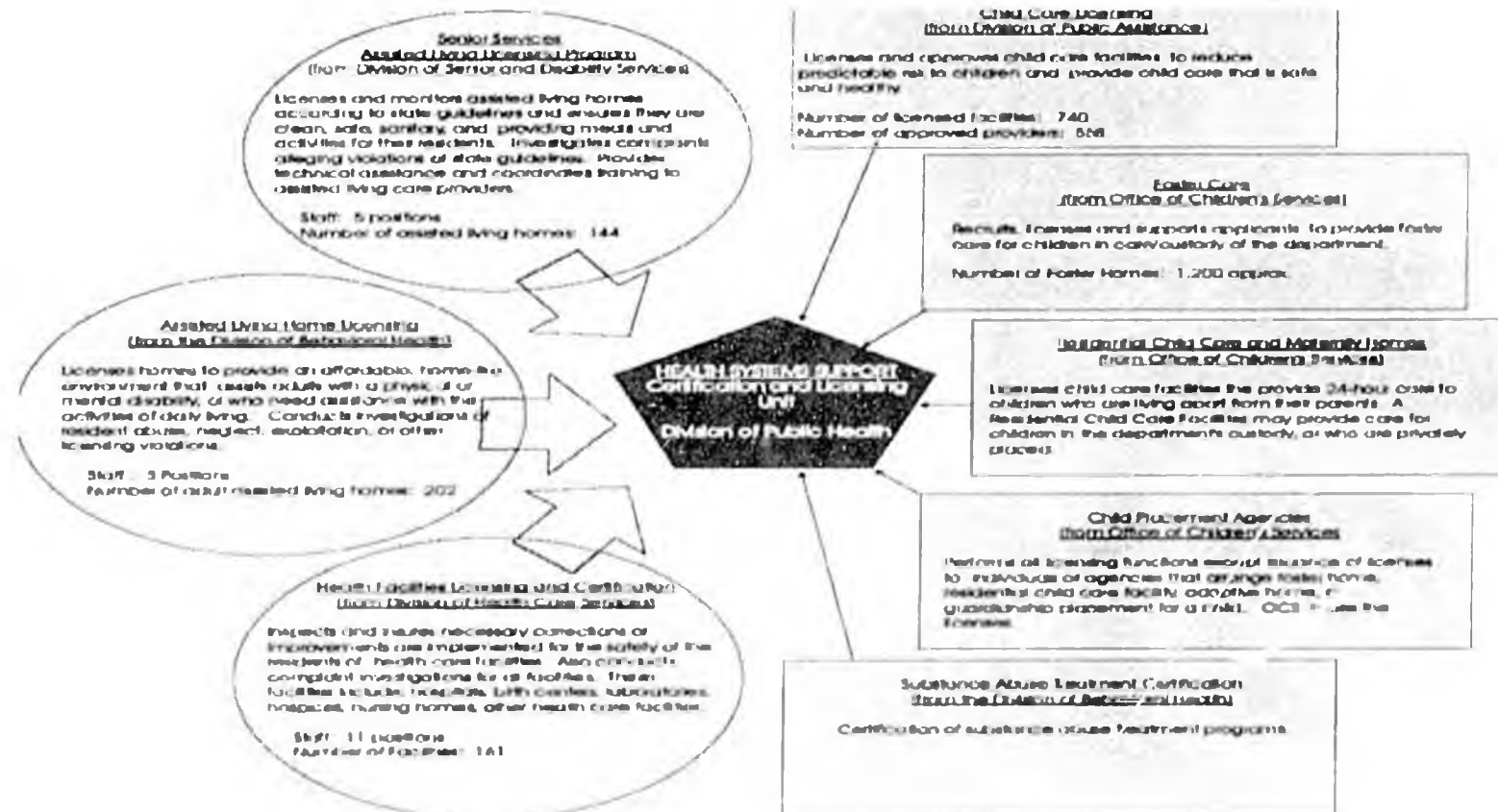


# The three units that have been consolidated represent Phase I of the consolidation process.

## Department of Health and Social Services Certification and Licensing Integration Project

### Phase I - FY 2005

### Potential Phase II - FY 2006 - 2009



**Our aim is to reduce predictable risk, improve quality of care, foster patient rights, and advance public health, safety and welfare.**

- **Centralized Licensing and Related Administrative Procedures, for:**

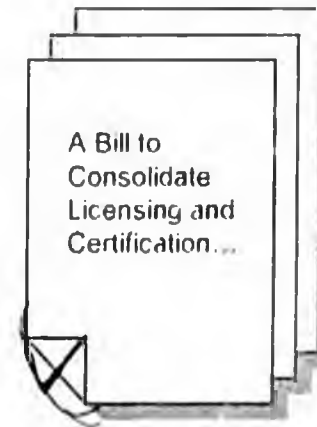
- |                             |                      |  |
|-----------------------------|----------------------|--|
| Ambulatory Surgical Centers | Home Health Agencies | Residential Child Care Facilities      |
| Assisted Living Homes       | Hospices             | Residential Psychiatric Treatment Ctrs |
| Child Care Facilities       | Hospitals            | Rural Health Clinics                   |
| Child Placement Agencies    | ICF/MRs              | *Supported Living Homes                |
| Foster Homes                | Maternity Homes      | *Personal Care Attendants              |
| Freestanding Birth Centers  | Nursing Facilities   | *Case Mgmt/Care Coordination           |
|                             |                      | *Adult Day Care/Respite                |

- **Defines and Consolidates:**

- Definitions
- Requirements to get a license
- License renewal process
- Requirements for a background check
- Conditions for denial of license
- Complaints process and appeals
- Enforcement actions and penalties
- Confidentiality requirements

\* Subject to background check provisions only

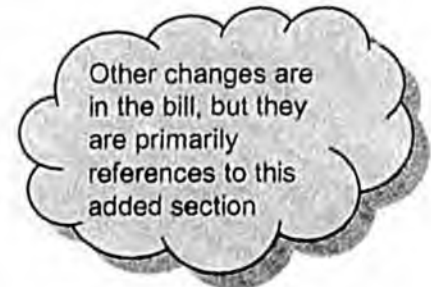
[Licensed Certified Both]



# How SB 125 impacts the existing statutory definition of current DHSS licensed programs...

18.20.075-085	Hospital reg, risk mgmt, inspection
18.20.300	Nursing Facilities - state policy
18.20.305-390	Nursing regs, penalties, appeals, fines, ...
47.33.005-090	ALH Purpose, applicability, payments, rules, ...
47.33.200-360	ALH rights, grievances, contracts
18.18.100	Hospice licensing requirements
18.18.200	Volunteer Hospice licensing requirements
18.18.300-340	General Hospice requirements
18.18.390	Hospice definitions
18.18.490	HHA definitions
18.20.230-260	Hospital charges
14.43.148	Defines nonrenewal of licenses in general Amended to include children and A/DA licensing
18.20.130	Defines nonrenewal of licenses in general
47.33.990	ALH Definitions, removed references to controlled subs.
47.37.270	Removed selected definitions related to treatment facilities
18.05.040(a)(10)	Direct Entry Midwifery free standing birth centers
18.18.005-040	Hospice regulation
18.20.090-120	Disclosure of information, penalties
18.18.350	Hospice disclosure requirements
18.18.410-470	Home Health Agencies
18.20-18.20.070	Hospitals and intermediate care facility licensing
18.20.302	Criminal background check, nursing employees
47.33.100	ALH criminal background checks
47.33.400-920	ALH Licensing process & procedures
47.35.005-260	Maternity, RPTCs, childrens services process and procedures

Retained  
Retained  
Retained  
Retained  
Retained



moved to regulation  
moved to regulation  
moved to regulation  
moved to regulation  
moved to regulation



**Revised Regulations**

Amended

Amended  
Amended  
Amended



Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed  
Repealed



Note: "move to regulation" removes a regulatory level of detail from statute, but retains the spirit and intent of the statute in the forthcoming regulatory rewrite.

## **What's in SB 125?**

- **Addition of a new chapter to centralize licensing and administration of covered entities (Section 1):**
  - Defines what entities must be licensed
  - Defines license conditions, appeals, complaint process
  - Defines DHSS rights and responsibilities
  - Provides confidentiality protections
  - Provides criminal penalties for violations
- **Addition of a new article to centralize background checks and registry functions (Section 17):**
  - Defines who is required to have background checks
  - Provides for regulatory definition of barrier conditions
  - Requires a centralized registry be created and maintained
- **Updates to existing statutes (see previous page)**
- **Establishes the timeline for implementation**
  - July 1, 2006 for Section 1
  - July 2, 2005 for Section 17

## The key provisions of SB 125:

- Barrier conditions to employment in the care provider field will be defined in a consolidated *regulation* definition, with an objective of defining one, or as close to one as possible, common, consistent set of conditions to apply to all provider types.
  - There may be a need to distinguish between barriers to adult care vs. children's care.
- All service providers with direct patient contact must be background checked including volunteers
- Charges of a barrier crime are sufficient to bar employment.
- An employee misconduct registry will be implemented for maintaining employment barrier conditions that may not be reflected elsewhere.
- A standard waivers process will be defined.
- A standard appeals process will be implemented.



## Excerpt from just one of the current regulatory crosswalks

### 1.1.1 SUMMARY OF EXISTING AND PROPOSED NEW SAFETY AND SANITATION STANDARDS TO CERTAIN FACILITIES PROVIDING CARE TO CHILDREN AND TO ADULT RESIDENTS February 16, 2005

**NOTES TO READER: REQUIREMENTS, INCLUDING APPLICABILITY, ARE SUBJECT TO CHANGE AFTER REVIEW OF PUBLIC COMMENTS AND BEFORE ADOPTION.**

Bracketed numbers = number of persons licensed for care, if requirements differ by size of facility

"E" = existing requirement (but may differ in proposal) "N" = new requirement "--" = not applicable (unless licensed for more than one category of care)  
\* = a more stringent requirement applies

ALH = assisted living home; FH = foster home; FGH = foster group home; RGH = residential child care group home; RCCC – residential child care center;  
CCH = child care home; CCGH = child care group home; CCC = child care center; RPTC = residential psychiatric treatment center for children;  
MH = maternity home; AP = approved provider (child care assistance)

REQUIREMENT	ALH	FH	FGH	RGH	RCCC	CCH	CCGH	CCC	RPTC	MH	AP
<b>7 AAC 10.610. Life and fire safety</b>											
<i>Based on existing child care licensing, 4 AAC 62.510; existing residential child care, 7 AAC 50.510; existing ALH, 7 AAC 75.270</i>											
(b)(1) -- Meet state code for fire safety in 13 AAC 50 and 13 AAC 55 or more stringent if required by local authorities	-- [1-5] E [6+]	E	E	E	E	E	E	E	N	N	
(b)(2) -- municipal building code approvals	-- [1-5] E [6+]	N	N	N	N	N	N	N	N	N	
(b)(3) and (c) -- fire safety inspection	E	E	E	E	E	E	E	E	E	E	
(d)--disaster preparedness emergency evacuation plan	E	E	E	E	E	E	E	E	E	E	
(e) -- emergency evacuation drills	E	E	E	E	E	E	E	E	E	E	
(f) – keep records of emergency drills	E [1-5] N [6+]	E	E	E	E	E	E	E	E	E	
(g) notification of fire or other emergency	N	N	N	N	N	N	N	N	N	N	
(h) carbon monoxide detector	N	N	N	N	N	N	N	N	N	N	
(i)(1) –at least two means of emergency escape, at least one of which is exterior door	E [1-5] -- [6+]	E	E	E	*	E	*	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(2) – one means of escape from basement	N [1-5]	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(3) – fully-opening window in each bedroom	E	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	E	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(4) – screens do not prevent emergency escape	E	N	N	N	N	N	N	N	N	N	

# SENATE COMMITTEE REPORT

DATE: 4/14/05

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 5/1/05

Judiciary Committee considered

SENATE BILL NO. 125

## SB 125 LICENSING MEDICAL OR CARE FACILITIES

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

and recommends:

- be replaced with \_\_\_\_\_ CS SB 125 (JVD)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

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


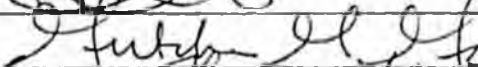
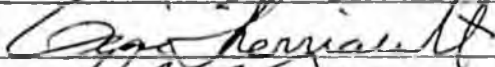
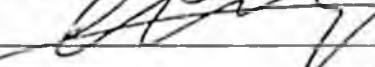

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
LAW				✓	3

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/28			✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>French</i> 			X	
<i>Guess</i> 			X	
<i>Therriault</i> 			✓	
<i>Huggins</i> 			X	
<i>Seekins</i> CHAIR: 	✓			

**SB**

**130**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 7  
Bill Version: CSSB 130(JUD)  
(S) Publish Date: 4/8/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
Title: Workers' Compensation RDU: Insurance (116)  
Component: Insurance  
Sponsor: Rules by Request of the Governor  
Requester: Senate Judiciary Component No. 354

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

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill has no fiscal impact on the operations of the Division of Insurance.

Prepared by: Linda S. Hall, Director Phone 907-269-7900  
Division: Insurance Date/Time 4/4/05 5:09 PM  
Approved by: Edgar Blatchford, Commissioner Date 4/4/2005  
Agency: Commerce, Community & Economic Development

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5  
Bill Version: CSSB 130 (L&C)  
(S) Publish Date: 4/4/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Workers' Compensation BRU Alaska Court System  
Component Trial Courts  
Sponsor Senate Rules  
Requester Governor Component No. 768

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

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The court system does not anticipate any fiscal impact from the passage of CSSB 130 (L&C).

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750  
Division Alaska Court System Date/Time 4/1/05 1:11 PM  
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 4/1/2005  
Agency Alaska Court System

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 9  
Bill Version: CSSB 130(FIN)  
(S) Publish Date: 4/11/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
Title: "An Act relating to a special deposit for BRU: Legislative Council  
workers' compensation and employers' liability insurers..." Component: Council and Subcommittees  
Sponsor: "Senate Rules Committee by Request..."  
Requestor: Senate Judiciary Component No.: 783

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	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 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>
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<b>CHANGE 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>
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

CSSB 130 (JUD) creates a Task Force on Workers' Compensation in the Legislative Branch to address the improvement of the Alaska workers' compensation system. The Task Force is composed of one member from the Senate appointed by the Senate President, and one Representative appointed by the Speaker of the House. The Senate President and the House Speaker will jointly appoint one minority member from either house, and eight public members. Judiciary Committee staff advises that all meetings will be by teleconference and no travel costs will be incurred. The Task Force will meet and submit a report of proposed legislation to the Legislature before December 1, 2005. Teleconference costs and costs for printing the report will be absorbed within existing budgets. The Task Force will terminate on February 1, 2006.

Prepared by: Karla Schofield, Deputy Director Phone: 465-6626  
Division: Administrative Services Date/Time: 4/11/05 8:05 AM  
Approved by: Pamela Varni, Executive Director Date: 4/11/2005  
Agency: Legislative Affairs Agency

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 10  
Bill Version: HCS CSSB 130(JUD)  
(H) Publish Date: 5/6/05

Revision Date/Time: \_\_\_\_\_ Department: Labor and Workforce Development  
Title: Workers' Compensation/Insurance RDU: Workers' Compensation  
Sponsor: Senate Rules Component: Workers' Compensation  
Requester: House Judiciary Component Number: 344

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	468.3	468.3	468.3	468.3	468.3	468.3
Travel	95.0	90.0	90.0	90.0	90.0	90.0
Contractual	330.3	265.3	265.3	265.3	265.3	265.3
Supplies	25.5	25.5	25.5	25.5	25.5	25.5
Equipment	70.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>989.1</b>	<b>849.1</b>	<b>849.1</b>	<b>849.1</b>	<b>849.1</b>	<b>849.1</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1157 )</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>
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1157 Workers' Safety Account	989.1	849.1	849.1	849.1	849.1	849.1
<b>TOTAL</b>	<b>989.1</b>	<b>849.1</b>	<b>849.1</b>	<b>849.1</b>	<b>849.1</b>	<b>849.1</b>

Estimate of any current year (FY2005) cost: None

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

### POSITIONS

Full-time	7	7	7	7	7	7
Part-time						
Temporary						

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

(See attached.)

Prepared by: Paul F. Lisankie, Director  
Division: Workers' Compensation  
Approved by: Greg O'Claray, Commissioner  
Agency: Department of Labor and Workforce Development

Phone: 465-6059  
Date/Time: 5/5/05 11:21 AM  
Date: 5/5/2005