



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

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

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

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

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

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

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

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

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

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

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

3 (1) any fee established by regulation; and

4 (2) documents and information required by regulation.

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

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

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

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

22 (3) any applicable fee has been paid.

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

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

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

1 (2) any fee established by regulation.

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

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

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

10 (3) any applicable fee has been paid.

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

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

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

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

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

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

1 license.

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

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

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

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

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

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

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

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

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

28 (2) to conduct a complaint investigation;

29 (3) to conduct a standard inspection;

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

1 (5) to interview staff or residents; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the license;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (1) "ambulatory surgical center"

20 (A) means a facility that

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

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

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

27 (2) "assisted living home"

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

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

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

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

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

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

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

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

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

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

1 frontier extended stay clinic;

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

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

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

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

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

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

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

23 (21) "rural health clinic"

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

26 (B) includes a frontier extended stay clinic;

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

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

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

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

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

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

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

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

9 residents

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

11 (B) personal assistance; or

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

13 paragraph.

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

15 (1) a correctional facility;

16 (2) a facility for treatment of alcoholism that is regulated under

17 AS 47.37;

18 (3) an emergency shelter;

19 (4) a medical facility, including a nursing home, licensed under

20 AS 47.32 [AS 18.20];

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 [AS 47.35].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (c) In this section,

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

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

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

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

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

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

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

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

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

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

4 (f) In this section,

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

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

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

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

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

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

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

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

4 (e) In this section,

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

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

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

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

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

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

22 (b) In this section,

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

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

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

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

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

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

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

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

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

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

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

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

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MEMORANDUM

April 25, 2005

SUBJECT: CSHB 193(HES)

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

FROM: Jean Mischel
Legislative Counsel 

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

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

If I may be of further assistance, please advise.

JMM:jad
05-232.jad

Enclosure



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

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

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

Fax transmittal sheet

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

Date: April 22, 2005
3 pages

Comments:

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

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

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

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

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MEMORANDUM

April 8, 2005

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

TO: Representative Peggy Wilson
Attn: Kathy

FROM: Pam Finley 
Revisor of Statutes

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

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

Representative Peggy Wilson

April 8, 2005

Page 2

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

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

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

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

PF:jad
05-199.jad

Enclosure

24-GH1016G
Mischel
4/8/05

CS FOR HOUSE BILL NO. 193()

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

BY

**Offered:
Referred:**

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (B) a dwelling.

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

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

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

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

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

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

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

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

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

28 (4) knowingly possesses a firearm

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

1 by the federal government for the care of children;

2 (B) within a

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

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

5 Court System and other justice-related agencies; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 and scope of employment;

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

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

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

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

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

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

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

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

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

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

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

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

30 (2) "license"

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

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

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

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

8 (iii) teacher certificate under AS 14.20;

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

11 (v) asbestos worker certification under AS 18.31;

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

13 (vii) certificate of fitness under AS 18.62;

14 (viii) hazardous painting certification under AS 18.63;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 services from the entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 an applicant must submit required information to the registry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) the peace officer shall

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 47.25.095; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (ii) record-keeping requirements;

17 (iii) reporting requirements; and

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

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

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

26 (4) investigate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (1) any fee established by regulation; and

1 (2) documents and information required by regulation.

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

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

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

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

19 (3) any applicable fee has been paid.

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

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

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

29 (2) any fee established by regulation.

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

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

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

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

7 (3) any applicable fee has been paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (1) to determine whether an application for licensure or renewal is
24 appropriate;

25 (2) to conduct a complaint investigation;

26 (3) to conduct a standard inspection;

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

29 (5) to interview staff or residents; or

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

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

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

8 **Sec. 47.32.120. Report.** (a) Within 10 working days after completing an
9 investigation or inspection under AS 47.32.090 - 47.32.110, the department shall
10 prepare a report of the results of the investigation or inspection and mail a copy of the
11 report to the entity. The report shall include a description of

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

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

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

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

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

23 (a) If the department's report of investigation or inspection under AS 47.32.120
24 concludes that the department has reasonable cause to believe that a violation of an
25 applicable statute or regulation has occurred that presents an immediate danger to the
26 health, safety, or welfare of an individual receiving services from the entity, the
27 department, without an administrative hearing and without providing an opportunity to
28 cure or correct the violation, may immediately revoke or suspend the entity's license
29 or, if the entity is not licensed under this chapter, may revoke the entity's ability to
30 become licensed under this chapter or to provide services as an entity exempted under
31 this chapter. A suspension or revocation under this subsection takes effect

1 immediately upon initial notice to the entity from the department, is in addition to any
2 enforcement action under AS 47.32.140, and continues until a final determination
3 under (c) of this section or AS 47.32.150.

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

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

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

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

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

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

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

27 **Sec. 47.32.140. Enforcement actions.** (a) If the department's report of
28 investigation or inspection under AS 47.32.120 concludes that the department has
29 reasonable cause to believe that a violation of an applicable statute or regulation has
30 occurred, the department shall provide notice to the entity of the violation and an
31 opportunity to cure the violation within a reasonable time specified by the department.

1 The notice must include a copy of the department's report under AS 47.32.120, a
2 statement that the entity may submit a written response to the report, any department
3 requirement that the entity submit a written response to the report, a description of any
4 enforcement action the department intends to take under (d) or (f) of this section, and
5 information regarding the entity's appeal rights.

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

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

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

25 (1) delivery of a warning notice to the licensed entity and to any
26 additional person who was the subject of the investigation or inspection;

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

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

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

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

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

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

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

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

14 (10) reduction of the number of individuals receiving services from the
15 entity under the license;

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

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

18 (13) requirement that the entity prepare and submit a plan of
19 correction.

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

24 (f) In addition to any other enforcement actions the department may take
25 under this section, the department may assess a civil fine against an entity for a
26 violation of an applicable statute or regulation, taking into account the type and size of
27 the entity and the type and severity of the violation. A fine assessed under this
28 subsection may not exceed \$2,500 a day for each day of violation for a continuing
29 violation or \$25,000 for a single violation.

30 (g) An entity to which a notice has been provided under this section regarding
31 an enforcement action under (d) or (f) of this section may appeal the department's

1 decision to impose the enforcement action by filing a written request for a hearing, on
2 a form provided by the department, within 15 days after receipt of the notice of the
3 enforcement action.

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

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

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

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

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

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

25 **Sec. 47.32.150. Hearings.** (a) Upon receipt of a timely request for a hearing
26 by an entity regarding an enforcement action under AS 47.32.130(a) or
27 47.32.140(d)(3), (5), (6), (7), or (9), the department shall request the chief
28 administrative law judge appointed under AS 44.64.020 to appoint an administrative
29 law judge employed or retained by the office of administrative hearings to preside
30 over a hearing conducted under this section. AS 44.64.060 applies to the hearing.

31 (b) Upon receipt of a timely request for a hearing by an entity regarding an

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

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

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

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

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

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

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

30 **Sec. 47.32.180. Confidentiality; release of certain information.** (a) Except
31 as otherwise provided by law, the following are confidential and may not be disclosed

1 to the public without a court order: complaints; investigations; inspections; records
2 related to a complaint, investigation, or inspection; and the identity of a complainant
3 and of individuals receiving services from an entity.

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

11 (1) entity receives its copy of the report of investigation under
12 AS 47.32.120, if the department has determined that an enforcement action under AS
13 47.32.130 or 47.32.140 will not be taken regarding the entity;

14 (2) department's notice of enforcement action under AS 47.32.130 or
15 47.32.140 becomes a final administrative order without a hearing under
16 AS 47.32.130(c) or 47.32.140(i); or

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

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

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

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

30 (1) convicted of, has been charged by information or complaint with,
31 or is under indictment or presentment for an offense listed in regulations adopted

1 under AS 47.05.310 or a law or ordinance of this or another jurisdiction with similar
2 elements; or

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

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

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

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

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

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

16 (1) "ambulatory surgical center"

17 (A) means a facility that

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

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

22 (B) includes a facility that performs invasive diagnostic or
23 therapeutic services;

24 (2) "assisted living home"

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

29 (i) provides housing and food services to its residents;

30 (ii) offers to provide or obtain for its residents
31 assistance with activities of daily living; or

1 (iii) provides or offers any combination of these
2 services;

3 (B) does not include

4 (i) a correctional facility;

5 (ii) an emergency shelter;

6 (iii) a program licensed under AS 47.10.310 for
7 runaway minors;

8 (iv) a type of entity listed in AS 47.32.010(b)(5), (8),
9 (9), (10), (11), or (12);

10 (3) "child placement agency" means an agency that arranges for
11 placement of a child

12 (A) in a foster home, residential child care facility, or adoptive
13 home; or

14 (B) for guardianship purposes;

15 (4) "commissioner" means the commissioner of health and social
16 services;

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

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

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

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

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

26 (10) "home health agency" means a public agency or private
27 organization, or a subdivision of a public agency or private organization, that
28 primarily engages in providing skilled nursing services in combination with physical
29 therapy, occupational therapy, speech therapy, or services provided by a home health
30 aide to an individual in the individual's home, an assisted living home, or another
31 residential setting; in this paragraph,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (21) "rural health clinic"

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

23 (B) includes a frontier extended stay clinic;

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

26 * **Sec. 35.** AS 47.32.010, added by sec. 34 of this Act, is amended by adding a new
27 subsection to read:

28 (c) The provisions of AS 47.05.300 - 47.05.390, regarding criminal history,
29 criminal history checks, criminal history use standards, and a centralized registry,
30 apply to entities listed in (b) of this section, as provided in AS 47.05.300.

31 * **Sec. 36.** AS 47.33.010 is amended to read:

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

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

5 (2) providing or obtaining, or offering to provide or obtain for its
6 residents

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

8 (B) personal assistance; or

9 (C) a combination of services under (A) and (B) of this
10 paragraph.

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

12 (1) a correctional facility;

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

15 (3) an emergency shelter;

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

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

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

20 * **Sec. 37.** AS 47.33.070(a) is amended to read:

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

23 (1) the name and birth date, and, if provided by the resident, the social
24 security number of the resident;

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

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

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

30 (5) a copy of the residential services contract between the home and
31 the resident;

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

3 (7) written acknowledgment by the resident or the resident's
4 representative that the resident has received a copy of and has read, or has been read
5 the

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

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

8 (C) resident's right to protection from retaliation under
9 AS 47.33.350;

10 (D) provisions of AS 47.32.160 [AS 47.33.510], regarding
11 immunity; and

12 (E) home's house rules;

13 (8) an acknowledgment and agreement relating to home safekeeping
14 and management of the resident's money, as required by AS 47.33.040;

15 (9) a copy of the resident's living will, if any, or an advance health care
16 directive made under AS 13.52, if any; and

17 (10) a copy of a power of attorney or other written designation,
18 including an advance health care directive made under AS 13.52, of an agent,
19 representative, or surrogate by the resident.

20 * **Sec. 38.** AS 47.40.021 is amended to read:

21 **Sec. 47.40.021. Licensing and supervision.** Facilities providing services that
22 are purchased by the department under AS 47.40.011 - 47.40.091 [,] shall, if required
23 by the department, be licensed and supervised under AS 47.32 [AS 47.35].

24 * **Sec. 39.** AS 47.40.110 is amended to read:

25 **Sec. 47.40.110. Licensing and supervision.** A person providing services
26 purchased by the Department of Health and Social Services under AS 47.40.100 -
27 47.40.120 shall, if required to be licensed under AS 47.32 [AS 47.35], be licensed and
28 supervised in the same manner as foster homes and maternity homes under AS 47.32
29 [AS 47.35].

30 * **Sec. 40.** AS 47.55.010(d) is amended to read:

31 (d) The department may employ the necessary subordinate officers and

1 employees, and shall prescribe methods for operation of the homes, standards of care
2 and service to home residents, and rules governing personnel. The methods for
3 operation and standards of care and services to residents prescribed under this
4 subsection shall be the same as the methods for operation and standards of care
5 established by the department for an assisted living home licensed under AS 47.32
6 [AS 47.33].

7 * **Sec. 41.** AS 47.62.090(2) is amended to read:

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

11 * **Sec. 42.** AS 47.80.140 is repealed and reenacted to read:

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

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

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

22 * **Sec. 44.** AS 18.05.040(a)(10); AS 18.18.005, 18.18.010, 18.18.020, 18.18.030,
23 18.18.040, 18.18.100, 18.18.200, 18.18.300, 18.18.310, 18.18.320, 18.18.330, 18.18.340,
24 18.18.350, 18.18.390, 18.18.410, 18.18.420, 18.18.430, 18.18.440, 18.18.450, 18.18.460,
25 18.18.470, and 18.18.490 are repealed.

26 * **Sec. 45.** AS 18.20.010, 18.20.020, 18.20.030, 18.20.040, 18.20.050, 18.20.060,
27 18.20.070, 18.20.090, 18.20.110, 18.20.120, 18.20.130(2), 18.20.230, 18.20.240, 18.20.250,
28 18.20.260, and 18.20.302 are repealed.

29 * **Sec. 46.** AS 44.62.330(a)(15), 44.62.330(a)(17), and 44.62.330(a)(41) are repealed.

30 * **Sec. 47.** AS 44.64.030(a)(15), 44.64.030(a)(16), 44.64.030(a)(33,) and
31 AS 44.64.030(a)(34) are repealed.

1 * **Sec. 48.** AS 47.33.100, 47.33.400, 47.33.410, 47.33.420, 47.33.430, 47.33.500,
2 47.33.510, 47.33.520, 47.33.530, 47.33.540, 47.33.550, 47.33.560, 47.33.570, 47.33.910,
3 47.33.920, 47.33.990(8), 47.33.990(11), and 47.33.990(14) are repealed.

4 * **Sec. 49.** AS 47.35.005, 47.35.010, 47.35.015, 47.35.017, 47.35.019, 47.35.021,
5 47.35.022, 47.35.023, 47.35.025, 47.35.027, 47.35.029, 47.35.033, 47.35.037, 47.35.039,
6 47.35.043, 47.35.045, 47.35.047, 47.35.048, 47.35.085, 47.35.105, 47.35.110, 47.35.120,
7 47.35.130, 47.35.132, 47.35.140, 47.35.800, 47.35.810, 47.35.820, and 47.35.900 are
8 repealed.

9 * **Sec. 50.** AS 47.37.270(2) and 47.37.270(3) are repealed.

10 * **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

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

13 (a) The changes made by secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act apply to

14 (1) applications or requests submitted within the 90 days before, or submitted
15 on or after, the effective dates of sec. 34 of this Act for initial licensure, certification, or other
16 approval of an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act; and

17 (2) applications submitted within the 90 days before, or submitted on or after,
18 the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act for renewal of a
19 license issued before the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act
20 under a statute repealed or amended by this Act, and regarding a type of entity listed in
21 AS 47.32.010(b), enacted by sec. 34 of this Act.

22 (b) The Department of Health and Social Services may not make a final determination
23 regarding an application or request described in (a) of this section earlier than the effective
24 date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act.

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

27 **APPLICABILITY REGARDING SEC. 19 OF THIS ACT; DEPARTMENT**
28 **ACTION.** (a) The changes made by sec. 19 of this Act apply to

29 (1) applications or requests submitted within the 30 days before, or submitted
30 on or after, the effective date of sec. 19 of this Act for initial licensure, certification, or other
31 approval or selection as any of the following:

1 (A) an entity or individual service provided that is subject to
2 AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act;

3 (B) an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act,
4 that is not described in (A) of this paragraph; and

5 (2) applications or requests submitted within the 30 days before, or submitted
6 on or after, the effective date of sec. 19 of this Act, for renewal of a license, certification, or
7 other approval or selection for an entity or individual service provider that is subject to
8 AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act.

9 (b) The Department of Health and Social Services may not make a final determination
10 regarding an application or request described in (a) of this section earlier than the effective
11 date of sec. 19 of this Act.

12 (c) In this section,

13 (1) "entity" includes an entity subject to AS 47.05.300 - 47.05.390, enacted by
14 sec. 19 of this Act, and an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act, that
15 is not subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act;

16 (2) "individual service provider" has the meaning given in AS 47.05.390,
17 enacted by sec. 19 of this Act.

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

20 TRANSITION: CURRENTLY LICENSED OR APPROVED FACILITIES. (a)
21 Notwithstanding AS 47.32.020, enacted by sec. 34 of this Act, a facility that is a type of entity
22 listed in AS 47.32.010(b), enacted by sec. 34 of this Act, and that on the effective date of secs.
23 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act is being operated under a valid license or under
24 an approval issued by the department under a statute repealed or amended by this Act, may
25 continue to be operated under that license or approval as provided in this section.

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

28 (1) AS 11.61.195(a), as amended by sec. 4 of this Act;

29 (2) AS 11.61.220(a), as amended by sec. 5 of this Act;

30 (3) AS 25.27.244(s)(2), as amended by sec. 14 of this Act;

31 (4) AS 47.05.010, as amended by sec. 17 of this Act;

- 1 (5) AS 47.05.055(a), as amended by sec. 18 of this Act;
- 2 (6) AS 47.10.141(b), as amended by sec. 20 of this Act;
- 3 (7) AS 47.10.392, as amended by sec. 21 of this Act;
- 4 (8) AS 47.10.399(2), as amended by sec. 22 of this Act;
- 5 (9) AS 47.10.990, as amended by secs. 23 and 24 of this Act;
- 6 (10) AS 47.24.013(a), as amended by sec. 26 of this Act;
- 7 (11) AS 47.24.017(d), as amended by sec. 27 of this Act;
- 8 (12) AS 47.25.071(b), as amended by sec. 28 of this Act;
- 9 (13) AS 47.25.095(2), as amended by sec. 29 of this Act;
- 10 (14) AS 47.25.095(4), as amended by sec. 30 of this Act;
- 11 (15) AS 47.25.195(f)(1), as amended by sec. 31 of this Act;
- 12 (16) AS 47.30.915(5), as amended by sec. 32 of this Act;
- 13 (17) AS 47.31.100(4), as amended by sec. 33 of this Act;
- 14 (18) AS 47.33.070(a), as amended by sec. 37 of this Act; and
- 15 (19) AS 47.55.010(d), as amended by sec. 40 of this Act.

16 (c) Until renewal or expiration of a current license under (d) or (e) of this section, the
17 requirements and standards, including department oversight, monitoring, and enforcement
18 actions, regarding operation of a facility that is authorized to continuing operating under this
19 section are those that were in effect in statute or regulation on the day before the effective date
20 of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act.

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

25 (e) Application for license renewal must be made under AS 47.32.060, enacted by
26 sec. 34 of this Act, by the date required by that statute, for a facility described in (a) of this
27 section for which renewal of licensure is desired before expiration of the facility's current
28 license. For purposes of renewal of a license under this subsection and AS 47.32.060, enacted
29 by sec. 34 of this Act, the current license for the facility is considered to be a biennial license
30 under AS 47.32.

31 (f) In this section.

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

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

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

6 TRANSITION: CERTAIN APPLICATIONS PENDING FOR MORE THAN 90
7 DAYS. (a) An application for licensure or approval regarding a facility that is a type of
8 entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act, that was submitted more than
9 90 days before the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act under
10 a statute repealed or amended by this Act and that is pending department action on the
11 effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act shall continue to be
12 processed, and either granted or denied, by the department under the applicable statutes and
13 regulations that were in effect on the day before the effective date of secs. 1 - 18, 20 - 34, 36 -
14 41, and 43 - 50 of this Act.

15 (b) Until renewal or expiration of the license or approval under (c) or (d) of this
16 section, the requirements and standards, including department oversight, monitoring, and
17 enforcement actions, regarding operation of a facility licensed or approved as provided in (a)
18 of this section are those that were in effect in statute or regulation on the day before the
19 effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act.

20 (c) Unless an enforcement action taken by the department as provided in (b) of this
21 section affects the validity of the license or approval, a license or approval issued by the
22 department on or after the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this
23 Act under the provisions of (a) of this section expires June 30, 2006.

24 (d) Application must be made under AS 47.32.060, enacted by sec. 34 of this Act, by
25 the date required by that statute, for a facility described in (a) of this section for which a
26 license or approval was issued under (a) of this section and for which renewal of a license is
27 desired, before expiration of the license or approval issued under (a) of this section. For
28 purposes of renewal of a license under this subsection and AS 47.32.060, enacted by sec. 34
29 of this Act, the license or approval issued under (a) of this section regarding the facility is
30 considered to be a biennial license under AS 47.32.

31 (e) In this section,

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

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

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

5 TRANSITION: PENDING APPLICATIONS AND OTHER REQUESTS
6 REGARDING SEC. 19 OF THIS ACT. (a) An application or other request for licensure,
7 certification, or other approval or selection as an entity or individual service provider that
8 would be subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act, that was
9 submitted more than 30 days before the effective date of sec. 19 of this Act and is pending
10 department action on the effective date of sec. 19 of this Act shall continue to be processed,
11 and either granted or denied, by the department under the applicable statutes and regulations
12 that were in effect on the day before the effective date of sec. 19 of this Act. In this
13 subsection,

14 (1) "entity" means an entity that would be subject to AS 47.05.300 -
15 47.05.390, enacted by sec. 19 of this Act;

16 (2) "individual service provider" has the meaning given in AS 47.05.390,
17 enacted by sec. 19 of this Act.

18 (b) In this section,

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

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

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

23 TRANSITION: REGULATIONS. (a) The Department of Health and Social Services
24 may proceed to adopt regulations necessary to implement secs. 1 - 18, 20 - 34, 36 - 41, and 43
25 - 50 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
26 but not before the effective date of the statutory changes.

27 (b) The Department of Health and Social Services may proceed to adopt regulations
28 necessary to implement secs. 19 and 35 of this Act. The regulations take effect under
29 AS 44.62 (Administrative Procedure Act).

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

- 1 CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant
2 governor shall certify to the revisor of statutes the effective date of the regulations adopted by
3 the Department of Health and Social Services under sec. 56 of this Act.
- 4 * **Sec. 58.** Sections 51, 54, and 56 of this Act take effect immediately under
5 AS 01.10.070(c).
- 6 * **Sec. 59.** Section 41 of this Act takes effect July 1, 2006.
- 7 * **Sec. 60.** Sections 19 and 35 of this Act take effect on the effective date of the regulations
8 adopted by the Department of Health and Social Services under sec. 56(b) of this Act, or
9 March 1, 2006, whichever is earlier, but in no event earlier than July 2, 2005.
- 10 * **Sec. 61.** Except as provided in secs. 58 - 60 of this Act, this Act takes effect July 2, 2005.

ASSISTED LIVING HOMES

RECOMMENDATIONS for HB 193 – G

4/21/05

1. 47.32.030(a)(2) Delete “and operation”
The homes shall be responsible for operating their homes within the guidelines of State Statutes and Regulations where the public comment process is required. Policies shall be saved for interdepartmental procedures.
2. 47.32.030(b) Delete in its entirety.
Currently DSDS is mandated to reimburse/assist homes financially for any major changes in maintaining the license of an Assisted Living Homes when providing care to a Medicaid waiver recipient, this section removes this responsibility. And with new proposed regulations that could cost the homes \$35,000 or more it is critical that this mandate remained intact.
3. 47.32.150(d)(9) Delete in its entirety- or exclude smaller assisted living homes
Because many Assisted Living Homes are personal residences, this is a huge concern regarding the right of government to seize personal property without due process. This is not a court process, and by allowing the assumption of the property in this manner is a grave concern.
4. 47.32.150(d)(8) Delete in its entirety.
47.32.030(3)(C)(i) Delete in its entirety.
Payment reimbursements are already subject to Waiver and General Requirements- repetitive. Especially if the intention of the bill is to separate payment from licensing.
5. Section 48 Delete 47.33.420
Under 47.32.030(3)(C)(ii) The Department is given the right to impose regulations to impose record-keeping requirements- however this repealer revokes the Department's liability to give sample documentation for the homes to follow to provide a guide for the minimum level of documentation expected to remain compliant.
6. 47.32.170(a) Add “unless found to be the result of gross misconduct, negligence, etc. of the Department by a Court or Hearing Board.”
There must a means of accountability of the State for their actions. Open to suggestions or specific language, but the states are too high for the providers for a licensing agency to remained unchecked.
7. 47.32.900(2)(A) Insert “iii” “Provides personal assistance as deemed necessary by a resident's approved care plan in compliance with 47.33.010 and 47.33.020” and renumber accordingly.
See Section 47.33.010 Why 2 different definitions?

ASSISTED LIVING HOMES

RECOMMENDATIONS for HB 193 – G

4/21/05

8. 47.32.900(19) Add "Personal Assistance" in definitions as defined in 47.33.990(15)- "personal assistance" means the provision by an assisted living home of one or more of the following personal services to a resident of the home:
- (A) assisting a resident in obtaining supportive services as provided for in the resident's assisted living plan;
 - (B) assisting a resident in obtaining instrumental activities of daily living, as provided for in the resident's assisted living plan;
 - (C) being aware of a resident's general whereabouts while the resident is traveling independently in the community;
 - (D) monitoring a resident's activities while on the home premises to provide for the resident's and others' safety and well being.

And renumber accordingly.

Clarifies levels of care and duties involved in Assisted Living Homes

9. 47.32.900(18) Delete in its entirety and replace with the definition as state by the State Long Term Ombudsman:
- An institution (or a distinct part of an institution) that is primarily engaged in providing to residents
- Skilled nursing care and related services for residents who require medical or nursing care;
 - Rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or
 - Health related care and services, (on a regular basis), to individuals who because of their mental or physical condition require care and services (above the level of room and board), which can be made available to the only through intuitional facilities; and
 - Is not primarily for the care and treatment of mental diseases.

Clarifies various levels of care involved in nursing homes

10. 47.05.330(b) Question the addition of adding "Volunteer"
Many volunteers in these types of facilities are retirees on a fixed income- who is responsible for the fees associated with the registry for a volunteer?
11. 47.05.330(b)(1) Question the addition of adding "Medicaid Fraud"
With the unresolved Medicaid issues surrounding current regulations, the Assisted Living Homes do not support the inclusion of this phrase.

GOVERNOR'S AMENDMENTS

Amendment #1:

- The Governor's bill was drafted with the expectation that **Section 17 of this Act (new Article 3, Criminal History; Registry)** would take effect July 1, 2005. ["Section 46. Except as provided in secs. 44 and 45 of this Act, this Act takes effect July 1, 2005."] The process for appropriate public notice and adoption of regulations for this complex program restructuring requires a very thoughtful public input and response. An effective date of July 1, 2005 is now recognized as extremely challenging and detrimental to licensed programs should the enabling regulations not be amended timely. As currently written, the department could not issue or renew a license or a certification for an entity that is inconsistent with the standards for licensure or certification under current regulation without imposing undue hardship on the licensed entity. The impact on SB 125 to change the effective date requires a series of conforming adjustments throughout numerous sections.
- **Page 15, following line 24:** Include under the definition of "ambulatory surgical center" a facility that performs invasive diagnostic or therapeutic services. The department recommends amending SB 125 to not limit itself statutorily from accommodating new procedures that may be determined to be subject to licensure. Nor does it want to limit its ability to be responsive to life, health and safety considerations promulgated by advances in medical technology and/or best business practices.

Amendment #2:

- **Page 11, following line 25:** The department recognizes and appreciates the gravity of any action taken to either assume management responsibility for or revoke the license of a licensed provider. Accordingly, this amendment inserts a new subsection (e) stating the department may not take action to assume either temporary or permanent management of an entity, or pursue a court-ordered receiver for the entity, unless the commissioner has reasonable cause to believe that continued management by the entity while the entity is attempting to cure a violation would be injurious to the health, safety, or welfare of individuals receiving services from the entity. To accommodate this amendment, the proposed impact on SB 125 requires a series of conforming adjustments and a renumbering of numerous sections.
- **Page 13, line 1: This is rectifying a drafting error.** As I noted in my March 31 response to the committee regarding the applicability of AS 44.64.060, the concept of this section was to provide for a substantive administrative hearing for the more serious actions taken during an investigation, e.g., revocation or suspension of a license. Numerous discussions took place as to how this section would tie into the creation of the central hearing panel under AS 44.64. Those discussions resulted in a determination that we would want an APA-type hearing and would support having those hearings administered by the central panel. Therefore, the reference that 44.64.060 does not apply should be changed to indicate that it does apply.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 193
(H) Publish Date: 3/2/05

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

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	9.3					
Travel	0.0					
Contractual	1.1					
Supplies	0.2					
Equipment	0.2					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	10.8	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.8					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	10.8	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would centralize almost all DHSS licensing statutes under a new chapter to AS 47. Currently, there are 12 different statutory schemes for the licensure of different entities by the DHSS. By centralizing these disparate procedures into a streamlined licensing process under a uniform statutory framework, the DHSS hopes to be able to administer these functions in a much more efficient and cost effective manner. The Department of Law does not anticipate a significant long-term fiscal impact from passage of this legislation; however, it is clear that significant revisions to the corresponding regulations will be required. It is estimated that approximately 100 attorney hours might be required in such an effort.

Prepared by: Kathryn Daughhete, Director Phone 465-3427
Division: Administrative Services Date/Time 2/28/05 2:15 PM
Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/28/2005
Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1
 Bill Version: HB 193
 (H) Publish Date: 3/2/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

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

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR Component No.: 245

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: _____

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Richard Mandsager, MD
 Division: Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-3139
 Date/Time: 02/17/2005
 Date: 02/28/2005

Sectional Analysis of HB 193 (Licensing)

(Prepared by the Department of Health and Social Services and the Department of La., March 3, 2005)

HB 193 would centralize the licensing and administration of certain covered entities into a new chapter, and would centralize background check and registry functions for entities and individual service providers who are licensed or certified by the Department of Health and Social Services (DHSS) or who receive payments from the DHSS for providing services.

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

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

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

- the identification of a child care facility related to misconduct involving a weapon under AS 11.61.195(a) (sec. 5) and 11.61.220(a) (sec. 6);
- the conversion of a nursing facility to a nursing home under AS 18.07.031(b) (sec.7);
- the definition of "health care provider" under AS 18.23.070 (sec. 8) and AS 09.55.560 (sec. 2);
- facility compliance with health and safety laws and licensing requirements under AS 18.26.220 (sec. 9);
- the definition of "child adoption agency" in AS 18.50.950 (sec. 10);
- health maintenance organizations' requirement regarding regulation of hospitals under AS 21.86.030(c) (sec. 11);
- maintenance of records by a child placement agency under AS 25.23.185(c) (sec. 12);
- the definition of "license" under AS 25.27.244(s) (sec. 13);
- licensing fees under AS 37.05.146(c) (sec. 14);
- investigation of reports of abuse, neglect, or misappropriation of property under AS 47.05.010(15) (sec. 15) and AS 47.05.055(a) (sec. 16);
- the definition of "foster care" under AS 47.10.990 (sec. 18) and "secure residential treatment center" under AS 47.10.990 and AS 47.12.990 (secs. 19 - 20);
- a report of harm under AS 47.24.013(a) (sec. 21);
- minimum daily reimbursement rates under AS 47.24.017(d) (sec. 22);
- grants for child care facilities under AS 47.25.071(b) (sec. 23);
- the definition of "child care facility" and "day care facility" under AS 47.25.095 (secs. 24 - 25);
- the definition of "assisted living home" under AS 47.25.195(f) (sec. 26);

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

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

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

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

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

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

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

IV. Repealers (Sections 33 - -39):

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

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

Section 35 repeals certain statutes governing hospitals and nursing facilities.

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

Section 37 repeals certain statutes governing assisted living homes.

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

Section 39 repeals certain statutory definitions related to alcohol treatment.

V. Applicability (Section 40):

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

VI. Transition (Sections 41 - 43):

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

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

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

VII. Effective date (Sections 44 – 46):

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

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

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



PUBLIC HEALTH

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

HB 193, a Bill to Consolidate DHSS Licensing, Certification and Background Check Functions

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

3/15/2005