

ALASKA

Title 7. Health and Social Services

Part 1. Administration

Chapter 10. Licensing, Certification and Approvals.

Article

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Article 1

Purpose, Applicability, and Administrative Provisions Section

10. Purpose of chapter.
15. Applicability of chapter.

7 AAC 10.010. Purpose of chapter

The purpose of this chapter is to establish certain licensing, certification, approval, and other requirements for entities and individual service providers referred to in 7 AAC 10.015, and to establish standards for the protection of public health, safety, and welfare.

History: Eff. 6/23/2006, Register 178; am 12/3/2006, Register 180; am 2/9/2007, Register 181

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.05.300	AS 47.05.310	AS 47.05.330
AS 47.14.120	AS 47.32.010	AS 47.32.020
AS 47.32.030	AS 47.33.005	AS 47.33.010

7 AAC 10.015. Applicability of chapter

The provisions of

- (1) 7 AAC 10.900 - 7 AAC 10.990 (Barrier Crimes, Criminal History Checks, and Centralized Registry) apply to an entity or individual described in 7 AAC 10.900(b) ;
 - (2) 7 AAC 10.1000 - 7 AAC 10.1095 (Environmental Health and Safety) apply to an entity listed in 7 AAC 10.1000(b) ; and
 - (3) 7 AAC 10.9500 - 7 AAC 10.9535 (General Variance Procedures) and 7 AAC 10.9600 - 7 AAC 10.9620 (Inspections and Investigations) apply to an entity subject to AS 47.32 and
- (A) this chapter; or
 - (B) 7 AAC 12.

History: Eff. 6/23/2006, Register 178; am 12/3/2006, Register 180; am 2/9/2007, Register 181

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.05.300	AS 47.05.310	AS 47.05.330
AS 47.14.120	AS 47.32.010	AS 47.32.020
AS 47.32.030	AS 47.33.005	AS 47.33.010

Article 2

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Article 3

Barrier Crimes, Criminal History Checks, and Centralized Registry

Section

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7 AAC 10.900. Purpose and applicability; exceptions

(a) The purpose of 7 AAC 10.900 - 7 AAC 10.990 is to establish standards, requirements, and procedures dealing with barrier crimes and conditions, criminal history checks, and the centralized registry, including

(1) the identification of offenses and conditions that would bar an individual from

(A) licensure, certification, or approval by the department;

(B) a finding of eligibility to receive certain payments from the department; and

(C) association with an entity or individual service provider in a manner described in (b) of this section;

(2) requirements for requesting a criminal history check and procedures to determine whether a barrier crime exists;

(3) requirements for maintaining compliance with AS 47.05.300 - 47.05.390, AS 47.32, and 7 AAC 10.900 - 7 AAC 10.990, including standards for association and requirements for continued monitoring and notification; and

(4) the establishment of a centralized registry as required by AS 47.05.330 .

(b) The provisions of 7 AAC 10.900 - 7 AAC 10.990 apply to an entity or individual service provider seeking licensure, certification, approval, or a finding of eligibility to receive payments from the department. Each individual who is to be associated with the entity or provider in a manner described in this subsection must have a valid criminal history check conducted under 7 AAC 10.900 - 7 AAC 10.990 if that individual is 16 years of age or older and will be associated with the entity or provider as

(1) an administrator or operator;

(2) an individual service provider;

(3) an employee, an independent contractor, an unsupervised volunteer, or a board member if that individual has

(A) regular contact with recipients of services;

(B) access to personal or financial records maintained by the entity or provider regarding recipients of services; or

(C) control over or impact on the financial well-being of recipients of services, unless the only recipient whose financial well-being is affected is a

(i) relative of the individual who has authorized that individual to make financial decisions for that relative;

(ii) recipient who has executed a power of attorney for that individual to make financial decisions for that recipient; or

(iii) recipient for whom a court has authorized that individual to make financial decisions;

(4) an officer, director, partner, member, or principal of the business organization that owns an entity, if that individual has

(A) regular contact with recipients of services;

(B) access to personal or financial records maintained by the entity or provider regarding recipients of services; or

(C) control over or impact on the financial well-being of recipients of services, unless the only recipient whose financial well-being is affected is a

(i) relative of the individual who has authorized that individual to make financial decisions for that relative;

(ii) recipient who has executed a power of attorney for that individual to make financial decisions for that recipient; or

(iii) recipient for whom a court has authorized that individual to make financial decisions;

(5) except as provided in (c) and (d)(10) of this section, an individual who resides in a part of an entity, including a residence if services are provided in the residence, if the individual remains, or intends to remain, in the entity for 45 days or more, in total, in a 12-month period; or

(6) except as provided in (c) and (d) of this section, any other individual who is present in the entity and would have regular contact with recipients of services.

(c) A criminal history check under 7 AAC 10.900 - 7 AAC 10.990 is not required for a recipient of services, unless that individual is also associated with the entity or individual service provider in any manner described in

(b)(1) - (4) of this section.

(d) A criminal history check under 7 AAC 10.900 - 7 AAC 10.990 is not required for the following individuals, if supervised access is provided in accordance with (e) of this section:

(1) a relative of a recipient of services, unless that relative is also associated with the entity or provider in any manner described in

(b)(1) - (5) of this section;

(2) a visitor of a recipient of services, unless that visitor is also associated with the entity or provider in any manner described in (b) (1) - (4) of this section;

(3) an individual for whom the entity or provider submits evidence to the department of a fingerprint-based background check

(A) conducted and implemented under a process that meets or exceeds the standards of 7 AAC 10.900 - 7 AAC 10.990; and

(B) that is required

(i) as a condition for obtaining a professional license or certification under AS 08;

(ii) by federal law for an entity or individual service provider described in AS 47.05.300 ;
or

(iii) as a condition of employment or association that is imposed by an entity or individual service provider described in AS 47.05.300 ;

(4) an employee, independent contractor, unsupervised volunteer, board member, officer, director, partner, member, or principal of the business organization that owns an entity if that individual is not associated with the entity or an individual service provider in any manner described in (b)(1) - (4) of this section;

(5) an approved relative provider under 7 AAC 41.200(e) ;

(6) a personal physician, an infant learning teacher, an attendant for a child with special needs as described in 7 AAC 57.940, a licenser, a fire marshal, a food services sponsor, or another similar individual who

(A) is not associated with the entity or provider under (b) of this section; and

(B) provides support services to the entity or provider or to a recipient of services;

(7) an individual who is a vendor or an industry representative, or who provides delivery, installation, maintenance, or repair services;

(8) an individual who resides in any part of an entity, including a residence if services are provided in the residence, if the individual remains in the entity or residence for less than 45 days, in total, in a 12-month period;

(9) a parent's designee to drop off and pick up a child in care, unless the designee is also associated in a manner described in (b) of this section with the entity providing child care;

(10) a parent who receives money from the department for purposes of paying an approved in-home child care provider under 7 AAC 41.370, and any other individual who resides in that parent's household; however, the exemption in this paragraph does not apply to an approved in-home child care provider who resides in the household;

(11) an occasional guest of the administrator or operator of an entity or of a provider.

(e) An entity or individual service provider must provide supervised access for an individual exempted under (d) of this section if the individual is present in the entity during hours of operation. Supervised access is not required in a residence where in-home child care is provided under 7 AAC 41.370.

(f) For purposes of (b)(5) and (d)(8) of this section, "individual who resides in any part of an entity" means an individual who dwells continuously in, or legally occupies, the premises housing the entity or provider, as evidenced by (1) the individual's address on the individual's permanent fund dividend received under AS 43.23, driver's license, fishing or hunting license, or other official record; or (2) observation by another individual of the individual occupying the premises.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.905. Barrier crimes

(a) A barrier crime is a criminal offense that is inconsistent with the standards for licensure, certification, approval, or eligibility to receive payments. The barrier crime standards and prohibitions in this section apply to an individual who

(1) seeks to be associated or to remain associated in a manner described in 7 AAC 10.900(b) with an entity or individual service provider that is subject to AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990; and

(2) has been charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a crime listed in this section or a crime with similar elements in another jurisdiction.

(b) Except as otherwise provided in this section, the following are permanent barrier crimes, including the attempt, solicitation, or conspiracy to commit any of the following crimes or to violate a law or ordinance of this or another jurisdiction with similar elements:

(1) an unclassified, a class A, or a class B felony under AS 11.41 (Offenses Against the Person);

(2) a crime involving domestic violence that is a felony under AS 11;

(3) a crime that is a felony and involves a victim who was a child under 18 years of age at the time of the conduct, including a crime involving a perpetrator who was a person responsible for the child's welfare; in this paragraph, "person responsible for the child's welfare" has the meaning given in AS 47.17.290 ;

(4) a crime under AS 11.41.220 (Assault in the Third Degree);

(5) a crime under AS 11.41.460 (Indecent Exposure in the Second Degree);

(6) a crime under AS 11.46.400 or 11.46.410 (Arson in the First or Second Degree);

(7) a crime under AS 11.51 (Offenses Against the Family and Vulnerable Adults) as follows:

(A) AS 11.51.100 (Endangering the Welfare of a Child in the First Degree);

(B) AS 11.51.200 (Endangering the Welfare of a Vulnerable Adult in the First Degree);

(C) AS 11.51.210 (Endangering the Welfare of a Vulnerable Adult in the Second Degree);

(8) a crime under AS 11.56 (Offenses Against Public Administration) as follows:

(A) AS 11.56.835 (Failure to Register as a Sex Offender or Child Kidnapper in the First Degree);

(B) AS 11.56.840 (Failure to Register as a Sex Offender or Child Kidnapper in the Second Degree);

(9) a crime under AS 11.61 (Offenses Against Public Order) as follows:

(A) AS 11.61.123 (Indecent Viewing or Photography);

(B) AS 11.61.125 (Distribution of Child Pornography);

(10) a crime under AS 11.66 (Offenses Against Public Health and Decency) as follows, if the person induced or caused to engage in prostitution was under 18 years of age at the time of the offense:

(A) AS 11.66.110 (Promoting Prostitution in the First Degree);

(B) AS 11.66.120 (Promoting Prostitution in the Second Degree);

(C) AS 11.66.130 (Promoting Prostitution in the Third Degree);

(11) any sex offense, as defined in AS 12.63.100 , that is not already listed in this subsection;

(12) two or more class B felonies that are not included in this subsection.

(c) The following are 10-year barrier crimes, including the attempt, solicitation, or conspiracy to commit any of the following crimes or to violate a law or ordinance of this or another jurisdiction with similar elements:

(1) a crime under AS 11.41.260 (Stalking in the First Degree);

(2) a crime under AS 11.46 (Offenses Against Property) as follows:

(A) AS 11.46.120 (Theft in the First Degree);

(B) AS 11.46.280 (Issuing a Bad Check), if the crime is a class B felony;

(C) AS 11.46.285 (Fraudulent Use of an Access Device), if the crime is a class B felony;

(D) AS 11.46.300 (Burglary in the First Degree);

(E) AS 11.46.475 (Criminal Mischief in the First Degree);

(F) AS 11.46.480 (Criminal Mischief in the Second Degree);

(G) AS 11.46.500 (Forgery in the First Degree);

(H) AS 11.46.565 (Criminal Impersonation in the First Degree);

(I) AS 11.46.600 (Scheme to Defraud);

(J) AS 11.46.730 (Defrauding Creditors), if the crime is a class B felony;

(3) a crime under AS 11.56.807 (Terroristic Threatening in the First Degree), if it is a crime involving domestic violence;

(4) a crime under AS 11.61 (Offenses Against Public Order) as follows:

(A) AS 11.61.190 (Misconduct Involving Weapons in the First Degree);

(B) AS 11.61.195 (Misconduct Involving Weapons in the Second Degree);

(C) AS 11.61.240 (Criminal Possession of Explosives), if the crime is a class A or B felony;

(5) a crime under AS 11.66.110 (Promoting Prostitution in the First Degree), if the person who was induced or caused to engage in prostitution was 18 years of age or older at the time of the offense;

(6) a crime under AS 11.71.010 - 11.71.030 (Misconduct Involving a Controlled Substance in the First, Second, or Third Degree);

(7) a crime under AS 11.73.030 (Delivery of an Imitation Controlled Substance to a Minor);

(8) a class B felony under AS 21.36.360 (Fraudulent or Criminal Insurance Acts);

(9) a class C felony under AS 28.35.030 (n) (Operating a Vehicle, Aircraft, or Watercraft While Under the Influence of an Alcoholic Beverage, Inhalant, or Controlled Substance), if the individual has had two or more convictions since January 1, 1996, and within the 10 years preceding the date of the present offense, for operating a vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance;

(10) a class C felony under AS 28.35.032 (p) (Refusal to Submit to Chemical Test), if the individual has had two or more convictions since January 1, 1996, and within the 10 years preceding the date of the present offense, or if punishment under AS 28.35.030 (n) or 28.35.032(p) was previously imposed within the last 10 years.

(d) The following are five-year barrier crimes, including the attempt, solicitation, or conspiracy to commit any of the following crimes or to violate a law or ordinance of this or another jurisdiction with similar elements:

(1) a crime under AS 11.41 (Offenses Against the Person) as follows:

(A) AS 11.41.230 (Assault in the Fourth Degree);

(B) AS 11.41.250 (Reckless Endangerment);

(C) AS 11.41.270 (Stalking in the Second Degree);

(D) AS 11.41.330 (Custodial Interference in the Second Degree);

(E) AS 11.41.530 (Coercion);

(2) a class C felony under AS 11.46 (Offenses Against Property);

(3) a crime under AS 11.51 (Offenses Against Family and Vulnerable Adults) as follows:

(A) AS 11.51.110 (Endangering the Welfare of a Child in the Second Degree);

- (B) AS 11.51.120 (Criminal Nonsupport), if the crime is a class C felony;
- (C) AS 11.51.121 (Aiding the Nonpayment of Child Support in the First Degree);
- (D) AS 11.51.130 (Contributing to the Delinquency of a Minor);
- (4) a crime under AS 11.56 (Offenses Against Public Administration) as follows:
 - (A) AS 11.56.765 (Failure to Report a Violent Crime Committed Against a Child);
 - (B) AS 11.56.810 (Terroristic Threatening in the Second Degree), if it is a crime involving domestic violence;
 - (C) AS 11.56.815 (Tampering With Public Records in the First Degree);
- (5) a crime under AS 11.61 (Offenses Against Public Order) as follows:
 - (A) AS 11.61.130 (Misconduct Involving a Corpse);
 - (B) AS 11.61.140 (Cruelty to Animals);
 - (C) AS 11.61.145 (Promoting an Exhibition of Fighting Animals), if the crime is a class C felony;
 - (D) AS 11.61.200 (Misconduct Involving Weapons in the Third Degree);
 - (E) AS 11.61.240 (Criminal Possession of Explosives), if the crime is a class C felony;
 - (F) AS 11.61.250 (Unlawful Furnishing of Explosives);
- (6) a crime under AS 11.66.120 (Promoting Prostitution in the Second Degree), if the person who was induced or caused to engage in prostitution was 18 years of age or older at the time of the offense;
- (7) a crime under AS 11.71.040 (a)(1), (2), (5), (6), (7), (8), or (10) (Misconduct Involving a Controlled Substance in the Fourth Degree);
- (8) a class C felony under AS 11.73 (Imitation Controlled Substances);
- (9) a serious offense as defined in AS 12.62.900 , except for
 - (A) a serious offense included in (b) or (c) of this section; and
 - (B) an offense under AS 11.61.110 (Disorderly Conduct);
- (10) a class C felony under AS 21.36.360 (Fraudulent or Criminal Insurance Acts);
- (11) a felony under AS 47.30.815 (Bad Faith Initiation of an Involuntary Mental Commitment Proceeding).

(e) The following are three-year barrier crimes, including the attempt, solicitation, or conspiracy to commit any of the following crimes or to violate a law or ordinance of this or another jurisdiction with similar elements:

(1) a crime under AS 11.46 (Offenses Against Property) as follows:

(A) AS 11.46.140 (Theft in the Third Degree);

(B) AS 11.46.320 (Criminal Trespass in the First Degree), if it is a crime involving domestic violence;

(C) AS 11.46.430 (Criminally Negligent Burning), if it is a crime involving domestic violence;

(D) AS 11.46.484 (Criminal Mischief in the Fourth Degree), if it is a crime involving domestic violence;

(E) AS 11.46.510 (Forgery in the Third Degree);

(F) AS 11.46.710 (Deceptive Business Practices), if the crime is a class A misdemeanor;

(2) a crime under AS 11.51.120 (Criminal Nonsupport), if the crime is a class A misdemeanor;

(3) a crime under AS 11.56 (Offenses Against Public Administration) as follows:

(A) AS 11.56.740 (Violating a Protective Order), if it is a crime involving domestic violence;

(B) AS 11.56.745 (Interfering With a Report of a Crime Involving Domestic Violence);

(4) a crime under AS 11.61.240 (Criminal Possession of Explosives), if the crime is a class A misdemeanor.

(f) The following are one-year barrier crimes, including the attempt, solicitation, or conspiracy to commit any of the following crimes or to violate a law or ordinance of this or another jurisdiction with similar elements:

(1) a crime under AS 11.46.486 (Criminal Mischief in the Fifth Degree), if it is a crime involving domestic violence;

(2) a crime under AS 11.56.750 or 11.56.755 (Unlawful Contact in the First or Second Degree);

(3) a crime under AS 11.61.120 (Harassment), if it is a crime involving domestic violence.

(g) If an individual does not pass a criminal history check as a result of a barrier crime established in this section, the individual is prohibited from associating with an entity or provider in a manner described in 7 AAC 10.900(b) , unless the department grants a variance under 7 AAC 10.935.

(h) If an individual is charged with a barrier crime, that individual is barred from any contact with recipients of care during the pendency of the charge, unless the department grants a variance under 7 AAC 10.935. The crime charged ceases to be a barrier under this section on the date that the

(1) individual is acquitted of that crime;

(2) charge is dismissed; or

(3) district attorney's office decides not to prosecute the charge.

(i) Except as otherwise provided in this section, the barrier times listed in this section begin to run from the date that an individual was charged with or convicted of the crime, whichever period ends at a later date. If the individual is subject to a judgment of a court related to sentencing, probation, or parole, the individual is barred as described in (a)(1) of this section for the barrier time listed in this section or until the individual has fully complied with the conditions of the sentencing, probation, or parole, whichever period is longer.

(j) If an individual is convicted of a lesser crime than was originally charged, the length of time an individual is barred will be based upon the crime for which the individual was convicted.

(k) If an entity or individual is also subject to federal criminal history check requirements, and the federal standards, including standards related to civil findings, are more stringent than those set out in this section, the federal standards apply.

(l) For the purpose of determining whether a person is convicted of a single offense or of multiple offenses, the provisions of AS 12.55.145 (a)(1)(C) apply.

(m) In this section,

(1) "charged with" means a person

(A) has been indicted by information or presentment for an offense, or has been arrested and provided a uniform summons and complaint for an offense; and

(B) is awaiting adjudication or dismissal of the matter, or a decision by the district attorney's office not to prosecute;

(2) "convicted" or "conviction" means a judgment entered by a court of competent jurisdiction in this state or another jurisdiction, either upon the entry of a plea, or after a bench or jury trial; "convicted" or "conviction"

(A) includes a suspended imposition of sentence, even if the conviction is formally set aside under AS 12.55.085 ; and

(B) does not include an executive order of clemency, or a record that has been expunged by order of a court.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300
AS 47.05.340

AS 47.05.310
AS 47.32.010

AS 47.05.320
AS 47.32.030

7 AAC 10.915. Criminal history check

(a) The department will screen a request for a criminal history check through the

(1) centralized registry established under 7 AAC 10.955 to determine whether a barrier condition exists for the individual who is the subject of the criminal history check;

(2) registry of certified nurse aides under AS 08.68.333 ;

(3) central registry of sex offenders and child kidnappers under AS 15.65.087 ;

(4) United States Department of Health and Human Services, Office of the Inspector General database of individuals and entities excluded under 42 U.S.C. 1320a-7 and 1320c-5 (secs. 1128 and 1156 of the Social Security Act); and

(5) any other registry or database determined by the department to be relevant to the screening being conducted for an individual, including any registry or database maintained by another state where that individual has resided.

(b) in addition to its review under (a) of this section, the department will review the criminal justice information supplied by the Department of Public Safety, court or other applicable government agency records, and the national criminal history record check supplied by the Federal Bureau of Investigation, to determine whether a barrier crime exists for the individual who is the subject of the criminal history check.

(c) If, after reviewing all available information described in (a) and (b) of this section, the department determines that a barrier crime or condition does not exist, the department will notify the entity or provider that submitted the request, and the individual who was the subject of the criminal history check, that the individual passed the criminal history check. The department will include in the notification the following:

(1) the period during which the criminal history check is valid, unless revoked or rescinded under this section;

(2) a statement that the valid criminal history check is conditioned upon the individual continuing to meet the applicable standards of AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990;

(3) a statement that, if the individual ceases to be associated with the entity or provider in a manner described in 7 AAC 10.900(b) ,

(A) the individual's continued compliance with the applicable standards of AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990 must be verified by the department in accordance with 7 AAC 10.910(e) before that individual may become associated with another entity or provider, or re-associated with the same entity or provider; and

(B) a time period during which the individual is not associated with an entity or provider that is 100 days or longer is subject to (g) of this section.

(d) If, while conducting a criminal history check, the department determines that a barrier crime or condition exists, the department will notify the

(1) entity or provider that submitted the request under 7 AAC 10.910; the department will include in the notification the following statements:

(A) that the department has determined a barrier crime or condition exists; the department will not identify the crime or condition, but will identify the applicable barrier time under 7 AAC 10.905 or 7 AAC 10.955, as applicable;

(B) that the individual who was the subject of the criminal history check has been given an opportunity to challenge the department's determination under 7 AAC 10.950 if the individual believes the determination was based on erroneous information, or if the individual has additional information for the department to consider;

(C) that if the individual is willing to disclose the barrier crime or condition to the entity or provider, and if the entity or provider continues to desire a valid criminal history check for that individual, the entity or provider may request a variance, if allowed under 7 AAC 10.930; and

(2) individual who was the subject of the criminal history check; the department will include in the notification the following:

(A) the reason for the determination, including identification of the barrier crime or condition and the applicable barrier time under 7 AAC 10.905;

(B) a statement that if the individual wishes to disclose the barrier crime or condition to the entity or provider that submitted the request, the entity or provider may be able to obtain a variance, if allowed under 7 AAC 10.930;

(C) a statement that if the individual believes there is an error in the information relied upon by the department, or if the individual has additional information for the department to consider, the individual may submit a request for reconsideration under 7 AAC 10.950.

(e) For each request for a criminal history check processed under this section, the department will mark in APSIN the name of the individual who was the subject of the criminal history check. If the department receives notification under APSIN of law enforcement activity for an individual, the department will review the information. If the department determines that the activity creates a barrier under 7 AAC 10.905, the department will immediately notify the entity or provider and the individual. The department will include in the notification information advising the entity or provider and the individual that

(1) the department intends to revoke the valid criminal history check in accordance with 7 AAC 10.945; the department will not identify the barrier crime or condition in the notice to the entity or provider, but will identify the crime or condition in the notice to the individual;

(2) the individual may request reconsideration under 7 AAC 10.950 if the individual believes there was an error in the information relied upon by the department; and

(3) if the individual wishes to disclose the barrier crime or condition to the entity or provider, the entity or provider may request a variance, if allowed under 7 AAC 10.930.

(f) Except as provided otherwise in this subsection, an entity or provider must, within 24 hours after receiving notification under (d) or (e) of this section, terminate association with the individual in accordance with 7 AAC 10.960. If the entity or provider requests a variance under 7 AAC 10.930, or if the individual requests reconsideration under 7 AAC 10.950, the individual may remain associated with the entity or provider, pending a decision on the request, if

(1) the individual is removed from direct contact with recipients of services; and

(2) the entity or provider ensures that the individual is provided with direct supervision if the individual is present in any area where services are provided, during hours of operation.

(g) If an individual remains out of association with an entity or provider for 100 days or longer, the department will revoke a valid criminal history check without prior notice. A new criminal history check is required if the individual wishes to become associated with any entity or provider in a manner described in 7 AAC 10.900(b) .

(h) If an individual with a valid criminal history check ceases to be associated with an entity or provider, and wishes to have the individual's name unmarked in APSIN, the individual shall submit a written request to the department that the valid criminal history check be rescinded. The department will send a written acknowledgment of the rescission to the individual and to the entity or provider with whom the individual was most recently associated.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300
AS 47.05.330
AS 47.32.030

AS 47.05.310
AS 47.05.340

AS 47.05.320
AS 47.32.010

7 AAC 10.920. Provisional valid criminal history check

(a) The department may issue notification of a provisional valid criminal history check after screening the individual under 7 AAC 10.915(a) and reviewing the criminal justice information supplied by the Department of Public Safety, if a barrier crime or condition is not discovered in that screening and review and if

(1) the department determines that its further review time might unduly delay the process;

(2) an entity or provider has requested an expedited review and has

(A) included justification for the expedited review;

(B) submitted, at a minimum, the documents required under 7 AAC 10.910(b) (1) and (2); and

(C) agreed to submit within 30 days the fingerprints required under 7 AAC 10.910(b) (3) and any items required under 7 AAC 10.910(b) (4) - (6) that were not included with the request; or

(3) a request for a criminal history check does not include the required sets of fingerprints because fingerprinting acceptable to the Department of Public Safety is not available within 100 miles by road, and the entity or provider agrees to submit within 30 days the fingerprints required under 7 AAC 10.910(b) (3) and any items required under 7 AAC 10.910(b) (4) - (6) that were not included with the request.

(b) Notification of a provisional valid criminal history check issued under this section is valid until the results of a fingerprint-based criminal history check are processed under 7 AAC 10.915, unless revoked under this section. If the entity or provider fails to submit fingerprints and other required items within 30 days, or the individual does not pass the criminal history check, the provisional valid criminal history check is automatically revoked, and the entity or provider must terminate association with the individual in accordance with 7 AAC 10.960.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.925. Monitoring and notification requirements

(a) An entity or provider shall monitor to ensure that all individuals associated with the entity or provider in a manner described in 7 AAC 10.900(b) continue to meet the applicable requirements of AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990. The entity or provider shall require each individual for whom a criminal history check is required to report to the entity or provider within 24 hours, or the next business day if the individual is

(1) charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a barrier crime listed in 7 AAC 10.905; or

(2) is the subject of a matter that must be reported under 7 AAC 10.955(c) for the centralized registry.

(b) In addition to the reporting requirements of 7 AAC 10.955(c) for the centralized registry, the entity or provider shall notify the department by telephone, by electronic mail, by facsimile, by letter, or in person within

(1) 24 hours, or the next business day, after the entity or provider has knowledge that an individual associated with the entity or provider has been

(A) arrested for, charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a barrier crime listed in 7 AAC 10.905; or

(B) is the subject of a matter that must be reported under 7 AAC 10.955(c) for the centralized registry; or

(2) 14 days after any change in association with the entity or provider for an individual who has a valid criminal history check or is the subject of a provisional valid criminal history check, including a change that involves an individual

(A) whose association described in 7 AAC 10.900(b) has been terminated; or

(B) who has not been associated with the entity or provider for 61 days or more, but becomes re-associated within 100 days.

(c) Failure to notify the department as required under this section may result in an enforcement action, including suspension or revocation of the license, certification, approval, or finding of eligibility to receive payments.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.930. Request for a variance

(a) Except for a crime or condition listed in (g) of this section, an entity or provider notified under 7 AAC 10.915(d) that a barrier crime or condition exists may request a variance under this subsection. The request must be submitted to the department office responsible for that entity's or provider's licensing, certification, approval, or finding of eligibility to receive payments. The request must be submitted no later than 30 days after the entity or provider receives notice under 7 AAC 10.915(d) , or, if the individual who was the subject of the criminal history check submits a request for reconsideration as allowed under 7 AAC 10.915(d) (2)(C), no later than 30 days after the department issues its decision on reconsideration under 7 AAC 10.950(b) (3), whichever date is later. The request must be submitted on a form provided by the department, and must include the following:

(1) a comprehensive rationale for granting a variance;

(2) a demonstration of how the health, safety, and welfare of recipients of services will be adequately protected;

(3) copies of all known information relevant to determining whether the health, safety, and welfare of recipients of services are adequately protected, including the following information regarding the individual for whom a variance is sought:

(A) a copy, as applicable, of that individual's record of

(i) protective orders issued or filed under AS 18.66 (Domestic Violence and Sexual Assault) or a substantially similar law or ordinance of another jurisdiction;

- (ii) conviction;
 - (iii) indictment or presentment, or of charging by information or complaint;
 - (iv) having been charged with a crime, without subsequent conviction;
 - (v) having been charged with a crime that was reduced to a lesser charge;
 - (vi) having been charged with a crime for which a suspended imposition of sentence was granted by the court; and
 - (vii) any circumstance that led to a barrier condition under 7 AAC 10.955;
- (B) if the individual was incarcerated,
- (i) a copy of the order from the local, state, or federal jurisdiction that released the individual from incarceration;
 - (ii) the date of release from incarceration; and
 - (iii) any terms and conditions of parole;
- (C) if the individual was sentenced and, as a part of that sentence, the individual was placed on supervised or unsupervised probation, a copy of the terms and conditions of probation;
- (D) the extent, nature, and seriousness of the following:
- (i) the individual's offense and past criminal record;
 - (ii) a behavioral health problem if it exists;
 - (iii) a domestic violence problem if it exists;
 - (iv) any circumstance that led to a barrier condition under 7 AAC 10.955;
- (E) the age of the individual at the time of the offense, problem, or circumstance;
- (F) the amount of time that has elapsed since the most recent offense, problem, or circumstance;
- (G) evidence of rehabilitation, prevention, or treatment efforts;
- (H) other evidence of the individual's present fitness, including at least two letters of recommendation from credible persons who are aware of the individual's criminal and civil history, behavioral health problem, or domestic violence problem, and who recommend that a variance be granted; any letters must be from persons who are unrelated to the individual for whom the variance is requested and who are not associated with the entity or provider that submitted the request for a variance; nothing in this subparagraph precludes the entity or provider from submitting additional letters of recommendation;

(l) if the individual is an employee or volunteer, or a potential employee or volunteer, information related to job responsibilities that would be performed, hours and days of service, whether the individual would be in contact with recipients of services, and plans for supervision, including whether the individual would be subject to direct supervision while on the premises during hours of operation;

(4) for a request submitted under (k) of this section, in addition to the information and documentation required under (1) - (3) of this subsection, the request must include

(A) a detailed description of any mitigating circumstances that were involved at the time of the offense;

(B) a description of the individual's educational and employment history; and

(C) the following information, if applicable:

(i) evidence that the individual is licensed under AS 08, or became licensed after the individual was convicted of the offense or was listed on the centralized registry;

(ii) evidence that the individual passed a criminal history check conducted by the department before February 9, 2007, but after the individual was convicted of the offense;

(iii) evidence that the individual was issued a variance by the department before February 9, 2007, but after the individual was convicted of the offense for which the variance was issued.

(b) The department office responsible for the licensing, certification, approval, or finding of eligibility to receive payments for the entity or provider seeking a variance will review each request for a variance received by that office and will

(1) make a written recommendation to the variance committee appointed under 7 AAC 10.935 to grant or deny the request;

(2) include the reasons for the recommendation; and

(3) recommend any conditions that should be placed on any variance issued.

(c) If the individual was convicted of a lesser charge, in the department's review under (b) of this section, the department will consider information regarding the original charge in making its recommendation to the variance committee, including whether the original charge was a permanent barrier crime or condition for which a variance would be prohibited under (g) of this section.

(d) If the department granted a variance for an offense revealed in a fingerprint-based criminal history check conducted six or more years before February 9, 2007, and if the offense for which the variance was granted is not a permanent barrier under 7 AAC 10.905, the entity or provider must submit a new request for a variance, if allowed under this section, at the time of application for renewal of that entity's current license, certification, approval, or finding of eligibility to receive payments. Except as provided in

(h) and (i) of this section, if the offense for which the department granted the variance is a permanent barrier under 7 AAC 10.905, the variance is void and the entity must terminate association with the individual in accordance with 7 AAC 10.960.

(e) If the department granted a variance for a barrier condition described in 7 AAC 10.955 six or more years before February 9, 2007, the entity or provider must submit a new request for a variance at the time of application for renewal of that entity's current license, certification, approval, or finding of eligibility to receive payments.

(f) The department will not grant a variance from the requirement in AS 47.05.310 for conducting a criminal history check for an individual who has regular contact with recipients of services. For any other individual subject to AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990, an entity or provider may request a variance from the requirement to conduct a criminal history check by submitting a written request to the department office responsible for that entity's or provider's licensing, certification, approval, or finding of eligibility to receive payments. The request must be submitted on a form provided by the department and must include a comprehensive rationale for the request and demonstrate that the health, safety, and welfare of recipients of services will be adequately protected.

(g) Except as provided in (h) - (k) of this section, the department will not grant a variance for a

(1) conviction for an offense that is a permanent barrier under 7 AAC 10.905; or

(2) crime or civil finding for which federal law prohibits certain approvals, or restricts payment of benefits, during the most stringent barrier period set by federal law for that crime or civil finding; for the purpose of this paragraph,

(A) "federal law" includes an offense described in

(i) 42 U.S.C. 670 - 679b (secs. 470 - 479A of the Social Security Act), revised as of August 21, 2006, and adopted by reference;

(ii) 42 U.S.C. 1320a-7(a) (sec. 1128(a) of the Social Security Act), revised as of August 21, 2006, and adopted by reference;

(iii) 45 C.F.R. 1356.30, revised as of October 1, 2005, and adopted by reference; and

(iv) another applicable federal statute or regulation; and

(B) the prohibition applies to all entities and providers subject to 7 AAC 10.900 - 7 AAC 10.990, regardless of whether the federal law is directly applicable to only one of those entities or providers.

(h) Notwithstanding the prohibition in (g)(1) of this section, the department may grant a variance for an individual convicted of a permanent barrier crime listed in (i) of this section, if

(1) a behavioral health problem was a factor in the commission of the crime; and

(2) the individual

(A) is associated in a manner described in 7 AAC 10.900(b) with an entity that provides a treatment program to individuals with a behavioral health problem;

(B) has completed any treatment required by a court; and

(C) has demonstrated a sustained self-directed program of recovery for at least five years, as determined through the assessment of a mental health professional clinician or a substance abuse counselor with at least three years of experience; for purposes of this subparagraph,

(i) "mental health professional clinician" has the meaning given in 7 AAC 43.1990;

(ii) "substance abuse counselor" means a counselor providing services for a substance abuse treatment facility or program certified under 7 AAC 29; and

(iii) "recovery" includes, as applicable, absence of symptoms, stabilization in life domains, compliance with any medical orders, and abstinence from substance use.

(i) For the purpose of (h) of this section, the department may grant a variance for the following permanent barrier crimes, including the attempt, solicitation, or conspiracy to commit any of the following crimes or to violate a law or ordinance of this or another jurisdiction with similar elements:

(1) AS 11.41.200 (Assault in the First Degree);

(2) AS 11.41.210 (Assault in the Second Degree);

(3) AS 11.41.220 (Assault in the Third Degree);

(4) AS 11.41.320 (Custodial Interference in the First Degree);

(5) AS 11.41.460 (Indecent Exposure in the Second Degree);

(6) AS 11.41.500 (Robbery in the First Degree);

(7) AS 11.41.510 (Robbery in the Second Degree);

(8) AS 11.41.520 (Extortion);

(9) AS 11.46.400 (Arson in the First Degree);

(10) AS 11.46.410 (Arson in the Second Degree).

(j) Notwithstanding the prohibition in (g)(1) of this section, the department may grant a variance for an individual adjudicated as a delinquent for a permanent barrier crime under 7 AAC 10.905(b) .

(k) Notwithstanding the prohibition in (g)(1) of this section, the department may grant a variance for an individual convicted of a permanent barrier crime listed under 7 AAC 10.905. A request under this subsection is subject to the review criteria set out in 7 AAC

10.935(c) (10) and additional consideration under 7 AAC 10.935(e) by the director of the department office responsible for the licensing of, certification of, approval for, or finding of eligibility to receive payments for the entity or provider seeking the variance.

History: Eff. 2/9/2007, Register 181; am 10/17/2007, Register 184; am 2/13/2008, Register 185

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.935. Review of request for a variance

(a) The commissioner will appoint three or more department employees to serve as a variance review committee to review requests for variances submitted under 7 AAC 10.930. The commissioner will include at least one employee from each department office responsible for licensing, certification, approval, or finding of eligibility to receive payments, but will not include an employee substantively involved in any recommendation to the committee made under 7 AAC 10.930(b) .

(b) In its review of a request for a variance, the review committee shall determine whether a variance is prohibited under 7 AAC 10.930(f) or (g). If a variance is prohibited, the review committee shall clearly indicate the prohibition in its recommendation under (e) of this section.

(c) In its review of a request for a variance, the review committee shall

(1) consider the recommendations made by the department office under 7 AAC 10.930(b) ;

(2) consider the information supplied with the request and any other relevant information available to the department;

(3) determine whether the individual charged with a crime was subsequently convicted;

(4) if the individual was convicted of a lesser charge, determine whether the original charge was a permanent barrier crime or condition for which a variance would be prohibited under 7 AAC 10.930(g) ;

(5) determine whether any suspended imposition of sentence is still in effect, and review the nature of any applicable conditions;

(6) verify, as applicable, that

(A) conditions of parole or probation were met;

(B) court-ordered restitution has been made, or payments are current; and

(C) treatment, if required by the court, has been completed;

(7) if the crime committed related to financial exploitation, including theft, fraud, and bribery, or involved another form of dishonesty, including perjury and official misconduct, verify that the individual's duties make it unlikely that exploitation or dishonesty could occur with regard to recipients of services;

(8) if the barrier condition related to the abuse, neglect, or exploitation of a child or vulnerable adult, verify that the individual's duties make it unlikely that abuse, neglect, or exploitation could occur with regard to recipients of services;

(9) consider mitigating factors, including whether the individual has been employed by the entity or provider for a substantial period, has performed duties in a responsible and trustworthy manner, and has not been the subject of any complaint from a recipient of services or a representative of a recipient of services; and

(10) for a request for a variance submitted under 7 AAC 10.930(k) , in addition to the matters described in (1) - (9) of this subsection, the review committee shall consider

(A) whether there were mitigating circumstances involved at the time of the offense;

(B) the individual's educational and employment history;

(C) any current letters of recommendation from employers or other individuals submitted in addition to the minimum required under 7 AAC 10.930(a) (3)(H);

(D) whether the individual is licensed under AS 08, or became licensed after the individual was convicted of the offense or listed on the centralized registry;

(E) whether the individual passed a criminal history check conducted by the department before February 9, 2007, but after the individual was convicted of the offense; and

(F) whether the individual was issued a variance by the department before February 9, 2007, but after the individual was convicted of the offense for which the variance was issued.

(d) The review committee may require the individual for whom a variance is sought to appear in person or by telephone for an interview.

(e) If the review committee, after its review of available information and documentation, determines that the health, safety, and welfare of recipients of services will be adequately protected, the review committee shall recommend that the commissioner grant the request for a variance. If the review committee determines that the health, safety, and welfare of recipients of services will not be adequately protected, the review committee shall recommend that the commissioner deny the request for a variance. For a request for a variance submitted under 7 AAC 10.930(k) , the review committee shall submit its recommendation to the director of the department office responsible for the licensing of, certification of, approval for, or finding of eligibility to receive payments for the entity or provider seeking the variance. The director shall consider the review committee's recommendation and make a written recommendation that the commissioner grant or deny the request.

(f) The commissioner will consider a recommendation made under (e) of this section and will issue a decision on a request for a variance within 30 days after receiving all

information required under 7 AAC 10.930. The commissioner will deliver a copy of the decision to grant or deny the request for a variance to the requesting entity or provider by mail or facsimile. The commissioner will include in the decision to deny a request the reasons for the denial, and will advise the entity or provider of the right to request reconsideration of the decision under 7 AAC 10.950. A copy of the decision will be provided to the department office responsible for conducting criminal history checks, the department office responsible for maintaining the centralized registry established under 7 AAC 10.955, and the department office responsible for licensing, certification, approval, or a finding of eligibility to receive payments.

(g) In a variance granted under this section, the department will not identify the individual for whom the variance was requested, but will specify the barrier crime or condition for which the variance was granted, and will set out the terms and conditions of the variance, including an expiration date not to exceed the expiration date of the license, certification, approval, or finding of eligibility to receive payments applicable to the entity or provider that requested the variance.

(h) A variance may not be transferred to another entity or provider. If the individual for whom the department granted a variance under this section remains associated with the entity or provider that requested the variance, and the variance is not revoked under (i) of this section, the entity or provider need not submit a new variance request each time it submits its application for renewal of its license, certification, approval, or finding of eligibility to receive payments, but must request a new criminal history check for that individual with each application.

(i) The department office responsible for the licensing, certification, approval, or finding of eligibility to receive payments for an entity or provider will, in accordance with 7 AAC 10.945, immediately revoke a variance granted under this section if

(1) the department learns that it granted the variance based on false information provided by the individual to whom the variance applies or by the entity or provider that requested the variance; or

(2) the individual to whom the variance applies

(A) violates a term or condition of the variance;

(B) subsequently becomes subject to AS 47.05.310 (c), or is charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a crime listed in 7 AAC 10.905, or a similar crime in another jurisdiction; or

(C) ceases to be associated with the entity or provider that requested the variance.

History: Eff. 2/9/2007, Register 181; am 10/17/2007, Register 184; am 2/13/2008, Register 185

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.940. Posting of variance decision required

If the department grants a variance under 7 AAC 10.935, the entity or individual service provider shall post a copy of the variance decision with the copy of the license, certification, approval, or finding of eligibility to receive payments that was issued by the department, in a conspicuous place where the copy of the variance can be readily viewed by persons interested in obtaining the services offered by the entity or provider.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.945. Revocation of valid criminal history check or variance

(a) Subject to AS 47.32, if the department decides to revoke a valid criminal history check issued under 7 AAC 10.900 - 7 AAC 10.990, the department will provide written notice of revocation to the entity or provider, and to the individual for whom the criminal history check was conducted. The notice will include the reasons for the department's decision and will advise the individual of the right to request reconsideration under 7 AAC 10.950. A notice of revocation issued under this section is effective 30 days after it is received by the individual unless a request for reconsideration is submitted.

(b) Subject to AS 47.32, if the department decides to revoke a variance issued under 7 AAC 10.900 - 7 AAC 10.990, the department will provide written notice of revocation to the entity or provider to whom the variance was issued, and to the individual who was the subject of the variance. The notice will include the reasons for the department's decision and will advise the entity or provider of the right to request reconsideration under 7 AAC 10.950. A notice of revocation issued under this section is effective 30 days after it is received by the entity or provider unless a request for reconsideration is submitted.

(c) Nothing in this section precludes the department from issuing a notice of immediate revocation if the department finds that the life, health, safety, or welfare of a recipient of services is threatened.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.950. Request for reconsideration

(a) A request for reconsideration of a department decision under 7 AAC 10.900 - 7 AAC 10.990 must be submitted within 30 days after the requestor receives the notice of the decision. The request for reconsideration must include

(1) the requestor's name, mailing address, telephone number, and, if available, electronic mail address and facsimile number;

(2) a clear description of the department's decision to be reviewed; and

(3) a clear and concise statement of the reason for the request, including

(A) a statement of the nature and scope of the requestor's interests, and an explanation of how and to what extent those interests would be directly and adversely affected by the decision;

(B) the contested terms and conditions of the department's decision, and any proposed alternatives; and

(C) copies of any documents or other information that would assist the department in its review.

(b) After reviewing a request for reconsideration of the

(1) commissioner's decision to deny a request for a variance under 7 AAC 10.935(f) , the commissioner will notify the requestor of the commissioner's decision on reconsideration in writing within 30 days after receiving the request, and will state the reasons for that decision;

(2) department's decision to revoke a valid criminal history check under 7 AAC 10.910(g) or 7 AAC 10.915(e) , or a variance under 7 AAC 10.935(i) , the department office that made the decision to revoke will notify the requestor of that office's decision on reconsideration in writing within 30 days after receiving the request, and will state the reasons for that decision; or

(3) department's determination under 7 AAC 10.915(d) that a barrier crime or condition exists, the department office responsible for conducting criminal history checks will, within 30 days after receiving the request, notify in writing the

(A) requestor of that office's decision on reconsideration and state the reasons for that decision; and

(B) entity or provider that submitted the request for a criminal history check under 7 AAC 10.910 that, if the decision on reconsideration confirms the determination that a barrier crime or condition exists, and if the individual is willing to disclose the barrier crime or condition to the entity or provider, the entity or provider may request a variance, if allowed under 7 AAC 10.930, within 30 days after receiving notice under this subparagraph.

(c) A decision under (b)(1) and (b)(2) of this section is a final agency decision for purposes of seeking judicial review. A decision under (b)(3) of this section is a final agency decision unless the department grants a variance under 7 AAC 10.935.

(d) A copy of a decision on reconsideration under this section will be provided to the department office responsible for conducting criminal history checks, and to the department office responsible for licensing, certification, approval, or a finding of eligibility to receive payments.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.955. Centralized registry

(a) A centralized registry is established in the department to accomplish the purpose of AS 47.05.330 as that purpose relates to an individual

(1) who seeks to be or to remain associated with an entity or individual service provider in a manner described in 7 AAC 10.900(b) ;

(2) whose name appears on the centralized registry because of a matter described in AS 47.05.330 (b)(1)(A) involving the abuse, neglect, or exploitation of a child or vulnerable adult; and

(3) whose name appears on the centralized registry because of a matter described in AS 47.05.330 (b)(1)(B) involving medical assistance fraud.

(b) An individual whose name appears on the centralized registry may not be associated with an entity or individual service provider in a manner described in 7 AAC 10.900(b) unless a variance is granted under 7 AAC 10.935.

(c) An entity or individual service provider that is subject to AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990 shall, using a form prescribed by the department, submit to the department reports as required or allowed under AS 47.05.330 for any matter described in (a)(2) or (3) of this section.

(d) Upon receipt of a report required under (c) of this section, the department will enter the information on the centralized registry as required by AS 47.05.330 (b).

(e) Separately or in conjunction with an investigation or audit under AS 47.05.200 , AS 47.10, AS 47.24, or AS 47.62, the department will investigate a report of abuse, neglect, or exploitation submitted under (c) of this section. If, after its investigation, the department makes a substantiated finding that an individual committed abuse, neglect, or exploitation, the department will notify any entity or individual service provider that made the report, and the individual who is the subject of the investigation, that the department has made a substantiated finding, and that it intends to place the finding in the centralized registry. In the notice, the department will

(1) describe the nature of the substantiated finding;

(2) identify each statute or regulation that supports the finding;

(3) state the effective date for placement in the registry; and

(4) advise that the individual who is the subject of the investigation may request a hearing under (f) of this section.

(f) An individual who is the subject of an investigation that results in a substantiated finding against the individual may request a hearing from the department within 30 days after receipt of the notice described in (e) of this section. A request under this subsection must be submitted to the department's office responsible for maintaining the centralized registry. The request must be in writing, must include the individual's reasons for believing the department's finding to be in error, and must be accompanied by any relevant documentation to support those reasons.

(g) If the department determines that questions of material fact, if any, raised in a request for hearing under (f) of this section and relevant to the department's substantiated finding, were previously decided in a civil or criminal court action, or in an administrative hearing conducted in accordance with AS 44.62.330 - 44.62.630 (Administrative Procedure Act), and that under the facts as previously decided, the individual committed abuse, neglect, or exploitation, the department will send the individual written notice that the department intends to issue a summary decision to dismiss the individual's claim. The individual may submit a written objection to the department's proposed dismissal, identifying any issue of material fact that the individual believes still to be in dispute, providing reasons why the individual disagrees with the department's proposed dismissal, and providing any relevant documentation to support those reasons. If the department does not receive a written objection within 30 days after the individual received notice of the department's proposed dismissal, or if the department rejects the individual's objection,

(1) the department's substantiated finding becomes a final department decision for purposes of judicial review, and the department will enter the information in the centralized registry; if the previous court action or hearing resulted in a decision, order, judgment, or adjudication that the individual committed abuse, neglect, or exploitation, the department will also enter the information in the centralized registry; and

(2) the department will give notice as required in (k) of this section.

(h) If a hearing is requested under (f) of this section,

(1) the department will hold the hearing within 45 days after receiving the request; and

(2) the entity or provider may allow the individual to remain associated with the entity or provider, pending a decision on the request, if

(A) the individual is removed from direct contact with individuals receiving services; and

(B) the entity or provider ensures that the individual has supervised access if present in any area where services are provided, during hours of operation.

(i) If a hearing is requested under (f) of this section, the department will conduct the hearing in accordance with AS 44.62.330 - 44.62.630 (Administrative Procedure Act). The hearing officer shall issue a decision within 30 days after the hearing is concluded. The decision is a final department decision for purposes of judicial review. If the hearing officer finds by a preponderance of the evidence that the individual who is the subject of the hearing committed abuse, neglect, or exploitation, the hearing officer shall submit this information to the department office responsible for maintaining the centralized

registry. The department will enter the information on the centralized registry and give notice as required in (k) of this section.

(j) If the individual who is the subject of the investigation does not request a hearing within 30 days after receipt of the notice described in (e) of this section, or waives the right to a hearing, the substantiated finding becomes a final department decision for purposes of judicial review, and the department will enter the information in the centralized registry. The department will give notice as required in (k) of this section.

(k) If a hearing or waiver of hearing under this section results in a finding that an individual committed abuse, neglect, or exploitation, the department will notify any entity or provider that made a report under (c) of this section, and the individual who is the subject of the hearing, of the hearing or waiver results and of the entry of the information on the centralized registry. The department will notify the individual of the right to request that the department delete or modify the information on the centralized registry to correct an inaccuracy in accordance with AS 47.05.330 (j).

(l) If, after an investigation in accordance with AS 47.05.330 (j) to determine whether there is an inaccuracy related to information on the centralized registry, the department determines that the information is correct, the department will notify the individual who made the request that the department has denied the individual's request to delete or modify the information.

(m) The department will remove from the centralized registry information regarding a finding that an individual has committed abuse, neglect, or exploitation if the department receives notice that the individual has died.

(n) For purposes of this section, "substantiated finding" means a determination made by the department after an investigation that, based on available information, it is more likely than not that abuse, neglect, or exploitation occurred.

History: Eff. 2/9/2007, Register 181; am 2/13/2008, Register 185

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.960. Termination of association

(a) Except as provided in (b) and (c) of this section, if an entity or provider is required to terminate association with an individual, the entity or provider shall

(1) notify the individual that the individual's employment, volunteer services, or other association with the entity or provider under 7 AAC 10.900(b) is ended, effective immediately, unless the entity or provider takes immediate action under (2) of this subsection; the entity or provider must notify the individual under this paragraph

(A) immediately, if the individual is present at the entity or premises where the provider is providing services; or

(B) before or upon the individual's next arrival at the entity; or

(2) if the entity or provider intends to request a variance under 7 AAC 10.930, immediately reassign the duties and responsibilities of that individual so that the individual

(A) does not have contact with recipients of services;

(B) cannot access personal or financial records maintained by the entity or provider regarding recipients of services;

(C) has no control over or impact on the financial well-being of a recipient of services, unless the only recipient whose financial well-being is affected is a

(i) relative of the individual who has authorized that individual to make financial decisions for that relative;

(ii) recipient who has executed a power of attorney for that individual to make financial decisions for that recipient; or

(iii) recipient for whom a court has authorized that individual to make financial decisions; and

(D) is provided with direct supervision if present in the entity or premises where the provider is providing services during hours of operation.

(b) If the entity or provider is required to terminate association with an individual who is subject to a union agreement or employment contract that requires more notice than allowed under (a) of this section, the entity or provider shall, within 24 hours after receiving notice to terminate association, deliver a copy of the relevant language of the agreement or contract to the department. The entity or provider shall cooperate with the department in developing an appropriate termination plan for the individual that includes the measures set out in (a)(2)(A) - (D) of this section during the notice period mandated by the agreement or contract.

(c) If the individual for whom termination of association is required is a relative of the operator, administrator, or provider, and resides in the entity or premises where services are provided, termination of association must occur within 24 hours, and the entity or provider shall ensure that the individual

(1) does not have contact with recipients of services; and

(2) is provided with direct supervision if, during that 24-hour period, the individual is present in the entity or premises where the provider is providing services during hours of operation.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

7 AAC 10.990. Definitions

(a) In 7 AAC 10.900 - 7 AAC 10.990, unless the context requires otherwise,

- (1) "APSIN" means the Alaska Public Safety Information Network;
- (2) "barrier time" means the length of time a barrier crime under 7 AAC 10.905 bars an individual from association with an entity or provider under 7 AAC 10.900(b) ;
- (3) "behavioral health problem" means a mental disorder, substance use disorder, or co-occurring disorder;
- (4) "centralized registry" means the centralized registry established in 7 AAC 10.955;
- (5) "certification" has the meaning given "certified" in (b) of this section;
- (6) "commissioner" means the commissioner of health and social services;
- (7) "condition" means a barrier to association under 7 AAC 10.900(b) that results from
 - (A) a matter described in AS 47.05.330 (b)(1)(A) involving the abuse, neglect, or exploitation of a child or vulnerable adult; and
 - (B) the entry of that information in the centralized registry;
- (8) "co-occurring disorder" has the meaning given in 7 AAC 57.990;
- (9) "crime" means barrier crime under 7 AAC 10.905;
- (10) "crime involving domestic violence" has the meaning given in AS 18.66.990 ;
- (11) "criminal justice information" has the meaning given in AS 12.62.900 ;
- (12) "department" means the Department of Health and Social Services;
- (13) "direct supervision" means that the administrator, or a care provider who is at least 18 years of age,
 - (A) is within sight or sound of the individual being supervised;
 - (B) has received the training required under applicable department regulations;
 - (C) is present to observe the individual; and
 - (D) is available to the individual for consultation or assistance;
- (14) "domestic violence problem" means the individual
 - (A) has been charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for a crime involving domestic violence listed in AS 18.66.990 (3); or

(B) is or has been subject to a protective order issued or filed under AS 18.66 or a substantially similar law or ordinance of another jurisdiction;

(15) "eligibility to receive payments" means eligibility to receive payments that are used for the direct provision of services for the health, safety, and welfare of persons who are served by programs administered by the department; "eligibility to receive payments" does not include payments used solely for administrative costs;

(16) "individual service provider" has the meaning given in AS 47.05.390 ;

(17) "provider" means an individual service provider;

(18) "relative" means an individual who is related to another by marriage, blood relationship, or court decree;

(19) "substance use disorder" has the meaning given in 7 AAC 57.990;

(20) "supervised access" means that the entity or provider maintains a prudent level of awareness of the whereabouts of an individual for whom supervised access is required, to ensure the protection of recipients of services;

(21) "terminate association" means to sever an individual's association under 7 AAC 10.900(b) with an entity or provider;

(22) "volunteer" means an individual who regularly or routinely provides services or care, without pay, on behalf of an entity or provider.

(b) Notwithstanding 7 AAC 10.9990, in 7 AAC 10.900 - 7 AAC 10.990, unless the context requires otherwise,

(1) "entity" has the meaning given in AS 47.05.390 ;

(2) "recipient of services" means an individual receiving services from an entity or provider.

(c) In AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990, unless the context requires otherwise, "regular contact" means direct interaction with a recipient of services that occurs daily, or less frequently but on a recurring basis.

(d) In AS 47.05.300 (a),

(1) "certified" means certified under 7 AAC 43.1090;

(2) "eligible to receive payments" has the meaning given "eligibility to receive payments" under (a) of this section.

History: Eff. 2/9/2007, Register 181

Authority:

AS 47.05.300

AS 47.05.310

AS 47.05.320

AS 47.05.330

AS 47.05.340

AS 47.32.010

AS 47.32.030

Article 4

Environmental Health and Safety

Section

- 1000. Purpose and applicability.
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7 AAC 10.1000. Purpose and applicability

(a) The purpose of 7 AAC 10.1000 - 7 AAC 10.1095 is to protect public health, safety, and welfare by establishing environmental health and safety standards for entities listed in (b) of this section that are in addition to the requirements of 7 AAC 50, 7 AAC 57, and 7 AAC 75, as applicable.

(b) Subject to (c) of this section, to be licensed by the department, the following entities are subject to the applicable requirements of 7 AAC 10.1000 - 7 AAC 10.1095:

- (1) a residential child care facility, including a residential group home and a residential child care center;
- (2) a foster home or a foster group home;
- (3) a residential psychiatric treatment center;
- (4) a maternity home;
- (5) a child care facility required to be licensed under AS 47.32 and 7 AAC 57;
- (6) an assisted living home.

(c) If an entity is licensed for more than one category of care listed in (b) of this section, the entity is subject to the most stringent requirements applicable to those categories of care, even if an exemption might apply if licensed separately.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.020

AS 47.32.030

AS 47.33.005

AS 47.33.010

7 AAC 10.1002. Caregivers

For purposes of 7 AAC 10.1000 - 7 AAC 10.1095, a caregiver is an individual in an entity whose duties include care, contact, and supervision of adults or children in care. A caregiver does not include

- (1) a parent or other relative of an adult or child in care, unless the parent or other relative is a caregiver or a member of the licensee's household;
- (2) a parent's designee to drop off and pick up a child in care, unless the designee performs the duties of a caregiver;
- (3) an official or individual providing support services to the entity or to an adult or child in care for fewer than five hours a week, such as an infant learning teacher, an attendant for a child identified as having special needs under 7 AAC 57.940, a licenser, a fire marshal, or a food service sponsor;
- (4) an employee of a delivery service who makes deliveries to the entity;
- (5) installation, maintenance, and repair service personnel who are present in the entity for less than two weeks;
- (6) an individual with an ownership or management interest in the entity who makes only occasional visits;
- (7) an occasional guest in the entity;
- (8) an individual residing in any part of the premises that house an entity, if the individual remains or intends to remain in the residence for less than 45 days, in total, in any 12-month period, and does not perform the duties of a caregiver; or
- (9) an individual coming into incidental contact with adults or children in care during an outing away from the entity.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.040

AS 47.14.120

AS 47.32.010

AS 47.32.030

7 AAC 10.1005. Pre-licensing inspection

Subject to AS 47.32.050 , before deciding whether to issue a license to an entity listed in 7 AAC 10.1000(b) , the department may inspect the entity to determine whether the entity is maintained in a manner protective of life, health, safety, and welfare with respect to

- (1) bedrooms for an entity licensed to provide 24-hour or overnight care;
- (2) exits to the outside of the building;
- (3) smoke detectors, carbon monoxide detectors, and fire extinguishers;
- (4) storage and disposition of combustible waste material;
- (5) portable heating mechanisms, if any; and
- (6) other applicable requirements of this chapter or another applicable statute or regulation.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.020
AS 47.32.030	AS 47.32.050	AS 47.32.060
AS 47.33.005	AS 47.33.010	

7 AAC 10.1010. Life and fire safety

(a) An entity listed in 7 AAC 10.1000(b) must comply with the applicable life and fire safety requirements of this section and any additional or more stringent applicable standards established by a municipality to which the state fire marshal has deferred building fire safety inspection and enforcement activities under 13 AAC 50.075(c) .

(b) An entity must meet the requirements of (c) of this section if the entity provides

- (1) 24-hour or nighttime care for six or more adults or children; in this paragraph, "nighttime care" means care between the hours of 10:00 p.m. and 6:00 a.m.; or
- (2) less than 24-hour care for six or more children, including the caregiver's children who are under age 12 or of limited mobility.

(c) An entity described in (b) of this section must

- (1) meet the standards for life and safety specified in 13 AAC 50 and 13 AAC 55; the entity shall keep any information required by those standards available for department inspection;
- (2) obtain any applicable state or municipal building code approval; that approval must also be obtained before making a modification to a licensed entity if the modification is one that requires that approval; for purposes of this paragraph, a state building code approval is an approval required under 13 AAC 50.027 and 13 AAC 55; and

(3) obtain a fire safety inspection report from each state or municipal authority responsible for those inspections, and continue to obtain those reports every two years, or more often if required by the authority; the entity is responsible for any fee charged by the authority for each inspection.

(d) At the time of licensing, the department will inspect an entity licensed to provide care for five or fewer adults or children to determine if the entity meets the applicable requirements of this section. Based on the inspection, or if the department determines that it is necessary for purposes of public health, safety, or welfare, the department will request an advisory inspection report from one or more state or municipal building or fire safety authorities. The entity is responsible for any fee charged by the authority for each inspection.

(e) An entity must have a disaster preparedness and emergency evacuation plan that

(1) includes evacuation procedures that will ensure the complete evacuation of

(A) children in care, including children with limited mobility, within 150 seconds; or

(B) adults in care, including adults with limited mobility, as follows:

(i) if the entity does not have an automatic sprinkler system, the plan must ensure complete evacuation will be accomplished within three minutes;

(ii) if the entity has a central fire alarm system and an automatic retardant sprinkler system, the plan must ensure complete evacuation will be accomplished within 13 minutes;

(iii) if the entity has a central fire alarm system and an automatic suppressant sprinkler system, the plan must ensure evacuation will be accomplished as necessary under the circumstances;

(iv) if the entity has a central fire alarm system, and has a safe location that is remote or separated from the effects of any fire and to which the adults may be safely evacuated, the plan must ensure evacuation will be accomplished as required by the state or municipal fire safety authority responsible for inspecting the entity;

(2) describes in detail the procedures that will be followed for the complete evacuation of the entity, including specific procedures, as applicable, for

(A) children under 30 months of age;

(B) adults or children with limited mobility; and

(C) adults or children who otherwise may need assistance in an emergency, including an adult or child who is mentally, visually, or hearing impaired;

(3) includes procedures for other emergency situations or natural disasters that may affect the entity, including, as appropriate, tsunami, flooding, and earthquake emergencies;

(4) provides for drills to be conducted as required by (f) of this section;

(5) requires

(A) training of all employees in implementing the plan; and

(B) participation of all employees who are on duty during the scheduled drill; and

(6) for an assisted living home, provides that the procedures developed in the plan will be reviewed with each adult in care or that adult's representative before the adult begins to receive care.

(f) An entity shall conduct emergency evacuation drills as required in this subsection. Subject to (g)(6) and (7) of this section, a drill may be postponed or modified during severe weather. The entity shall conduct a drill at least

(1) once each month if the entity is

(A) licensed to provide care for children younger than age 12;

(B) a residential child care facility; or

(C) a maternity home; or

(2) once every three months if the entity is

(A) a foster home where children in care are age 12 or older and have been in care at the entity for at least three months; or

(B) an assisted living home, for each shift at the assisted living home; complete evacuation of the home must occur at least once each year for each shift unless the entity conducts evacuations as described under (e)(1)(B)(iii) or (iv) of this section and has an emergency evacuation plan approved by the state fire marshal or a municipality to which the fire marshal has deferred building fire safety inspection and enforcement activities.

(g) An entity shall make and retain a record of each required evacuation drill and make the record available to the department upon request. The record must include

(1) the date and time of the drill;

(2) the name of each employee on duty at the time of the drill;

(3) the name of each adult or child in care who was present at the time of the drill but did not participate in the drill, and the reason for nonparticipation;

(4) the amount of time required to complete the drill;

(5) a critique of the drill as described in (h) of this section; the requirement for including a critique does not apply to a foster home or foster group home, but the home shall include a brief evaluation of the evacuation;

(6) documentation of the reason for any postponement under (f) of this section, and the rescheduled date to conduct the postponed drill; and

(7) documentation of the reason for any modification under (f) of this section, and a description of the nature of the modification.

(h) The critique required by (g)(5) of this section must include

(1) a review of actions taken by each employee;

(2) a review of responses by adults or children in care during drill;

(3) an evaluation of whether existing policies were followed and, if not, an explanation of why a policy was not followed;

(4) an evaluation of whether the policies followed were effective and, if not, a description of how any policy will be revised for future drills;

(5) for any critique that indicates a drill was ineffective in any way, an identification of factors contributing to an ineffective drill; and

(6) any suggestions for improving future drills.

(i) If an emergency affects an entity, the entity shall notify the department by telephone, facsimile, or electronic mail no later than the following working day and shall, within five working days, submit a detailed written report to the department that includes the following:

(1) the date and time of the emergency;

(2) a description of the nature of the emergency;

(3) a description of how the evacuation was achieved, including the amount of time necessary to achieve evacuation;

(4) a critique of the evacuation that includes the information required under (h) of this section; except as provided in 7 AAC 10.1000(c), the requirement for including a critique does not apply to a foster home or foster group home, but the home shall include a brief evaluation of the evacuation;

(5) if the entity is a residential facility, and if the emergency rendered any part of the facility unsafe for occupancy, a description of how the entity will protect residents until the facility is safe for occupancy.

(j) In addition to the first aid kit required under 7 AAC 10.1075, an entity shall maintain one disaster kit that includes

(1) at least one flashlight and batteries;

(2) at least one battery-operated radio and batteries;

(3) potable water;

(4) nonperishable food; and

(5) blankets.

(k) An entity that uses oil, wood, natural gas, or propane as a heating or cooking fuel shall ensure that an operating carbon monoxide detector is installed within each sleeping area, or no more than three feet from the entrance to that area, and is regularly inspected, tested, and serviced. In addition, if the entity is in a multi-level facility, at least one operating carbon monoxide detector must be installed on each level.

(l) An entity licensed to provide care for five or fewer adults or children shall ensure that

(1) the building occupied by the adults or children in care has at least two means of emergency escape that are remote from each other and that provide unobstructed access to the outside of the building; at least one means of emergency escape must be an exterior door; if one of the means of emergency escape is a window, the window must comply with the requirements of (3) of this subsection; an entity that is located in a single-family dwelling with only one exterior door may not provide care for more than five children, including children who are relatives of the administrator or foster parent unless the department approves an additional means of egress;

(2) the building occupied by the adults or children in care has at least one means of escape from any basement directly to the outside at or near ground level, if adults or children in care occupy the basement for any part of the day;

(3) unless prohibited by the state fire marshal for a window 20 feet or more above ground level, each bedroom has at least one fully-opening window that provides escape directly to the outside and that meets the following requirements:

(A) the finished sill height may not exceed

(i) 44 inches above the floor; the department will allow an entity to meet this requirement through the provision of a permanently installed step, the top of which is no more than 44 inches from the sill, if the step does not create a tripping hazard, block wheelchair access in the bedroom, or block a heating element; any request for a variance of the sill height requirement must be accompanied by written approval from the state fire marshal; or

(ii) 48 inches above the floor for a foster home or foster group home licensed under 7 AAC 50 on or before June 23, 2006, or an assisted living home licensed under 7 AAC 75 on or before June 23, 2006, if the home does not already meet the standard in (i) of this subparagraph; the home must meet the standard in (i) of this subparagraph if the bedroom is remodeled or a new bedroom is constructed;

(B) the net clear openable area must be a minimum of 5.7 square feet; for purposes of this subparagraph,

- (i) the net clear openable height may not be less than 24 inches; if the height is 24 inches, the width may not be less than 34.25 inches; and
- (ii) the net clear openable width may not be less than 20 inches; if the width is 20 inches, the height may not be less than 41.25 inches;
- (4) a window screen is not used if it permanently prevents exit or if it cannot be easily removed for exit;
- (5) the entity is free of any accumulation of combustible waste material and other fire hazards in or around the premises;
- (6) at least one AC primary powered smoke detection device with battery backup, or at least one monitored battery powered smoke detection device, is located in each bedroom; in addition, if the entity is in a multi-level facility, at least one smoke detection device must be installed on each level; each device required under this paragraph must be less than 10 years old, or newer if necessary to comply with the manufacturer's recommended replacement date; in this paragraph, "AC" means alternating current;
- (7) at least one fully charged 2A:10BC dry chemical fire extinguisher is strategically located on each level of the facility, and is installed, inspected, tested, and serviced according to the requirements of 13 AAC 50.025(47) ;
- (8) any flammable or combustible liquid is stored in a container with a tight-fitting lid specifically designed for holding flammable or combustible liquids, and ensure that these liquids are kept out of the reach of children, or adults with impaired judgment; and
- (9) each heating device meets the applicable requirements of 7 AAC 10.1015.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.020
AS 47.32.030	AS 47.32.050	AS 47.32.060
AS 47.33.005	AS 47.33.010	

7 AAC 10.1015. Heating and heating devices

(a) An entity shall ensure that room temperature in the facility is maintained at the following applicable draft-free temperature, adjusted as needed for the majority of adults or children in care to be comfortable:

- (1) 65 degrees Fahrenheit for an entity licensed to provide care for children;
- (2) 68 degrees Fahrenheit for an entity licensed to provide care for adults.

(b) The entity shall ensure that

- (1) each heating device is installed and maintained in a safe and serviceable manner and is

(A) vented to the outside if the device is fuel burning; vents or stacks leading from a heating unit must be air-tight at joints so that fumes, smoke, or unburned gases cannot pass from the device, vent, or stack into the entity;

(B) equipped with protective devices if presenting a hazard because of an exposed flame or heating element; heat sources must be shielded in a manner that prevents burn injury; the shield must be far enough from the heat source to prevent it from smoldering or burning; and

(C) not placed or located in sleeping quarters during sleeping hours, unless the entity does not have a separate sleeping area, or in exit ways or corridors at any time; and

(2) an open flame heater is not used, except for a fireplace that complies with 13 AAC 50, 13 AAC 55, and any applicable municipal building code; if a fireplace is used, it must have a protective screen or gate, and the area near the fireplace must be kept free of clutter and combustible or flammable material.

(c) The entity shall ensure that any portable electric heater is equipped with a tipover switch and is kept out of the reach of children, or adults with impaired judgment. A portable electric heater must be kept from flammable objects in accordance with the manufacturer's recommendations. The entity must develop and implement a policy that outlines the safe and proper use of portable heaters. Except as provided in 7 AAC 10.1000(c) , the requirement to develop a policy does not apply to a foster home or foster group home.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.020

AS 47.32.030

AS 47.33.005

AS 47.33.010

7 AAC 10.1020. Water supply

(a) An entity shall provide an ample supply of potable water from a system that complies with applicable provisions of 18 AAC 80.

(b) An entity listed in 7 AAC 10.1000(b) that was licensed before June 23, 2006, has until June 23, 2007 to comply with the requirements of this section, if the entity was approved by the licensing agency to use a rain catchment system as its source of potable water.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1022. Wastewater disposal

An entity shall provide a domestic wastewater system that complies with applicable provisions of 18 AAC 72.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.130	AS 47.32.140	AS 47.33.005
AS 47.33.010		

7 AAC 10.1025. Solid waste disposal

An entity shall ensure that solid waste is conveyed, stored, and disposed of in a manner that

- (1) minimizes the development of odor;
- (2) prevents waste from attracting and harboring pests; and
- (3) complies with applicable provisions of 18 AAC 60.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.130	AS 47.32.140	AS 47.33.005
AS 47.33.010		

7 AAC 10.1030. Toilet facilities, sinks, showers, and bathing facilities

(a) An entity shall ensure that plumbing in the entity is consistent with good public health practices. An entity located in a municipality with a population of 2,500 or more shall ensure that plumbing is sized, installed, and maintained as required by the applicable state plumbing code developed under AS 18.60.705 - 18.60.740, and by any applicable municipal plumbing code.

(b) Except as provided in 7 AAC 10.1000(c) , the requirements of this subsection do not apply to foster homes. An entity shall provide at least the number of toilets, handsinks, and bathtubs or showers set out in the following table:

Minimum Plumbing Fixtures

Based on Average Number of Adults or Children in Care, Plus Employees and Family Members in the Entity During Operation *

Type of Entity	Minimum Number of Toilets	Minimum Number of Handsinks	Minimum Number of Bathtubs or Showers
Child care center	One for 15 or fewer persons	One for 15 or fewer persons	For a center licensed to care for infants or toddlers, at least one bathtub, portable tub capable of being filled, dumped, and cleaned, or sink used only for the purpose of bathing
	Two for 16 to 30 persons	Two for 16 to 30 persons	
	One additional toilet for each additional 15 or fewer persons	One additional handsink for each additional 15 or fewer persons	
Residential child care facility, assisted living home, maternity home, or foster group home	One for every six persons	One for every six persons	One for every six persons

* This number is calculated based on the anticipated number of individuals who will be in the entity each day, using a six-month average. Infants are not included for purposes of calculating the number of persons in the entity.

(c) An entity shall provide and maintain clean and sanitary toilet facilities and ensure that in each toilet room

(1) at least one easily cleanable waste receptacle is provided; if soiled diapers are kept in a waste receptacle until disposed of, that waste receptacle must be covered;

(2) toilet tissue is provided from a wall-hung or protected container at each toilet;

(3) if one or more partitions are used between toilets, each partition is raised at least 12 inches from the floor and is smooth and easily cleanable;

(4) each step stool, if provided, has a nonslip tread made of a water-impervious, durable material;

(5) each floor and wall is covered with smooth, durable, nonabsorbent, easily cleanable material; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home; and

(6) each toilet lid, seat, and handle and each handsink is kept clean and sanitary.

(d) The entity shall ensure that each portable tub, bedpan, and potty-chair, as applicable, is emptied into a toilet, and is cleaned and sanitized in a utility sink or another place approved by the department. The entity shall ensure that the utility sink or other area is used only for this purpose and is cleaned and sanitized after each use. Except as provided in 7 AAC 10.1000(c)

, the requirement of this subsection regarding segregated use of the utility sink does not apply to a foster home or foster group home.

(e) Except for a foster home or foster group home, or an assisted living home providing service for two or fewer residents, the entity shall ensure that each handsink is used only for its designated purpose and is equipped with soap and

(1) at least one accessible single-use towel dispenser or heated air hand-drying device; the entity shall ensure that towels are discarded after each use;

(2) cloth towels if each towel is laundered after each use; or

(3) individual cloth towels assigned to each adult or child in care if each towel is used only by that adult or child; the entity shall ensure that the towels are cleaned or laundered at least every seven days and before assignment to another adult or child in care.

(f) The entity shall ensure that a shower or other bathing facility is constructed with smooth, easily cleanable walls, and water-impervious, nonskid floors that slope uniformly to a drain. The entity shall ensure that the shower or other bathing facility is located in a room with mechanical or other adequate ventilation. Except as provided in 7 AAC 10.1000(c)

, the requirements of this subsection do not apply to foster homes or foster group homes.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1035. Premises

(a) An entity shall ensure that

(1) the premises and surrounding grounds are kept clean, sanitary, safe, and in good repair;

(2) the entity is free of hazards, including splintered surfaces, sharp edges, protruding corners, broken or hazardous toys, steep stairways, ice on walkways, and unsafe play areas;

(3) insects, rodents, and other pests are controlled and that the entity is kept free of conditions that are likely to attract or harbor pests; any pesticide use is subject to the notice and other applicable requirements of 7 AAC 10.1093; if the department determines that the entity is not adequately controlling pests, the department may require the administrator to hire a commercial pest control applicator certified under 18 AAC 90, or to take other appropriate action if a commercial pest control applicator is not available in the community;

(4) outdoor areas are well drained and free from deep depressions that may collect standing water; if necessary to ensure the safety of adults or children in care, the department will require that an outdoor recreation area be enclosed with landscaping, a fence, or another effective barrier that prevents or deters access to a busy roadway or other potential hazard; except as provided in 7 AAC 10.1000(c) , the requirements of this paragraph do not apply to a foster home or foster group home;

(5) ventilation by natural or mechanical means is provided to keep air fresh and to prevent the accumulation of heat, steam, condensation, vapors, smoke, or fumes; openings to the outside must prevent the entrance of rodents, insects, and other pests; except as provided in 7 AAC 10.1000(c) , the requirements of this paragraph do not apply to a foster home or foster group home;

(6) walls and ceilings have smooth, durable, nonabsorbent, easily cleanable surfaces, except that rough-textured and acoustical tile ceilings are permitted in bedrooms and living rooms; except as provided in 7 AAC 10.1000(c) , the requirements of this paragraph do not apply to a foster home or foster group home;

(7) lead-based paint is not used, and any painted surface is free from flaking;

(8) stairways and steps have handrails and nonslip treads or covering; except as provided in 7 AAC 10.1000(c) , the requirements of this paragraph do not apply to a foster home or foster group home;

(9) at any fixture that is accessible to adults or children, hot water temperature is no less than 100 degrees Fahrenheit, and no more than 120 degrees Fahrenheit;

(10) self-dispensing or metering faucets, if used, provide a flow of water for at least 10 seconds;

(11) an artificial light source is provided in each area of the entity; the light must be sufficient and appropriate for the activities performed in each area by employees, or by adults or children in care;

(12) cleaners, medicines, and other harmful substances are stored in a place that is inaccessible to children and to adults with impaired judgment; for an entity licensed to provide care for six or more adults or children, the entity must provide a closet, storeroom, or other area separate from the area where adults or children in care are present for the storage of janitorial equipment and cleaning supplies;

(13) furniture and equipment is durable, safe, easily cleanable, and is kept clean and in good repair; and

(14) at least two feet of floor space is provided between each crib, mat, or bed; except as provided in 7 AAC 10.1000(c) , the requirements of this paragraph do not apply to a foster home or foster group home.

(b) An entity licensed to provide care for adults with dementia or a cognitive impairment, including adults with a history of wandering or attempting to run away, shall ensure that a method is in place to alert staff when someone exits the entity. To meet the requirements of this subsection, the entity shall install a 15-second delayed exit door with an alarm at each exit, use a wander alarm system, or use another method approved by the department. If the entity wishes to use a delayed exit door, the entity must obtain approval from the municipal fire marshal.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1040. General cleaning and sanitation standards

(a) Except as provided in (b) of this section, in addition to the other cleaning and sanitation requirements of 7 AAC 10.1000 - 7 AAC 10.1095, an entity shall ensure that

(1) each table or highchair used for food is in good repair, is easily cleanable, and is cleaned and sanitized after each use;

(2) uncarpeted floors, low shelves, walls, door knobs, and other surfaces often touched by adults or children in care are cleaned and sanitized at a frequency to keep the surfaces clean and sanitary; in each carpeted area, the entity shall ensure that the carpet is vacuumed and shampooed at a frequency to keep it clean;

(3) each interior waste receptacle is kept clean and emptied as often as necessary to prevent overflow;

(4) any surface contaminated by a body fluid, including saliva, blood, mucus, vomit, urine, feces, and an injury discharge, is immediately cleaned and disinfected using universal precautions in accordance with 7 AAC 10.1045, including the use of gloves and the caregiver hygiene requirements of 7 AAC 10.1050(e) ;

(5) cleaning that may present a hazard to adults or children is done only when a room is not occupied by adults or children in care; and

(6) all bedding is laundered

(A) at least once every seven days;

(B) before assignment to another adult or child in care; and

(C) whenever soiled.

(b) Except as provided in 7 AAC 10.1000(c) , the requirements of (a)(6) of this section do not apply to a foster home or foster group home.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.130	AS 47.32.140	AS 47.33.005
AS 47.33.010		

7 AAC 10.1045. Universal precautions

An entity shall take precautions to reduce risk against the spread of a communicable, contagious, or infectious disease that could pose a significant threat to the health, safety, or welfare of adults or children in care. In addition to the applicable requirements of 7 AAC 10.1000 - 7 AAC 10.1095, precautions include

- (1) seeking and complying with current medical and sanitation advice on communicable, contagious, or infectious diseases;
- (2) adopting universal precautions, including the use of gloves, to handle potential exposure to blood, blood-contaminating body fluids, and injury discharges;
- (3) training staff, if any, in universal precautions and in the prevention of communicable, contagious, and infectious diseases;
- (4) ensuring that the caregiver hygiene requirements of 7 AAC 10.1050 are met;
- (5) encouraging children, or adults with impaired judgment, to wash their hands
 - (A) before food handling, preparation, serving, or table setting;
 - (B) before eating;
 - (C) after toileting;
 - (D) after handling pets or other animals; and
 - (E) when hands are contaminated with a body fluid, including after nose wiping; and
- (6) encouraging children to wash their hands before and after participation in moist play, including molding clay or painting.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.130	AS 47.32.140	AS 47.33.005
AS 47.33.010		

7 AAC 10.1050. Caregiver hygiene

(a) A caregiver with a communicable disease, rash, or infection, or an acute respiratory infection, may not work in an entity in any capacity in which the caregiver likely could transmit that disease, rash, infection, or respiratory infection to an adult or child in care. The requirements of this subsection do not apply to a foster home or foster group home.

(b) Caregivers shall conform to good hygienic practices, including those described in 7 AAC 10.1045 and this section.

(c) A caregiver shall thoroughly wash the caregiver's hands with soap and warm running water and rinse with water

(1) before food handling, food preparation, food serving, eating, or setting a table;

(2) after toileting, diapering, or assisting with toileting or diapering;

(3) before and after assisting with toothbrushing;

(4) after handling animals, animal waste, or animal cages;

(5) before and after giving medication, except as provided in (d) of this section;

(6) before and after participation in moist play including molding clay, painting, and cooking; and

(7) whenever hands are contaminated with a body fluid, including after nose wiping.

(d) If the caregiver is administering medication to more than one adult or child and during the process touches the adult or child, or a surface that might be contaminated, the caregiver may use a bacteriocidal or viricidal hand rinse or hand dip between each administration instead of handwashing.

(e) If a caregiver uses gloves, the caregiver shall wash the caregiver's hands immediately after the gloves are removed even if the hands are not visibly contaminated. The use of gloves does not preclude or substitute for handwashing.

(f) If a caregiver provides toothbrushing assistance, the caregiver shall dispense the toothpaste from a shared container in a manner that will not contaminate the toothpaste container. The requirements of this subsection do not apply to a foster home or foster group home.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1055. Incontinence care

(a) Except as provided in (b) of this section, an entity that provides incontinence care shall develop, and ensure that each caregiver follows, written incontinence care procedures that minimize the spread of disease and the risk of contamination to hands and surfaces. In addition, the entity shall ensure that

- (1) sufficient quantities of incontinence pads are available and neatly stored;
- (2) the entity has an adequate supply of additional bedding and mattress pads;
- (3) an impervious bag is used for the disposal of soiled pads; and
- (4) nonlatex gloves and handwashing supplies are available to prevent contamination, and are used in accordance with the universal precautions described in 7 AAC 10.1045.

(b) An assisted living home serving five or fewer residents, a foster home, and a foster group home are not required to have written procedures, but must ensure that procedures used minimize the spread of disease and the risk of contamination, and otherwise meet the requirements of this section.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.130	AS 47.32.140	AS 47.33.005
AS 47.33.010		

7 AAC 10.1060. Additional provisions for entities licensed to provide care for children

(a) In addition to other applicable requirements of 7 AAC 10.1000 - 7 AAC 10.1095, an entity licensed to provide care for infants and children shall

- (1) if infants or toddlers are in care, install and use safety gates to prevent access to stairs;
- (2) install outlet covers in all electrical outlets that are not in use and that are accessible to children under age five; and
- (3) use safe and sanitary equipment and supplies for diapering and toileting, including easy accessibility for the caregiver to wash the caregiver's hands after changing a diaper or assisting a child with toileting.

(b) An entity that provides care for more than one child who uses bottles and pacifiers shall label the bottles and pacifiers with each child's name.

(c) An entity that reuses bottles, bottle caps, and nipples shall, before reuse,

- (1) wash them in a dishwasher, using a long wash cycle with hot water, and a heated drying cycle; or
- (2) boil them in water for at least five minutes.

(d) An entity that provides diapering shall develop, and ensure that each caregiver follows, written diaper changing procedures that minimize the spread of disease and the risk of contamination to hands and surfaces. Except as provided in 7 AAC 10.1000(c) , a foster home or foster group home is not required to have written procedures, but must ensure that procedures used minimize the spread of disease and the risk of contamination.

(e) In addition to the requirements of (d) of this section, an entity other than a foster home or foster group home shall ensure that

(1) the diaper changing area

(A) is not located in a food preparation area and is not used for temporary placement or serving of food; and

(B) has one accessible handsink located in, or immediately adjacent to, that area;

(2) each surface used for changing diapers is smooth, durable, nonabsorbent, and easily cleanable;

(3) sufficient quantities of clean diapers are available and are neatly stored;

(4) nonlatex gloves and handwashing supplies are available to prevent contamination, and are used in accordance with universal precautions described in 7 AAC 10.1045;

(5) for soiled clothing or cloth diapers, solid waste contents are disposed of by dumping the contents into a toilet and placing the diapers, without rinsing, in

(A) an impervious bag to be given to the parent for laundering, if applicable; or

(B) an easily cleanable container with a firmly fitted cover; the container must be

(i) lined with plastic;

(ii) designed to prevent the caregiver from contaminating the exterior surface of the container or the caregiver when inserting a soiled diaper;

(iii) provided within the caregiver's reach of the diaper changing area; and

(iv) emptied, cleaned, and sanitized daily;

(6) each diaper changing surface is cleaned and sanitized after each use; if a single-use, disposable cover is placed on the diapering surface before diapering, the entity shall ensure that the cover is disposed of immediately after diapering; the use of a single-use, disposable cover does not preclude or substitute for cleaning and sanitizing the surface or area after each use even if the surface or area is not visibly contaminated;

(7) after a soiled disposable diaper is removed, it is folded inward and resealed before disposal into a container described in (5)(B) of this subsection;

(8) if single-use, disposable wipes are used during diapering, the disposable wipes are discarded after use; if a nondisposable cloth is used, that cloth must be placed immediately, without rinsing, in

(A) an impervious bag to be given to the parent for laundering, if applicable; or

(B) a container described in (5)(B) of this subsection;

(9) diaper changing supplies, including containers of cream and lotion, are kept clean and sanitary; and

(10) children do not handle diaper changing supplies.

(f) The entity shall ensure that individual cloth towels used for bathing, toothbrushes, and combs used by a child in care are stored separately to prevent contamination and are labeled with the child's name. If a storage rack is used, the rack must be cleaned and sanitized or replaced when visibly soiled and after contamination with blood or another body fluid. Except as provided in 7 AAC 10.1000(c), the requirements of this subsection do not apply to a foster home or foster group home.

(g) Except for toys brought by children for personal use, the entity shall ensure that

(1) toys used by children are kept clean and sanitary;

(2) if a toy has been mouthed or is otherwise contaminated, that toy is cleaned and sanitized before use by another child; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home; and

(3) toys used by children age three or older are cleaned at least once every seven days or when soiled; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home.

(h) If a water play table is used by children, the entity shall ensure that

(1) water in the table is maintained at 2 - 10 parts per million chlorine solution during use; the entity shall frequently use chemical test strips to ensure that proper chlorine concentration levels are maintained;

(2) each child using the table has hands washed before and after playing at the water play table;

(3) a child with open sores or wounds does not play at the table;

(4) water is discarded after each day of use; and

(5) the table is cleaned and sanitized after each day of use.

(i) Except as provided in (k) of this section, an entity that provides a play area for use by children in care shall ensure that the play area is free of hazards that can cause injury, including

(1) selecting and maintaining play equipment so that it

(A) is securely anchored, unless it is portable and self supporting;

(B) is free of entrapment, pinch, or crush points;

(C) is free of sharp points, corners, or edges; and

(D) provides clearance between the equipment and any objects that may cause injury;
and

(2) covering areas around and under play equipment that has a fall height of three feet or more with shock absorbing material such as pea gravel, sand, or sawdust; concrete or asphalt may not be used under play equipment; in this paragraph, "fall height" means the vertical distance between a play surface and the area around and under the play equipment.

(j) Subject to (k) of this section, an entity shall ensure that each crib, crib mattress, cot, mat, and playpen is cleaned and sanitized

(1) at least once every seven days;

(2) before assignment to another child in care; and

(3) whenever soiled.

(k) Except as provided in 7 AAC 10.1000(c) , the requirements of (i) and (j) of this section do not apply to a foster home or foster group home.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1065. Food service and preparation

(a) An entity for which a food service permit is required by the Department of Environmental Conservation shall meet the applicable requirements of 18 AAC 31. If that department has set minimum standards for an entity, the entity shall meet those minimum standards.

(b) Except for a foster home or foster group home, an entity providing care for children shall ensure that any meals or snacks brought from a child's home are labeled with the child's name and the date.

(c) An entity that is exempt under 18 AAC 31.012 or 18 AAC 31.014 from the requirements of 18 AAC 31 shall maintain sanitary facilities for the proper care, storage, refrigeration, and preparation of food. The entity shall ensure that

(1) for purposes of AS 17.20.020 , food served is not adulterated; and

(2) fruits and vegetables are thoroughly washed with potable water before use.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1070. Medications

(a) Subject to 12 AAC 44.965, or another applicable statute or regulation, an entity listed in 7 AAC 10.1000(b) shall meet each applicable requirement of this section unless the entity has an onsite pharmacist and consequently follows a more stringent procedure for that requirement, including a procedure required under 12 AAC 52, or by federal law, and the department has been informed in writing of the more stringent procedure and has approved its use for purposes of this section.

(b) If, as part of health-related services provided in an assisted living home, the home supervises the self-administration of medications, supervision must be performed in accordance with AS 47.33.020 .

(c) Except as provided in (d) and (g)(4) of this section, an entity subject to this section shall

(1) ensure that each stored medication, including each nonprescription medication, is in its original container and properly labeled with the name of the adult or child for whom it is intended, the name of the medication, the dosage, expiration date, and directions for administration; except as provided in 7 AAC 10.1000(c) , the requirements of this paragraph do not apply to nonprescription medication used communally in a foster home or foster group home;

(2) store medications in a manner that prevents access by unauthorized persons;

(3) store controlled substances in a locked, permanently affixed storage container; for a controlled substance that requires refrigeration, the storage container must be locked; the entity shall establish written procedures for maintaining a record that accurately accounts for the receipt and each use of each controlled substance, and for periodically reconciling the record; except as provided in 7 AAC 10.1000(c) , the requirements of this paragraph do not apply to a foster home, foster group home, or a child care facility;

(4) store medications, including controlled substances, in accordance with the manufacturer's recommendations; and

(5) ensure that nonprescription medications and health products, including nonaspirin fever reducers, naturopathic remedies, vitamin and mineral supplements, diaper ointments and powders, sunscreen, and insect repellent, are used only at the dose, duration, or method of administration specified on the manufacturer's label.

(d) The provisions of (c) of this section do not apply to a medication that a resident of an assisted living home is allowed to keep in that resident's room.

(e) The following entities subject to this chapter may be delegated the task of administration of medicine under 12 AAC 44.965:

- (1) a foster home for an adult;
- (2) a foster group home for adults;
- (3) an assisted living home.

(f) An entity not listed in (e) of this section may administer medication if

- (1) within the scope of the person's own license;
- (2) under other legal authority; or
- (3) under the supervision of another licensed health care provider.

(g) An entity authorized to administer medication may do so only under the following conditions:

- (1) the entity must first obtain written permission for the administration of prescription medication from the adult or that adult's representative, or the parent of a child in care upon admission into the entity, or when a new medication is prescribed; if the department is the child's legal guardian, the entity must first obtain written permission from the department;
- (2) the entity may administer prescription medication and special medical procedures only in the dosage, at the intervals, or in the manner prescribed by a physician or other person legally authorized to prescribe medication or medical procedures;
- (3) if an entity providing care for children has not obtained written permission from the child's parent for the administration of a commonly used nonprescription medication or medication contained in the first aid kit required by 7 AAC 10.1075, the entity shall document telephone permission to administer that medication; a foster home, a foster group home, or an entity providing care for a child for whom the department is the legal guardian is not required to obtain permission from the child's parent for the administration of nonprescription medication, but shall administer nonprescription medication as authorized by the department in the placement agreement;
- (4) the entity shall have a written policy for the use of any commonly used nonprescription medication for oral or topical use kept on hand by the entity for the communal use of any adult or child in care for whom the medication may be indicated; the requirements of this paragraph do not apply to a foster home or foster group home, or to an assisted living home serving two or fewer residents;
- (5) prescription medicine must be kept in
 - (A) the original container showing the date filled, the expiration date, instructions, and the physician's or other medical professional's name; or

(B) medicine sets filled by a pharmacist, a licensed medical professional, or a resident's representative; the prescription date filled, the expiration date, instructions, and the physician's or other medical professional's name must be affixed to or stored with each medicine set;

(6) in an entity with one or more employees, only one designated employee in each shift may administer medication, the designated employee shall record and initial the time each dose is administered;

(7) unused medication must be returned to the parent of a child in care when the medication is no longer needed, except that a foster home, foster group home, or an entity providing care for a child for whom the department is the legal guardian shall discard the unused medication

(A) in a manner that prevents access by children in care; and

(B) in accordance with instructions from the manufacturer, if any;

(8) an assisted living home shall ensure that unused medication is properly discarded and shall notify the resident or resident's representative of the disposal of the medication.

(h) The entity shall ensure that medication requiring refrigeration is grouped together, stored in a manner to prevent contamination of food, and labeled as required by this section. A residential child care facility or an assisted living home that provides care for six or more residents shall keep medication in a separate refrigeration unit that is not used to store food.

(i) In addition to complying with the other requirements of this section, a residential psychiatric treatment center

(1) shall ensure that the record of the prescription and administration of prescription and nonprescription medications is kept in each child's files and in another master medications file arranged to show in chronological order the prescription and administration of medications to each child, with records sorted by each child's name, showing each diagnosis for each child;

(2) shall make the records described in (1) of this subsection available for department review for the purpose of identifying and preventing abuse, or inappropriate or unnecessary use of prescription or nonprescription medications;

(3) may not use a medication for the purpose of sedating or controlling the behavior of a child; however, subject to 7 AAC 50.870, a medication may be used for chemical restraint in a residential psychiatric treatment center; in this paragraph, "chemical restraint" has the meaning given in 7 AAC 50.990;

(4) may not administer a psychotropic or neuroleptic class medication to a child unless the use of the medication is part of the child's treatment plan developed under 7 AAC 50.840 and use of the medication has been consented to by the child's parent, Indian custodian, or guardian after both the clinical director and the prescribing physician have given sufficient information and counseling to the parent, Indian custodian, or guardian

to ensure that the parent, Indian custodian, or guardian can give an informed consent to or refusal of the use of the medication; the information and counseling must discuss the option of not using the medication, the potential benefits and disadvantages of the medication, and alternative medications or therapies that might reasonably be used to treat the same condition; and

(5) may not discharge or threaten to discharge a child because the child's parent, Indian custodian, or guardian declines to give consent to the use of any recommended medication.

(j) In this section,

(1) "controlled substance" means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140 - 11.71.190;

(2) "Indian custodian" has the meaning given in 25 U.S.C. 1903(6).

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

AS 47.33.020

7 AAC 10.1075. First aid kit and procedures

(a) An entity shall review, and shall post or make readily available, first aid procedures. The entity shall post and keep current emergency telephone numbers, including the number for the poison control center, near one or more telephones in the entity. The entity shall maintain

(1) at least one first aid kit described in (c) of this section that is kept at the entity;

(2) at least one additional first aid kit described in (c) of this section for field trips or outings away from the entity; and

(3) an abbreviated first aid kit for a neighborhood walk of 30 minutes or less; the requirements of this paragraph do not apply to an assisted living home; an entity may use the kit described in (2) of this subsection for a neighborhood walk if the kit is not needed for a field trip or outing, and if a kit described in (c) of this section is kept at the entity; for purposes of this paragraph, an abbreviated kit must contain, at a minimum, the following:

(A) disposable nonporous, nonlatex gloves;

(B) tweezers;

(C) adhesive bandages;

(D) bandage tape;

(E) sterile gauze pads;

(F) a cold pack;

(G) a CPR barrier device or mask;

(H) potable water;

(I) for an entity providing care for children, the emergency child record information required by 7 AAC 57.400(a) ;

(J) medication that may be needed on the walk.

(b) The entity shall restock each first aid kit after use to ensure compliance with this section.

(c) Except as provided in (a)(3) of this section, each first aid kit must include at least the following items, checked regularly to ensure that any expiration date is not exceeded, and kept within a container that will hold all of the items:

(1) disposable nonporous, nonlatex gloves;

(2) sealed packages of alcohol wipes or antiseptic for thermometer cleaning only;

(3) scissors;

(4) tweezers;

(5) a thermometer;

(6) adhesive bandages;

(7) bandage tape;

(8) sterile gauze pads;

(9) flexible roller gauze;

(10) triangular bandages;

(11) safety pins;

(12) an eye dressing;

(13) a note pad with a pen or pencil;

(14) activated charcoal, for use only under the direction of a poison control center or another medical professional;

(15) a cold pack;

(16) a current American Academy of Pediatrics or American Red Cross standard first aid text or equivalent first aid guide;

- (17) a CPR barrier device or mask;
 - (18) the telephone number for the poison control center;
 - (19) potable water;
 - (20) splints, including small child-size splints if children are in care;
 - (21) soap;
 - (22) a working flashlight;
 - (23) for a field trip or outing away from a child care facility, other than a foster home or foster group home, and for each child participating in the trip or outing,
- (A) the emergency child record information as required by 7 AAC 57.400(a) ; and
- (B) written permission for use of medication; only medication that is or may be needed during a field trip or outing may be included in first aid kit, and only for the length of the field trip or outing.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

Editor's note: Information about the first aid text or guide referred to in 7 AAC 10.1075 may be obtained from the American Academy of Pediatrics at its website: <http://www.aap.org/>, or by writing to the American Academy of Pediatrics, 141 Northwest Point Boulevard, Elk Grove Village, IL 60007-1098 (telephone 847-434-4000). Information may be obtained from the American Red Cross at its website: <http://www.redcross.org/>, or by writing to American Red Cross National Headquarters, 2025 E Street, NW, Washington, DC 20006 (telephone 202-303-4498).

7 AAC 10.1080. Firearms and ammunition

- (a) Firearms and ammunition are prohibited in an assisted living home licensed for six or more residents, and in a child care center, a residential child care facility, and a maternity home.
- (b) An entity that is not subject to (a) of this section shall ensure that any firearms are unloaded and stored in a locked gun safe or other locked place that is not visible or accessible to adults or children in care. The entity shall ensure that ammunition is stored separately from the firearms in a place inaccessible to adults or children in care.
- (c) The entity shall inform each adult in care or that adult's representative, parents of children in care, or social workers, care coordinators, or case managers, as applicable, if firearms are present in the entity.

(d) Before a foster home allows a child to handle a firearm, the home shall submit a firearms safety plan acceptable to the department that addresses the firearms safety instruction approach the home will use.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1085. Smoking

(a) In addition to the applicable requirements of AS 18.35.300 - 18.35.365, an entity listed in 7 AAC 10.1000(b) is subject to the applicable requirements of this section.

(b) Smoking is prohibited in a child care center, a residential child care facility, and a maternity home.

(c) Smoking in a foster home or foster group home must be limited to outside the home, or in a well-ventilated area away from the immediate living area, and only after submitting a plan acceptable to the department that addresses how children in care will be protected from smoke.

(d) Smoking is prohibited in a child care home and a child care group home while children are in care. The home must ensure that, while children are in care,

(1) cigarettes or other smoking products, and ashtrays, lighters, or other smoking accessories are not visible or accessible to children; and

(2) the home does not smell of smoke from cigarettes or other smoking products.

(e) Any vehicle used to transport children must be smoke-free.

(f) If smoking is allowed in an assisted living home, a designated smoking and a nonsmoking area must be provided. A designated smoking area may not be in a common area. The designated smoking area must be separated from common areas by a closed door or partition that protects nonsmokers from smoke. The designated smoking area must be provided with natural or mechanical ventilation sufficient to provide fresh air and to prevent the accumulation of smoke and smoke odor.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1090. Animals

(a) An entity shall ensure that any animal kept in the entity has no communicable disease, has immunizations required under state and federal law, and is free of internal

and external parasites. The entity must show proof of compliance with required immunizations to the department upon request.

(b) The entity shall inform each adult in care or that adult's representative, parents of children in care, social workers, care coordinators, and case managers, as applicable, if any animal is present in the entity.

(c) Psittacine birds may not be kept in a child care center.

(d) A psittacine bird may be kept in an assisted living home if the bird

(1) receives prophylactic antibiotics before introduction into the assisted living home; and

(2) is isolated at least 45 days in a room separate from a room occupied by any other birds in the home.

(e) Except for a child care center subject to (c) of this section, a parakeet, pigeon, or other similarly small-sized psittacine bird may be kept in another entity listed in 7 AAC 10.1000(b) only if the bird

(1) receives prophylactic antibiotics before introduction into the entity; and

(2) is isolated at least 45 days in a room separate from a room occupied by any other birds in the entity.

(f) Ducklings and chicks may be incubated or hatched in an entity, except in a room where infants or toddlers are present, if

(1) children do not handle the ducklings or chicks; and

(2) the ducklings and chicks are removed from the entity when hatched.

(g) Amphibians, ferrets, reptiles, and wild, poisonous, or predatory animals may not be kept in an entity listed in 7 AAC 10.1000(b) . A foster home or foster group home, or an assisted living home serving two or fewer residents, may have amphibians, ferrets, or reptiles, if approved by the department. The prohibition of this subsection on predatory animals does not apply to domestic dogs and domestic cats.

(h) The entity shall ensure that

(1) any birds, fish, and other animals allowed by this section are kept in appropriately designed cages or aquariums; the requirements of this paragraph do not apply to domestic dogs and domestic cats;

(2) the area around a cage or aquarium is smooth, nonabsorbent, impervious to water, and easily cleanable, and is cleaned and sanitized at a frequency to keep the area clean and sanitary;

(3) animal waste is removed daily, or at a frequency to prevent odor or contact with adults or children in care;

(4) each cage is lined with an impervious material and is cleaned at a frequency necessary to prevent a health risk to adults or children in care;

(5) bowls used for providing food and water for animals are cleaned at a frequency necessary to prevent a health risk to adults or children in care; and

(6) cleaning of animal waste

(A) is conducted when adults or children in care are not present; except as provided in 7 AAC 10.1000(c) , the requirements of this subparagraph do not apply to a foster home or foster group home; and

(B) is not conducted in an area used for food preparation or service.

(i) The entity shall

(1) disclose to the department information regarding any animal in the entity, if that animal has

(A) been the subject of a past contact with an animal control official because of aggressive behavior or biting; or

(B) a history of aggressive behavior or biting, regardless of whether the animal has been the subject of a past contact with an animal control official;

(2) notify the department within 24 hours of any occurrence of aggressive behavior or biting by an animal in the entity, including whether the occurrence resulted in a contact with an animal control official;

(3) immediately remove from contact with adults or children in care, an animal described in (1) or (2) of this subsection; and

(4) permanently remove from the entity an animal described in (1) or (2) of this subsection, if the department determines that the animal is a threat to the life or safety of adults or children in care.

(j) In this section, "psittacine bird" means a bird classified as part of the family Psittaciadae, including parrots, macaws, and parakeets.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

7 AAC 10.1093. Pesticide use and notification

(a) An entity shall, whenever practical, use a nonchemical method, including good sanitation practices, structural repair, and window screens to control pests. Pesticide use, including the use of a certified applicator if required, is subject to applicable requirements of the Department of Environmental Conservation under 18 AAC 90. The

requirements of (b) - (g) of this section do not apply to a foster home or foster group home, but the home must notify the department before any major fumigation or other application that would require residents of the home to be temporarily relocated.

(b) Except as provided in (e) and (f) of this section, at least 24 hours before the application of a pesticide to any area of an entity used by or accessible to adults or children in care, an entity that provides care for six or more adults or children shall notify each adult or that adult's representative, each parent of a child in care, social workers, care coordinators, and case managers, as applicable, regarding the application. A notice under this subsection must include

(1) a description of the area where the pesticide will be applied;

(2) the date and approximate time of application; if the application will be outdoors, the notification must include three dates in chronological order in case an application is cancelled due to weather;

(3) the common or brand name of each pesticide to be used;

(4) the targeted pests to be controlled by the pesticide;

(5) a contact name and telephone number at the entity; and

(6) a statement that, upon request, the entity will provide

(A) a list of each active ingredient in the pesticide;

(B) the EPA registration number; and

(C) the telephone contact number, if any, on the label of the pesticide for additional information about each pesticide.

(c) The notification required by (b) of this section may be made by individual notice delivered by telephone, face-to-face oral communication, electronic mail, postal mail, or facsimile. The entity may develop a registration system to provide this notification only to those persons who wish to receive notification. If the entity develops a registration system, the entity shall provide written notice at the time of admission or enrollment that pesticides may be used in or around the entity and explain how to register to be notified at least 24 hours before a pesticide treatment. If written notice is given, the notice may not be included with a notice being provided on another matter.

(d) Except as provided in (f) of this section, immediately before application of a pesticide, the entity shall post the area where the pesticide is to be applied with a sign that is at least 8 1/2 x 11 inches and that reads "Pesticide Treated Area: KEEP OUT" in block letters at least one inch high. The entity shall ensure that the sign remains posted and that children, or adults with impaired judgment, are kept out of the treated area for at least 24 hours or until the reentry interval, if any, on the pesticide label has expired, whichever period is longer.

(e) An entity may authorize an immediate pesticide treatment without prior notification if the administrator determines that an emergency exists. An emergency includes an

immediate and unanticipated threat to the health or safety of adults or children in care. The provisions of (d) of this section must be met.

(f) The following pesticide applications are not subject to the notification or posting requirements of (b) - (e) of this section:

(1) the application of an antimicrobial pesticide;

(2) an application during which the entity remains unoccupied by adults or children in care for a continuous 72-hour period after the application;

(3) the application of a rodenticide in a tamper-resistant bait station, or in an area inaccessible to children or to adults with impaired judgment;

(4) the application of silica gels and other ready-to-use pastes, foams, or gels that will be applied in an area inaccessible to children or to adults with impaired judgment.

(g) An entity shall keep records of pesticide applications for at least two years after application. Records required to be kept under this subsection must be made available for department review and must include

(1) a copy of each notice issued under this section, if a child care center authorizes a pesticide application under (f) of this section, the information required under (b) of this section must be included in the record;

(2) the date of the application;

(3) the name and employer of the individual who applied the pesticide, including the individual's certification number;

(4) the rate of the application;

(5) the concentration of the pesticide applied; and

(6) the total amount of pesticide product used.

(h) In this section,

(1) "active ingredient" has the meaning given in 18 AAC 90.990; the definition of "active ingredient" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(2) "antimicrobial pesticide" has the meaning given in 18 AAC 90.990; the definition of "antimicrobial pesticide" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(3) "label" has the meaning given in 18 AAC 90.990; the definition of "label" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(4) "rate of application" has the meaning given in 18 AAC 90.990; the definition of "rate of application" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(5) "rodenticide" has the meaning given in 18 AAC 90.990; the definition of "rodenticide" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

Editor's note: The sign required in 7 AAC 10.1093 may be downloaded from the department's website at <http://www.hss.state.ak.us/dph/CL/forms/folhome.htm> and is available at the Department of Health and Social Services' offices statewide.

7 AAC 10.1095. Toxic substances; poisonous plants

(a) An entity shall ensure that

(1) each cleaning material, detergent, aerosol can, pesticide, poison, and other toxic material is

(A) stored in the original labeled container; the requirement in this subparagraph does not apply to a spray bottle that contains a commercial sanitizing solution or a bleach-water solution used to sanitize toys, tables, counters, and other surfaces throughout the day, if that bottle is appropriately labeled and is stored as provided in (B) of this paragraph;

(B) inaccessible to children or to adults with impaired judgment, and stored separately from medication and food;

(C) used

(i) according to the manufacturer's instructions;

(ii) for the intended purpose;

(iii) in a manner that will not contaminate a play surface, a food service area, or a food preparation area; and

(iv) in a manner that is not a hazard to adults or children in care;

(2) only nontoxic arts and crafts materials are used; and

(3) a poisonous plant is not in an entity where children, or adults with impaired judgment, are in care, except as provided in (b) of this section.

(b) The department may allow a poisonous plant that is a common household plant, including a poinsettia, a dieffenbachia, an English ivy, a mother-in-law, and a philodendron, to be present in an entity described in (a)(3) of this section, if the department finds that children in care or adults with impaired judgment will be protected from harm. The entity shall submit to the department a written list of all poisonous plants maintained in the entity, and a description of how the entity will protect children, or adults with impaired judgment, from being harmed by the plants. If the department allows one or more poisonous plants to be present in the entity, the entity shall inform each adult's representative, parents of children in care, social workers, care coordinators, and case managers, as applicable, of any poisonous plant present in the entity, and describe how the entity will protect children, or adults with impaired judgment, from harm.

(c) In this section, "poisonous plant"

(1) means a plant, tree, or shrub that can cause injury or death, if a portion of that plant, tree, or shrub is ingested or touched; and

(2) includes certain

(A) flower garden plants, including autumn crocus, bleeding heart, chrysanthemum, daffodil, four-o'clocks, foxglove, hyacinth, hydrangea, iris, jonquil, lily of the valley, morning glory, narcissus, and snow on the mountain;

(B) house plants, including bird of paradise, castor bean, dumbcane (also known as dieffenbachia), English ivy, holly, jequirty bean (also known as rosary pea), Jerusalem cherry, mistletoe, mother-in-law, oleander, philodendron, poinsettia, and rhododendron;

(C) trees and shrubs, including black locust, boxwood, chokecherry, elderberry, English yew, horse chestnut, buckeye, juniper, oak, water hemlock, and yew;

(D) vegetable garden plants, including asparagus, sprouts and green parts of potato, rhubarb leaves, and green parts of tomato; and

(E) wild plants, including belladonna, bittersweet, buttercups, Indian hemp, jack-in-the-pulpit, jimson weed, larkspur, monkshood, certain mushrooms, nightshade, poison hemlock, poison ivy, poison oak, poison sumac, tobacco, and skunk cabbage.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

AS 47.33.005

AS 47.33.010

Article 5

General Variance Procedures

Section

9500. Purpose and applicability.

9505. General variance.

9510. Request for a general variance.

- 9515. Notice requirements for general variance requests for assisted living homes.
- 9520. Evaluation of a request for a general variance.
- 9525. Grant or denial of a general variance.
- 9530. Posting of a general variance.
- 9535. Request for reconsideration of denial or revocation of a general variance.

7 AAC 10.9500. Purpose and applicability

(a) Except as provided in (b)(2) and (3) of this section, the purpose of 7 AAC 10.9500 - 7 AAC 10.9535 is to provide a process for determining whether a general variance, if requested, should be granted for a requirement of

- (1) AS 47.32;
- (2) this chapter; or
- (3) another regulation applicable to an entity referred to in 7 AAC 10.015.

(b) The provisions of 7 AAC 10.9500 - 7 AAC 10.9535

- (1) apply to the entities referred to in 7 AAC 10.015;
- (2) do not apply to a temporary variance to admit a child for care in an assisted living home under 7 AAC 75.415; and
- (3) do not apply to a request for a variance from a provision of 7 AAC 10.900 - 7 AAC 10.990 (Barrier Crimes, Criminal History Checks, and Centralized Registry), 7 AAC 41.205 (Child Protection and Criminal History Check Requirements), or 7 AAC 57.315 (Child Protection and Criminal History Check Requirements).

History: Eff. 6/23/2006, Register 178; am 12/3/2006, Register 180; am 2/9/2007, Register 181

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.020
AS 47.32.030	AS 47.32.130	AS 47.32.140

7 AAC 10.9505. General variance

(a) Subject to 7 AAC 10.9500(b) (2) and (3), and (b) of this section, the department may grant a general variance if

- (1) the applicable requirements of 7 AAC 10.9500 - 7 AAC 10.9515 are met;
- (2) an alternative means, acceptable to the department, satisfies the purpose of the requirement for which the variance is sought; and
- (3) the health, safety, and welfare of recipients of services are protected.

(b) The department may grant an assisted living home a general variance from a requirement of AS 47.32, 7 AAC 75, or this chapter to allow the home to

- (1) meet the goals of AS 47.32, 7 AAC 75, and this chapter in a way that differs from the methods set out in AS 47.32, 7 AAC 75, or this chapter;
- (2) promote aging in place to minimize the need for a resident to move from the home; or
- (3) integrate mentally, developmentally, and physically disabled residents into the community to reach their highest level of functioning.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

7 AAC 10.9510. Request for a general variance

An entity seeking a general variance under 7 AAC 10.9500 - 7 AAC 10.9535 must submit to the department, on a form supplied by the department, a request for a general variance as required by this section. A request must contain the following:

- (1) the requirement from which the variance is sought;
- (2) the reasons why the entity is unable to comply with the requirement, a description of how the entity is not in compliance, and the extent to which compliance with the requirement will impose any substantial economic, technological, programmatic, legal, or medical hardship on the entity or recipients of services;
- (3) the period of time for which the variance is requested;
- (4) the proposed alternative means of satisfying the purpose of the requirement for which the variance is sought;
- (5) a statement as to how the health, safety, and welfare of recipients of services will be protected during the period of the variance;
- (6) the plan for achieving compliance before the variance expires;
- (7) assurance that the conditions at the entity do not present an imminent danger to the health, safety, or welfare of recipients of services;
- (8) if the request for a variance involves fire safety or another state or municipal requirement, evidence that the request has been reviewed by the appropriate authority;
- (9) for a licensed entity, the names of the recipients of services who would be affected by the variance, and the names and addresses of any representatives of those recipients of services; the requirements of this paragraph do not apply to a child care facility subject to 7 AAC 57 unless this information is requested by the department;
- (10) for an assisted living home, assurance that the notice requirements of 7 AAC 10.9515 will be met;

(11) any additional information requested by the department to determine the effect of a variance on the health, safety, and welfare of recipients of services.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

Editor's note: The request form referred to in 7 AAC 10.9510 may be obtained from the Certification and Licensing section of the Division of Public Health, 619 East Ship Creek Avenue, Suite 232, Anchorage, Alaska 99501.

7 AAC 10.9515. Notice requirements for general variance requests for assisted living homes

(a) If an assisted living home is requesting a general variance for a state statutory or regulatory licensing requirement, the home shall deliver to each affected resident or the resident's representative, no later than five days after submitting a request for a variance, a

(1) copy or summary of the request; and

(2) notice that states

(A) that the resident or representative has the right to submit comments to the department regarding the request; and

(B) the date by which any comments must be received by the department.

(b) The home shall provide to the department a statement indicating compliance with (a) of this section.

(c) The department will consider any timely comments received under this section in determining whether to grant a general variance.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

7 AAC 10.9520. Evaluation of a request for a general variance

The department will evaluate a request for a general variance by

(1) investigating the statements in the request form;

(2) inspecting the entity, if appropriate; and

(3) taking one or both of the following actions:

(A) conferring with the applicant or licensee regarding the request;

(B) discussing the request with the affected recipients of services or their representatives, as appropriate, to determine whether they support granting the variance.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

7 AAC 10.9525. Grant or denial of a general variance

(a) The department's decision to grant or deny a request for a general variance will be issued in writing and will be delivered to the person who made the request.

(b) Subject to (c) of this section, the department may grant a general variance, for a period that does not exceed one year, if the department determines that the entity

(1) is unable to comply with the requirement from which the variance is sought;

(2) has an effective plan for achieving compliance during the term of the variance; and

(3) is able to adequately provide for the health, safety, and welfare of recipients of services during the term of the variance.

(c) The department may grant a general variance for a longer period than allowed under (b) of this section if the department determines

(1) that

(A) strict compliance with the requirement from which the variance is sought cannot be accomplished without a substantial economic, technological, programmatic, legal, or medical hardship; or

(B) the variance will maintain or improve the quality of services for recipients of services; and

(2) that the entity has an effective plan for meeting the goal of the requirement from which the variance is sought, and that the plan adequately protects the health, safety, and welfare of recipients of services and otherwise meets all applicable statutory or regulatory standards.

(d) A decision to grant a request for a general variance will identify the statutory or regulatory requirement involved by section number and subject matter and state the duration, terms, and conditions of the variance, including the steps the entity must take to achieve compliance before the variance expires.

(e) A decision to deny a request for a general variance will be in writing and will state the reasons for the denial. The entity may reapply for a variance, addressing the

department's stated reasons for the denial or may request reconsideration under 7 AAC 10.9535.

(f) If an entity violates a condition of a general variance granted under this section, the department will send written notice to the entity that the variance is revoked. The notice will advise that the entity may request reconsideration under 7 AAC 10.9535.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

7 AAC 10.9530. Posting of a general variance

(a) If the department grants a request for a general variance, the entity shall post a copy of the general variance decision in a conspicuous place, with the entity's license as required by AS 47.32.080 , during the period the variance is in effect, and shall make it available to any person who wishes to review it. A general variance remains in effect for the duration stated, unless the department revokes the variance under (b) of this section.

(b) The department will revoke a general variance if the department finds that the entity is not following its plan for achieving compliance, or is no longer able to adequately provide for the health, safety, and welfare of recipients of services during the term of the variance. If the department decides to revoke a variance, it will provide written notice of revocation to the entity, setting out the reasons for the department's decision. The department will advise the entity of its right to request reconsideration under 7 AAC 10.9535. A notice of revocation issued under this subsection is effective 30 days after it is received by the entity unless a request for reconsideration is submitted. Nothing in this subsection precludes the department from issuing a notice of immediate revocation if the department finds that the life, health, safety, or welfare of recipients of services is threatened.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.080

AS 47.32.130

AS 47.32.140

7 AAC 10.9535. Request for reconsideration of denial or revocation of a general variance

(a) If the department denies or revokes a variance subject to 7 AAC 10.9500 - 7 AAC 10.9535, the entity may submit a written request to the department for reconsideration of that decision.

(b) A request under (a) of this section must be submitted within 30 days after the entity receives the denial or notice of revocation, and must include

(1) the requestor's name, mailing address, telephone number, and, if available, electronic mail address and facsimile number;

(2) a summary of the department's decision to be reviewed; and

(3) a clear and concise statement of the reason for the request, including

(A) a statement of the nature and scope of the requestor's interests, and an explanation of how and to what extent those interests would be directly and adversely affected by the decision;

(B) the contested terms and conditions of the department's decision, and proposed alternatives; and

(C) copies of any documents or data that would assist the department in its review.

(c) After reviewing a request for reconsideration, the department will notify the entity in writing within 30 days after receiving the request, and will state the reasons for the department's final decision.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.130

AS 47.32.140

Article 6

Inspections and Investigations

Section

9600. Inspections and investigations.

9610. Plan of correction.

9615. Allegation of compliance.

9620. Hearings.

7 AAC 10.9600. Inspections and investigations

The department will conduct announced and unannounced inspections and investigations of an entity or individual service provider that is subject to AS 47.05.300 - 47.05.390, AS 47.32, or this chapter

(1) for purposes of AS 47.05.300 - 47.05.390 and AS 47.32.110 ;

(2) to determine compliance with AS 47.05.300 - 47.05.390, AS 47.32, this chapter, and any other applicable statute or regulation; and

(3) to determine whether an enforcement action should be taken under AS 47.05.300 - 47.05.390, AS 47.32.130 , or 47.32.140.

History: Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.05.300	AS 47.05.310	AS 47.05.340
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.050	AS 47.32.060	AS 47.32.100
AS 47.32.110	AS 47.32.130	AS 47.32.140
AS 47.33.005	AS 47.33.010	

7 AAC 10.9610. Plan of correction

(a) The plan of correction required under AS 47.32.140 (b) must contain the following information for each violation identified in the report issued under AS 47.32.120 (a):

- (1) each action that will be taken to correct the violation;
- (2) each measure that will be taken or change that will be made to ensure the violation does not recur;
- (3) how the entity will monitor each corrective action to ensure the violation is cured and will not recur;
- (4) the date on or before which the violation will be cured.

(b) The plan of correction must be signed by the administrator or another person responsible for operation of the entity.

(c) If the department determines that any recipients of services were affected by a violation, the department may also require the entity to describe

- (1) each corrective action that will be taken with regard to those recipients; and
- (2) how the entity will identify other recipients of services who might be affected by the violation, and what corrective action will be taken.

(d) The entity may request that the plan of correction also act as the allegation of compliance required under 7 AAC 10.9615 if each violation listed in the report has been corrected before submission of the plan of correction.

(e) The department will review a plan of correction submitted under (a) - (d) of this section to determine whether the plan is acceptable. If the department determines that the plan is unacceptable, the department may

- (1) request additional information regarding one or more corrective actions described in the plan;
- (2) require the entity to amend the plan as directed by the department;
- (3) require the entity to comply with a plan of correction developed by the department under (g) of this section.

(f) If the department finds that an entity has failed to correct a violation of an applicable statute or regulation within the time specified by the department under AS 47.32.140 (a),

has failed to submit a plan of correction for department approval under AS 47.32.140 (b), or has submitted an unacceptable plan, the department may require the entity to participate in a plan of correction developed by the department under (g) of this section.

(g) In a plan of correction developed by the department, the department will describe each violation, specify each corrective action the entity must take to correct the violation, and specify the date on or before which the entity must cure the violation. The department will notify the entity in writing of a decision to require compliance with a plan of correction developed under this subsection, and will provide a copy of the plan of correction with the notice. In the notice, the department will describe any enforcement action under AS 47.32.140 (d) and (f) that the department intends to take, regardless of whether the violation is cured.

(h) The department may conduct a follow-up inspection to determine compliance with the plan of correction.

(i) The entity shall keep on the premises a copy of each inspection document described in AS 47.32.180 (b) for at least three years from the date of inspection and shall make each document available to any interested person upon request.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.050	AS 47.32.060	AS 47.32.100
AS 47.32.110	AS 47.32.120	AS 47.32.130
AS 47.32.140	AS 47.33.005	AS 47.33.010

7 AAC 10.9615. Allegation of compliance

An allegation of compliance required under AS 47.32.140 (c) must describe each action that was taken by the entity to correct each violation, and must include the date the violation was corrected. The allegation must be signed by the administrator or another person responsible for operation of the entity. The department will review the allegation to determine whether it provides enough detail to establish that each violation was corrected by any applicable deadline. The department may also conduct a follow-up inspection to validate the allegation of compliance.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010	AS 18.05.040	AS 44.29.020
AS 47.14.120	AS 47.32.010	AS 47.32.030
AS 47.32.050	AS 47.32.060	AS 47.32.100
AS 47.32.110	AS 47.32.140	AS 47.32.180
AS 47.33.005	AS 47.33.010	

7 AAC 10.9620. Hearings

An enforcement action taken by the department under AS 47.32 or this chapter, or another state statute or regulation applicable to an entity subject to AS 47.32 and this chapter, is subject to the applicable hearing requirements of AS 47.32.150 .

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.32.050

AS 47.32.130

AS 47.32.140

AS 47.32.150

AS 47.33.005

AS 47.33.010

Article 7

General Provisions

Section

9990. Definitions.

7 AAC 10.9990. Definitions

In this chapter, unless the context indicates otherwise,

- (1) "adequate" or "adequately" means that which is necessary to accomplish the intended purpose in keeping with good public health practices;
- (2) "administrator" means a person who controls, operates, manages, supervises, or conducts activities described in this chapter, or the person performing the duties of the owner, operator, manager, or supervisor;
- (3) "adult" means an individual 18 years of age or older;
- (4) "adult with impaired judgment" means an adult in care who has dementia or a cognitive impairment;
- (5) "approved" means acceptable to the department, based upon conformance with applicable federal, state, or municipal standards and good public health practices;
- (6) "assisted living home" has the meaning given in AS 47.32.900 ;
- (7) "caregiver" means an individual identified as a caregiver in 7 AAC 10.1002;
- (8) "child" has the meaning given in
 - (A) 7 AAC 50.990 if referring to a child for whom services are provided under 7 AAC 50; or
 - (B) 7 AAC 57.990(b) if referring to a child for whom services are provided under 7 AAC 57;
- (9) "child care center" has the meaning given in 7 AAC 57.990(a) ;
- (10) "child care facility" has the meaning given in
 - (A) 7 AAC 50.990 if referring to a child for whom services are provided under 7 AAC 50; or

(B) 7 AAC 57.990(b) if referring to a child for whom services are provided under 7 AAC 57;

(11) "child care group home" has the meaning given in 7 AAC 57.990(a) ;

(12) "child care home" has the meaning given in 7 AAC 57.990(a) ;

(13) "clean" or "cleaned" means made free of soil, or to make free of soil by

(A) washing in warm, soapy water and rinsing; or

(B) using another approved method if use of water is inappropriate for the item being cleaned;

(14) "communicable disease" means a disease or condition that is contagious or transmissible;

(15) "contaminate" or "contamination" means contact with or from

(A) dust, insects, rodents, or other pests;

(B) unsanitary equipment or utensils;

(C) a body fluid, including saliva, blood, mucus, vomit, urine, feces, or an injury discharge;

(D) unnecessary handling;

(E) flooding, draining, leakage from overhead, or condensation;

(F) poisonous or toxic materials; or

(G) any substance or organism that might threaten human health;

(16) "CPR" means cardiopulmonary resuscitation;

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

(18) "disinfect" and "disinfected" means the destruction, through use of an appropriate disinfection agent, of disease-causing microorganisms on an inanimate object or surface that renders the object or surface safe for use or handling;

(19) "easily cleanable" means having surfaces that are readily accessible and designed so that residue may be effectively removed by normal cleaning methods;

(20) "entity" means the administration, program, and physical plant of a business or other premises subject to the applicable provisions of this chapter; "entity" includes other parts of the building housing the entity and adjoining grounds over which the administrator has direct control;

(21) "EPA" means United States Environmental Protection Agency;

(22) "food" means a liquid or solid substance consumed by humans, including water or another beverage, a confection, condiment, food ingredient, food additive, or ice, or a substance that enters into the composition of these things, whether simple, blended, mixed, or compounded;

(23) "foster group home" has the meaning given in 7 AAC 50.990;

(24) "foster home" has the meaning given in AS 47.32.900 ;

(25) "general variance" means a variance described in 7 AAC 10.9500;

(26) "gloves" mean a device made of natural rubber, vinyl, or synthetic material such as neoprene, polyvinyl chloride, or styrene butadiene, worn on the caregiver's hands to prevent contamination between the caregiver and the person receiving care;

(27) "handsink" means a lavatory

(A) equipped to provide hot and cold running water in a manner that meets the requirements of 7 AAC 10.1035(a) (9) and (10); and

(B) used solely for washing hands, face, arms, or other portions of the body;

(28) "imminent danger" means a condition with the potential to adversely affect public health, safety, or welfare; "imminent danger" includes

(A) the extended loss of a potable water supply;

(B) an extended power outage;

(C) a sewage backup into the entity;

(D) a natural disaster;

(E) a disease or illness associated with the operation of the entity; and

(F) a major insect or rodent infestation;

(29) "impervious bag" means a bag designed to prevent transfer, seepage, or flow of moisture into or from the bag;

(30) "in care" means receiving care at an entity;

(31) "infant" has the meaning given in 7 AAC 57.990(a) ;

(32) "insect" has the meaning given in 18 AAC 90.990; the definition of "insect" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(33) "maternity home" has the meaning given in AS 47.32.900 ;

- (34) "parent" means a birth or adoptive parent or a legal guardian of a child;
- (35) "pest" has the meaning given in 18 AAC 90.990; the definition of "pest" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;
- (36) "pesticide" has the meaning given in 18 AAC 90.990; the definition of "pesticide" in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;
- (37) "potable water" means water that is safe for drinking, culinary, and other domestic purposes;
- (38) "premises" means a place or location used in conjunction with the activities of an entity; "premises" includes all or portions of structures, land, vehicles, equipment, supplies, water supply, wastewater system, and plumbing;
- (39) "recipients of services" means individuals receiving care or services in an entity;
- (40) "residential child care facility" has the meaning given in AS 47.32.900 ;
- (41) "residential group home" has the meaning given in 7 AAC 50.990;
- (42) "residential psychiatric treatment center" has the meaning given in AS 47.32.900 ;
- (43) "sanitize" means to reduce the numbers of microorganisms on cleaned surfaces and equipment to a safe level by application of an appropriate sanitizing agent;
- (44) "single-use" means designed to be used once and then discarded, as with disposable diapers, disposable wipes, and disposable paper products;
- (45) "toddler" has the meaning given in 7 AAC 57.990(a) ;
- (46) "toilet" means a plumbing fixture designed to receive solid and liquid human waste;
"toilet"
- (A) includes a
- (i) water closet that conveys waterborne waste through an integral trap seal; and
 - (ii) nonflushing toilet, including an incinerating, composting, or humus toilet or vault privy; in this sub-subparagraph, "vault privy" means a holding tank with a seat or seats, or other appurtenances attached, that allows for excretion of human wastes directly into the tank; and
- (B) does not include a pit privy; in this subparagraph, "pit privy" means a structure that
- (i) is not a vault privy as defined in (A)(ii) of this paragraph;
 - (ii) receives urine and excrement that is not waterborne; and

(iii) is the final disposal site and not a temporary storage facility;

(47) "universal precautions" means the infectious control precautions that are recommended by the United States Department of Health and Human Services, Centers for Disease Control and Prevention, to be used to prevent the transmission of blood-borne germs such as human immunodeficiency virus and hepatitis B virus;

(48) "water play table" means a table designed for play that can be filled with water;

(49) "working day" means a day other than Saturday, Sunday, or a state holiday.

History: Eff. 6/23/2006, Register 178

Authority:

AS 18.05.010

AS 18.05.040

AS 44.29.020

AS 47.14.120

AS 47.32.010

AS 47.32.030

AS 47.33.005

AS 47.33.010

Editor's note: Information regarding the universal precautions referred to in 7 AAC 10.9990 is available from the United States Department of Health and Human Services, Centers for Disease Control and Prevention, Public Inquiries/MASO, Mailstop F07, 1600 Clifton Road, Atlanta, GA 30333, 1-800-311-3435, or may be obtained from that agency's website: <http://www.cdc.gov/ncidod/hip/Blood/UNIVERSA.HTM>.

ALASKA

Title 7. Health and Social Services

Part 1. Administration

Chapter 12. Facilities and Local Units

Article 5. Nursing Facilities

Section

- 250. Scope.
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7 AAC 12.250. Scope

A facility that is not an acute care hospital and that provides nursing care and related medical services over a period of 24 hours each day to individuals admitted because of illness, disease, or physical infirmity is a nursing facility, and must comply with 7 AAC 12.250 - 7 AAC 12.290.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.255. Services required

A nursing facility must provide nursing, pharmaceutical, either physical or occupational therapy, social work services, therapeutic recreational activities, dietetic, central supply, laundry, housekeeping, laboratory and radiological services.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.20.010

AS 18.20.060

7 AAC 12.256. Admissions

The nursing facility must have written policies and procedures to ensure admissions of only those individuals whose needs can be met by the nursing facility directly or in cooperation with community resources.

History: Eff. 5/28/92, Register 122

Authority: AS 18.20.010 AS 18.20.060

1/10/2011

7 AAC 12.258. Use of restraints or psychoactive drugs

(a) In addition to the rights of patients specified in 7 AAC 12.890, residents of nursing facilities have the right to be free from physical restraints imposed or psychoactive drugs administered for purposes of discipline or convenience and that are not required to treat the resident's medical symptoms.

(b) A resident's medical records must contain evidence of consultation with appropriate health professionals, such as occupational or physical therapists, in the use of less restrictive supportive devices before using physical restraints. The record must also contain evidence of an interdisciplinary team's identification of less restrictive approaches to be used before or in conjunction with the use of psychoactive drugs.

(c) If, after a trial period of less restrictive measures, a nursing facility decides that a physical restraint or psychoactive drug would enable and promote greater functional or social independence, the nursing facility must explain the use of the restraint or psychoactive drug to the resident, before its use. If the resident has a legal representative, the explanation must also be given to the resident's legal representative, before its use. The explanation must include a description of the risks and benefits of the use of the restraint or drug.

(d) Approval of the use of a restraint or psychoactive drug by a resident, or legal representative must precede its use, except in the case of a medical emergency in which there is a risk of harm to the resident or others. The approval, or the circumstances of the emergency, must be documented in the resident's medical records at the nursing facility.

(e) A resident's medical records must contain evidence of an interdisciplinary team's periodic reassessment of the restraint or psychoactive drug to determine its effectiveness and appropriateness for continued use.

(f) A nursing home must also meet the requirements at 42 C.F.R. 483.10, 483.12, 483.13, and 483.15, as amended July 1, 1991, regardless of whether the nursing home is certified to receive medicaid payments under 7 AAC 43.170.

History: Eff. 5/28/92, Register 122; am 8/15/92, Register 123

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.260. Medical director

A medical director who is employed by or is a consultant to the nursing facility shall

(1) place a resident under the care of a physician;

(2) ensure that the use of an investigational drug is properly supervised by a member of the medical staff, that an informed consent form provided by the sponsoring company or agency is used, and that complete records on the drug, including protocol and side effects, are maintained; and

(3) supervise the infection control and employee health programs.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

1/10/2011

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.265. Physician services

(a) Physicians shall review, recap, and sign orders for nursing facility residents at least once every 60 days.

(b) Physicians shall visit nursing facility residents and make a notation in each resident's medical record of the resident's status every 30 days for the first 90 days, and after that, every 60 days for skilled care residents, and every 90 days for intermediate care residents. If the condition of a resident warrants more frequent visits, a physician shall visit a resident as often as necessary.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.270. Staff duties

(a) The nursing facility staff shall encourage and assist residents to achieve and maintain their highest level of self-care and independence. A registered nurse, in conjunction with an interdisciplinary team, shall, within 14 days of admission of a resident, ensure completion of the comprehensive resident assessment instrument approved by the department. The assessment shall be reviewed by the nurse and interdisciplinary team no less frequently than quarterly and the plan of care revised as necessary. A reassessment shall be completed, by the nurse and interdisciplinary team, after any major permanent change in condition of the resident, but no less frequently than annually.

(b) The nursing facility staff shall give residents the necessary care to prevent pressure ulcers, contractures, and deformities.

(c) The nursing facility staff shall implement procedures to prevent and reduce incontinence of residents. These procedures must include

(1) a written assessment by a registered nurse within two weeks after admission of an incontinent resident's ability to participate in a bowel or bladder training program;

(2) an individualized bowel or bladder training plan for each resident, as appropriate; and

(3) a monthly written summary of a resident's performance in the training program.

(d) The nursing facility staff shall observe the hydration status of residents, and shall record deviations from the normal status and report the deviations to the charge nurse.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.275. Nursing and medical services

(a) Except as otherwise specified in this section, a nursing facility must have a registered nurse on duty seven days a week on the day shift and five days a week on the evening shift. A licensed practical nurse must be on duty during all shifts when a registered nurse is not present. A nursing facility must have telephone access to at least one registered nurse at all times and must post the names and phone numbers of those registered nurses at each nurse's station.

(b) A nursing facility with more than 60 occupied beds must have two registered nurses on duty during the day shift and one registered nurse on duty during other shifts.

(c) A nursing facility that shares the same building as a hospital must have a registered nurse on duty in the nursing facility seven days a week on the day shift. On the evening and night shift, a licensed practical nurse may serve as charge nurse. However, an on-duty registered nurse from the hospital must be available to make rounds at the nursing facility and to be otherwise available as

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needed during the evening and night shifts when a licensed practical nurse is serving as charge nurse. A nursing facility with 14 or fewer occupied beds may use an on-duty registered nurse from the hospital to meet the night shift nursing requirement set out in this subsection.

(d) A nursing facility must have a contract for diagnostic services with a laboratory and x-ray provider approved by the department.

(e) A nursing facility must have a contract with a licensed dentist to provide consultation and necessary dental services to residents.

(f) In addition to the requirements of this section, a governing body of a facility must provide resources and personnel as necessary to meet resident needs under 7 AAC 12.630(b) (6).

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.280. Rehabilitation services

(a) A nursing facility must provide a program of rehabilitative nursing care that assists each resident to achieve and maintain an optimal level of self-care and independence, as an integral part of the nursing service.

(b) A nursing facility must provide physical, occupational, or speech rehabilitative services for a resident on a full-time, part-time, or consultant basis in accordance with the needs of the resident.

(c) A therapist shall evaluate a resident in accordance with a physician's order. The therapist shall then establish an appropriate treatment program in coordination with medical, nursing, and other rehabilitative personnel.

(d) The therapist shall report on the resident's progress to the attending physician within two weeks after initiation of rehabilitative services. After that report, the therapist shall reevaluate and note in the resident's medical record the resident's status and treatment plan every 30 days in the case of a resident receiving active rehabilitation and at least every 90 days for other residents.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.285. Activity program

A nursing facility must provide an activity program that is available to all residents and encourages each resident to attain and maintain function at the highest practicable level. The program must address the intellectual, social, spiritual, creative, cultural, and physical needs, capabilities, and interests of each resident. Also, the program must encourage self-determination and well-being of the residents. If a physician finds a resident as medically able to participate in an activity program, that finding and any conditions of

the resident's participation or contra-indications to that participation must be noted in the resident's record at the nursing facility. The activity program coordinator, with an interdisciplinary team, shall develop the resident's individual activity program. The activity program coordinator shall consult as necessary with an occupational or recreational therapist, unless the activity program coordinator meets the requirements of 42 C.F.R. 483.15(f)(2), revised as of October 1, 1991.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

<http://www.legis.state.ak.us/basis/folioproxy.asp?url=http://www.jnu01.legis.state.ak.us/cgi...> 1/10/2011

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.290. Drug regimen review

A pharmacist must review each resident's prescribed drug regimen every 30 days for skilled nursing care residents and every 90 days for intermediate care residents, make recommendations, note the possibilities or absence of problems with the prescribed drug regimen and report potential problems and concerns to the physician.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.20.010 AS 18.20.060

7 AAC 12.640. Administration

(a) Each facility, with the exception of birth centers, intermediate care facilities for the mentally retarded, home health agencies, hospice agencies that do not provide inpatient care on agency premises, and ambulatory surgical facilities must comply with the provisions of this section.

(b) A facility must have an administrator, who is directly responsible to the governing body. The administrator shall

(1) coordinate staff services;

(2) provide liaison between the governing body and facility staff;

(3) report to the governing body regularly and at least annually on facility operations;

(4) provide written notice to medical staff of initial and annual or, if approved by the governing body, biennial appointments;

(5) evaluate for implementation recommendations of the facility's committees and consultants;

(6) ensure that the facility complies with program standards; and

(7) delineate responsibility and accountability of each service component of the facility to the administration.

(c) Each facility must have an institutional budget plan which includes an annual operating budget and a capital expenditure plan for a projected three-year period. A committee comprised of representatives of the governing body and administrative staff shall prepare the plan.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 5/24/2007, Register 182

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.650. Employee health program

(a) Each facility must have an employee health program that

(1) requires each employee to be evaluated within the first two weeks of employment and, except as provided otherwise in this paragraph, annually after that, to detect active cases of pulmonary tuberculosis, as follows:

(A) an employee who has never had a positive tuberculin skin test result shall obtain a tuberculin Mantoux skin test; if the tuberculin skin test result is negative, the employee does not need to have further annual tuberculosis evaluation under this paragraph if the employee's duties never require him or her to be in a room where patients or residents might enter, and if the employee does not handle clinical specimens or other material from patients or from their rooms; an example of such an employee is an administrative person or research worker whose place of work is remote from patient or residential care areas and who does not come in contact with clinical specimens;

(B) an employee who has previously had a positive tuberculin skin test result, or an employee whose tuberculin skin test obtained under (A) of this paragraph has a positive result

(i) shall have a health evaluation by a health care provider to identify symptoms suggesting that tuberculosis disease is present; the health evaluation must also include evaluation for the presence of any of the following risk factors: evidence of inadequately treated past tuberculosis disease, history of close exposure to a case of communicable pulmonary tuberculosis within the previous two years, history of a negative tuberculin test within the previous two years, diabetes mellitus (severe or poorly controlled), diseases associated with severe immunologic deficiencies, immunosuppressive therapy, silicosis, gastrectomy, excessive alcohol intake, or human immunodeficiency virus infection; if symptoms suggesting tuberculosis disease are present, or if any of the risk factors is present, a chest x-ray shall be obtained as part of the health evaluation and the health care provider shall report the case to the section of epidemiology, division of public health; and

(ii) if the employee has previously received appropriate antituberculosis chemotherapy and has no symptoms suggesting that tuberculosis is present, the employee need not have further annual tuberculosis evaluation under this paragraph;

(2) requires evidence of immunization against rubella by

(A) a valid immunization certificate signed by a physician listing the date of rubella vaccination;

(B) a copy of a record from a clinic or health center showing the date of vaccination; or

(C) the result of a serologic test approved by the department showing the employee is immune; and

(3) requires evidence of immunization against hepatitis B by

(A) a valid immunization certificate signed by a physician listing the date of vaccination; or

(B) a copy of a record from a clinic or health center showing the date of vaccination.

(b) The requirements of this section do not apply to hospice agencies that do not provide inpatient care on agency premises. The requirements of (a)(2) of this section do not apply to home health agencies, nursing homes, or ambulatory surgical facilities, and, for employees of other facilities, may be waived if a physician signs a certificate that there are medical reasons that dictate that an employee should not be vaccinated against rubella.

History: Eff. 11/19/83, Register 88; am 7/17/87, Register 103; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

[7 AAC 12.660. Personnel](#)

- (a) A facility must plan and retain records of employee orientation, in-service training programs, and employee supervision. In addition, the facility must maintain for each employee a file that includes
- (1) a current job description;
 - (2) a copy of the employee's current license or certification, if a license or certification is required by statute for the employee's profession;
 - (3) a summary of the employee's education, training, and experience;
 - (4) evidence of the employee's compliance with the employee health requirements of 7 AAC [12.650](#); and
 - (5) evidence of compliance with the applicable requirements of [AS 47.05.300](#) - [47.05.390](#) and 7 AAC [10.900](#) - 7 AAC [10.990](#) (Barrier Crimes, Criminal History Checks, and Centralized Registry).
- (b) If required by [AS 08](#), patient care personnel must be currently licensed, certified, authorized, or registered in the state for the practice of their particular profession.
- (c) Physicians, licensed nurses, pharmacists, physical therapists, dietitians, and social workers must be involved in the orientation and in-service education program for patient care personnel.
- (d) The facility shall
- (1) document in personnel files that each employee has completed all required orientation, education, and training; and
 - (2) establish and implement personnel policies requiring an annual evaluation of each employee's performance.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 12/3/2006, Register 180; am 2/9/2007, Register 181; am 5/24/2007, Register 182

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

[7 AAC 12.670. Nursing service](#)

- (a) A licensed nurse shall write a patient care plan for each patient in consultation with other patient care personnel and the patient.
- (b) The patient care plan must reflect analysis of patient problems and needs, treatment goals, medication prescribed and, upon discharge, instructions given to the patient and the patient's family regarding medication management, including any risks, side effects, and benefits expected, and including any recommended activities and diet.
- (c) Each facility must have a registered nurse as the director for nursing services. The director shall perform the following duties:
- (1) assure that all nurses comply with the requirements of (a) of this section;
 - (2) provide a sufficient number of registered nurses to meet patient needs;
 - (3) write an annual evaluation on the performance of each nurse;
 - (4) maintain records on the number of nurses employed and the hours and weeks of employment;
 - (5) delegate to a registered nurse the responsibility to plan, assign, supervise, and evaluate the nursing care for each patient;
 - (6) select and promote nursing personnel based on their qualifications and terminate employees when necessary; and
 - (7) establish and implement a standard procedure for the safe administration of medications.
- (d) Only a registered nurse who has been appropriately trained may perform a blood transfusion. All other nursing services may be performed only under the direction of a

registered nurse. A licensed practical nurse may administer medications, or perform limited infusion therapy functions, if

- (1) the licensed practical nurse is authorized under [AS 08](#) to perform these services;
- (2) these services are authorized in the facility program standards; and
- (3) the program standards have been approved by the hospital administrator and the pharmacist.

(e) Licensed nursing personnel who meet the requirements under (d) of this section to administer medications, and who have been authorized in writing by the hospital administrator and the pharmacist, may perform the following services if a pharmacist is not available:

- (1) inventory and restocking of emergency drugs at least every 30 days; and
- (2) removal of a single dose of a prescribed drug for a patient or any drug packaged by a pharmacist from the licensed pharmacy or drug room.

(f) If licensed nursing personnel perform a service described in (e)(2) of this section, a pharmacy or drug room record must be kept and signed by the licensed nurse showing the name, strength and amount of the drug, the date and time taken, and the patient to whom the drug is administered.

(g) Except as provided in (i) of this section for a critical access hospital or 7 AAC [12.275](#) for a nursing facility, a facility that provides a nursing service must have a registered nurse on duty at all times.

(h) The nursing staff shall hold regular meetings to review and evaluate ways of improving nursing care. Minutes of the meetings must be made available to staff members.

(i) The department will waive the requirement of (g) of this section for a critical access hospital if the hospital establishes to the department's satisfaction that

- (1) to have a registered nurse on duty at all times is not financially feasible for the hospital;
- (2) the community served by the hospital was involved in the decision to discontinue having a registered nurse on duty at all times and is aware that the hospital's emergency department may close on occasion;
- (3) the hospital's emergency medical service plan submitted under 7 AAC [12.612\(c\)](#) (6) assures that a registered nurse will be available at the hospital's emergency room to receive patients delivered by local emergency services personnel; and
- (4) the hospital will have a registered nurse on duty whenever an inpatient is present in the facility.

(j) A frontier extended stay clinic is exempt from the requirements of this section.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 12/3/2006, Register 180

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

[7 AAC 12.680. Pharmaceutical service](#)

(a) A facility which dispenses drugs must employ a pharmacist on a regular or consultant basis. The pharmacist shall perform the following duties:

- (1) procure, label, and maintain a sufficient quantity of drugs to meet patient needs at all times;
- (2) inventory emergency drugs every 30 days and restock, as necessary;
- (3) dispose of drugs that have been discontinued or have expired;
- (4) dispose of scheduled drugs that have been discontinued or have expired which are listed in schedules I - V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 as amended, 21 U.S.C. 801 et seq.;

(5) assure that there is no more than one person on each shift who is performing the duties under 7 AAC [12.670\(e\)](#) , or is a physician, who has access to the pharmacy stock of drugs or controlled substances;

(6) assure that drugs, chemicals, and biologicals are properly labeled regarding their content and strength;

(7) if a consultant pharmacist, provide a written quarterly report to the administrator on the status of the pharmaceutical service; and

(8) document and evaluate medication errors to prevent reoccurrence and to ensure the accuracy and adequacy of the medication distribution system.

(b) When a pharmacist dispenses drugs by written prescription, the prescription must be an original or a carbon copy of the original and must be kept on file in the pharmacy. A pharmacist may dispense drugs based on a written order by a person authorized by law to prescribe drugs.

(c) A facility that dispenses drugs must have a pharmacy and therapeutics committee that is

(1) composed of

(A) a physician or the physician's representative;

(B) a pharmacist or the pharmacist representative;

(C) a registered nurse or the registered nurse's representative; and

(D) an administrator or the administrator's representative; and

(2) responsible for the

(A) development and maintenance of a formulary of drugs;

(B) development and implementation of procedures for safe and effective control, storage, dispensing, and administration of medications; those procedures must ensure that

(i) drugs and biologicals are stored in secure areas; and

(ii) drugs listed in schedules II, III, IV, and V under 21 U.S.C. 801 - 904 (Comprehensive Drug Abuse Prevention and Control Act of 1970) are kept locked within a secure area; and

(C) development and implementation of policies limiting the duration of drug therapy and for determining the stock of poison antidotes.

(d) A verbal order for a drug may be given only to a licensed nurse or pharmacist by a person lawfully authorized to prescribe medication, and must be recorded promptly in the patient's medical record, identifying the name of the person who prescribed the order, and the signature of the person receiving the order.

(e) A standing order for a drug must specify the circumstances for drug administration, dosage, route, duration, and frequency of administration. The order must be reviewed annually and, if necessary, renewed. When a standing order is implemented for a specific patient, it must be entered into the patient's record, dated, and signed by the person who prescribed the order within 24 hours.

(f) If the facility permits bedside storage of medications, written policies and procedures must be established for dispensing, storage, and maintenance of records for use of these medications.

(g) An investigational drug may be used only under supervision of a principal investigator who is a member of the medical staff. Basic information concerning the dosage, route of administration, strength, actions, uses, side effects, interactions and symptoms of toxicity of an investigational drug must be available at the nursing station where an investigational drug is being administered and in the pharmacy. The pharmacist shall be responsible for the proper labeling, storage, and distribution of such drugs in accordance with the written order of the investigator.

(h) A drug supplied by a facility may not be taken from the facility unless the medication has been properly labeled and prepared by the pharmacist in accordance with state and federal law for use outside of the facility.

(i) A hospice agency that does not provide inpatient care on agency premises, a free-standing birth center, and a frontier extended stay clinic are exempt from the requirements of this section.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 12/3/2006, Register 180; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

Title 7. Health and Social Services

Part 1. Administration

Chapter 12. Facilities and Local Units

Article 12. General Provisions

Article 12
General Provisions

Section

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7 AAC 12.600. Scope

- (a) Unless indicated otherwise in this chapter, a facility required to be licensed under AS 47.32 and this chapter must comply with the provisions of 7 AAC 10.9500 - 7 AAC 10.9535 (General Variance Procedures), 7 AAC 10.9600 - 7 AAC 10.9620 (Inspections and Investigations), 7 AAC 12.600, 7 AAC 12.605, 7 AAC 12.610, 7 AAC 12.620, and 7 AAC 12.920, and with the applicable provisions of this section for each type of facility. A critical access hospital must also comply with 7 AAC 12.612.
- (b) A general acute care hospital, rural primary care hospital, long-term acute care hospital, critical access hospital, specialized hospital, and nursing facility must comply with 7 AAC 12.630 - 7 AAC 12.660, 7 AAC 12.730 - 7 AAC 12.770, 7 AAC 12.860, and 7 AAC 12.890 - 7 AAC 12.910.
- (c) An intermediate care facility for the mentally retarded must comply with 7 AAC 12.650, 7 AAC 12.760, 7 AAC 12.860, and 7 AAC 12.900 - 7 AAC 12.910.
- (d) An ambulatory surgical facility must comply with 7 AAC 12.630, 7 AAC 12.650 - 7 AAC 12.660, 7 AAC 12.730 - 7 AAC 12.770, 7 AAC 12.860, and 7 AAC 12.890 - 7 AAC 12.910.
- (e) A free-standing birth center must comply with 7 AAC 12.650 - 7 AAC 12.660, 7 AAC 12.730 - 7 AAC 12.760, 7 AAC 12.860, 7 AAC 12.890, and 7 AAC 12.910.
- (f) A home health agency must comply with 7 AAC 12.500 - 7 AAC 12.590.
- (g) A facility licensed under this chapter, with the exception of a home health agency, that provides a service described in 7 AAC 12.670 - 7 AAC 12.720, 7 AAC 12.780, 7 AAC 12.790 - 7 AAC 12.850, 7 AAC 12.870, or 7 AAC 12.880 must comply with the section of this chapter governing the provision of that service, unless otherwise indicated.
- (h) A frontier extended stay clinic must comply with 7 AAC 12.450 - 7 AAC 12.490, and the applicable provisions of 7 AAC 12.630 - 7 AAC 12.660, 7 AAC 12.730, 7 AAC 12.750, 7 AAC 12.760, 7 AAC 12.770, 7 AAC 12.860, 7 AAC 12.890, and 7 AAC 12.910.
- (i) A hospice agency must also comply with the applicable provisions of 7 AAC 12.310 - 7 AAC 12.349, 7 AAC 12.690, 7 AAC 12.700, and 7 AAC 12.910. If

the hospice agency provides inpatient care on agency premises, the hospice agency is also subject to the requirements for a nursing home set out in (b) of this section, except for 7 AAC 12.770.

History: Eff. 11/19/83, Register 88; am 9/6/96, Register 139; am 9/1/2000, Register 155; am 6/23/2006, Register 178; am 12/3/2006, Register 180; am 2/9/2007, Register 181; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: AS 18.05.040

AS 18.20.075

AS 18.20.080

AS 18.20.085

AS 47.05.300

AS 47.05.310

AS 47.05.340

AS 47.32.010

AS 47.32.020

AS 47.32.030

AS 47.32.040

AS 47.32.050

AS 47.32.060

AS 47.32.070

AS 47.32.080

AS 47.32.120

AS 47.32.130

AS 47.32.140

7 AAC 12.605. Criminal history check requirements

An entity listed in [AS 47.32.010](#) (b) that is required to be licensed under [AS 47.32](#) and this chapter must also comply with the applicable requirements of [AS 47.05.300](#) - [47.05.390](#) and [7 AAC 10.900](#) - [7 AAC 10.990](#)(Barrier Crimes, Criminal History Checks, and Centralized Registry).

History: Eff. 2/9/2007, Register 181

Authority: [AS 47.05.300](#)

[AS 47.05.310](#)

[AS 47.05.320](#)

[AS 47.05.330](#)

[AS 47.05.340](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.610. Licensure

(a) Unless exempt under [7 AAC 12.611](#), before an individual or entity may operate a facility subject to [AS 47.32](#) and this chapter, the individual or entity must obtain a license from the department under [AS 47.32](#) and this section. The department may bring an action to enjoin the operation of a facility that has failed to obtain a license as required under [AS 47.32](#) and this chapter.

(b) An application for an initial license must be submitted on a form supplied by the department. The applicant must submit a complete application, providing all applicable documents and information required under this chapter, including the names and addresses of all owners, officers, directors, partners, members, and principals of the business organization that owns the entity for which licensure is sought. Within 30 days after receipt of an application, the department will review the application for completeness. If the application is incomplete, the department will return it to the applicant for additional information. If the application is complete, the department will conduct an onsite review and inspection of the facility. If, after the onsite review and inspection, and review of the application, the department determines that the applicant meets the applicable requirements of [AS 47.32](#) and this

chapter, the department will issue a provisional license in accordance with [AS 47.32.050](#) (a). If the department determines that the applicant does not meet the applicable requirements of [AS 47.32](#) and this chapter, the department will deny the application and issue the notice as required under [AS 47.32.070](#).

(c) If the department determines that the applicant is temporarily unable to comply with one or more applicable requirements and is taking appropriate steps to achieve compliance, the department will extend the application review period under (b) of this section for an additional 90 days.

(d) An application for renewal of a biennial license must be submitted, and will be reviewed, in accordance with [AS 47.32.060](#). In addition to any noncompliance with the applicable provisions of [AS 47.32](#) and this chapter, grounds for nonrenewal include

(1) submission of false or fraudulent information to the department;

(2) failure or refusal to provide required information to the department;

(3) noncompliance that threatens the health, welfare, or safety of patients;

(4) the facility or individual, or an employee of the facility or individual,

(A) permitting, aiding, or abetting the commission of a criminal act under [AS 11](#), [AS 21](#), [AS 28](#), or [AS 47](#) related to facility operations covered by the license;

(B) engaging in conduct or practices detrimental to the health, welfare, or safety of patients, clients, or employees; or

(C) participating in, offering to participate, or implying an offer to participate in rebate, kickback, or fee-splitting arrangements or substantially similar arrangements; and

(5) an insufficient number of staff at the facility with the training, experience, or judgment to provide adequate care.

History: Eff. 11/19/83, Register 88; am 6/28/84, Register 90; am 9/1/2000, Register 155; am 12/3/2006, Register 180; am 9/30/2007, Register 183

Authority: [AS 18.05.040](#)

[AS 18.20.080](#)

AS 47.05.310

AS 47.32.010

AS 47.32.020

AS 47.32.030

AS 47.32.040

AS 47.32.050

AS 47.32.060

AS 47.32.130

AS 47.32.140

7 AAC 12.611. Exemptions from licensure

(a) Unless operating as a frontier extended stay clinic under 7 AAC 12.450 - 7 AAC 12.490, a rural health clinic, including a community health center and a federally qualified health center, is exempt from the licensure requirements of AS 47.32 and this chapter.

(b) A facility owned and operated by the United States Indian Health Service, or a facility owned and operated by a tribal organization, as defined in 25 U.S.C. 450b(l), under a funding agreement under 25 U.S.C. 458aaa-4 (Indian Self-Determination and Education Assistance Act and Tribal Self-Governance Amendments of 2000) is exempt from the requirement to obtain a license under AS 47.32 and this chapter. However, a facility described in this subsection must meet the applicable licensure requirements set out in AS 47.32 and this chapter.

History: Eff. 12/3/2006, Register 180

Authority: AS 47.32.010

AS 47.32.020

AS 47.32.030

7 AAC 12.612. Licensure of critical access hospitals

(a) In addition to 7 AAC [12.610](#), the provisions of this section apply to the licensure of critical access hospitals.

(b) A hospital must hold a current license, or must have held a license at any time on or after November 29, 1999, as either a general acute care hospital or a rural primary care hospital at the time of its initial application for licensure as a critical access hospital.

(c) An applicant for licensure as a critical access hospital must submit the following as part of its initial application:

(1) a description of the area to be served by the applicant;

(2) a community needs assessment analyzing the availability and utilization of health care services in the applicant's service area, including acute care, primary care, and emergency services, and a discussion of how conversion to a critical access hospital will better serve community needs;

(3) the applicant's plan for the delivery of health services within the applicant's service area;

(4) a financial feasibility study that analyzes the financial impact on the applicant of conversion to a critical access hospital, taking into account relevant operational factors, including changes in utilization, services, staffing, and Medicare reimbursement;

(5) a community education plan that describes the steps that have been or will be taken to educate and involve the residents of the service area in the decision to convert to a critical access hospital;

(6) an emergency services plan that coordinates the provision of emergency medical services in the applicant's service area;

(7) a description of the volume capacity of the applicant and other related health care resources within the applicant's service area;

(8) the distance and travel time to other health care resources within the applicant's service area;

(9) identification of barriers to accessing health care in the applicant's service area.

(d) A critical access hospital must reapply for licensure under this section and provide updates, as applicable, to the information required under (c) of this section, if the hospital proposes to change the hospital's

(1) onsite or on-call medical staff to provide only mid-level practitioners; or

(2) hours of operation to less than 24 hours per day when no inpatients are in the facility.

(e) In addition to the requirement of reapplication for licensure under (d) of this section, if a critical access hospital proposes to change its hours of operation to less than 24 hours per day, each day of the year, the hospital must

(1) revise the emergency medical services plan submitted under (c)(6) of this section to ensure that, at a minimum, a registered nurse will be available at the hospital's emergency room to receive patients delivered by emergency medical services personnel; and

(2) obtain a waiver under 7 AAC [12.670\(i\)](#) from the requirement of 7 AAC [12.670\(g\)](#) that the hospital have a registered nurse on duty at all times.

History: Eff. 9/1/2000, Register 155

Authority: [AS 18.05.040](#)

[AS 18.20.010](#)

[AS 18.20.020](#)

[AS 18.20.030](#)

[AS 18.20.040](#)

[AS 18.20.050](#)

[AS 18.20.060](#)

[AS 18.20.070](#)

[AS 18.20.080](#)

[AS 18.20.120](#)

7 AAC 12.620. Enforcement actions; informal reconsideration of findings

(a) The department will inspect each facility and conduct investigations as provided in AS 47.32, 7 AAC 10.9600 - 7 AAC 10.9620, and this chapter.

(b) Except for enforcement actions under AS 47.32.130 , the department will, before delivering a report under AS 47.32.120 and if requested by the facility, meet informally with representatives of the facility to discuss the department's findings and any proposed enforcement action. An informal meeting under this subsection does not affect any rights under AS 47.32.

History: Eff. 11/19/83, Register 88; am 12/3/2006, Register 180

Authority: AS 18.05.040

AS 47.32.010

AS 47.32.030

AS 47.32.090

AS 47.32.110

AS 47.32.120

AS 47.32.130

AS 47.32.140

7 AAC 12.630. Governing body

(a) Each facility, with the exception of birth centers, hospice agencies that do not provide inpatient care on agency premises, and intermediate care facilities for the mentally retarded, must have a governing body that assumes responsibility for implementing and monitoring policies that govern the facility's operation and for ensuring that those policies are administered in a manner that provides quality health care in a safe environment. The facility must provide to the department the name, title, and mailing address for

(1) each owner of the facility;

(2) each person who is principally responsible for directing facility operations; and

(3) the person responsible for medical direction.

(b) The governing body shall

(1) adopt, and revise when necessary, written bylaws providing for

(A) election or appointment of officers and committees;

(B) appointment of a local advisory board if the governing body is outside the state;
and

(C) frequency of meetings;

(2) appoint an administrator, in accordance with written criteria;

(3) maintain written records on the appointment of members to the medical staff, and the granting of privileges based on the recommendations of the medical staff;

(4) require medical staff to sign an agreement to follow the bylaws of the medical staff;

(5) establish appeal procedures for applicants for and members of the medical staff;

(6) provide resources and personnel as necessary to meet patient needs; and

(7) provide adequate equipment and supplies for the facility.

(c) In addition to meeting the responsibilities of a governing body set out at (b) of this section, the governing body of a critical access hospital shall

(1) make agreements with one or more appropriate entities identified in 42 C.F.R. 485.603(c), as amended through July 1, 1999 and adopted by reference, for credentialing of medical staff and for review of the quality and effectiveness of the diagnosis and treatment furnished by medical staff at the hospital; and

(2) if the hospital provides inpatient care through mid-level practitioners under the offsite supervision of a physician, participate in a rural health network as described in 42 C.F.R. 485.603(a), as amended through July 1, 1999 and adopted by reference, and enter agreements with other members of the network addressing the subjects described in 42 C.F.R. 485.603(b), as amended through July 1, 1999 and adopted by reference.

History: Eff. 11/19/83, Register 88; am 9/1/2000, Register 155; am 12/3/2006, Register 180; am 5/24/2007, Register 182

Authority: AS 18.05.040

AS 47.05.300

AS 47.05.310

AS 47.32.010

AS 47.32.030

7 AAC 12.640. Administration

(a) Each facility, with the exception of birth centers, intermediate care facilities for the mentally retarded, home health agencies, hospice agencies that do not provide inpatient care on agency premises, and ambulatory surgical facilities must comply with the provisions of this section.

(b) A facility must have an administrator, who is directly responsible to the governing body. The administrator shall

(1) coordinate staff services;

(2) provide liaison between the governing body and facility staff;

(3) report to the governing body regularly and at least annually on facility operations;

(4) provide written notice to medical staff of initial and annual or, if approved by the governing body, biennial appointments;

(5) evaluate for implementation recommendations of the facility's committees and consultants;

(6) ensure that the facility complies with program standards; and

(7) delineate responsibility and accountability of each service component of the facility to the administration.

(c) Each facility must have an institutional budget plan which includes an annual operating budget and a capital expenditure plan for a projected three-year period. A

committee comprised of representatives of the governing body and administrative staff shall prepare the plan.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 5/24/2007, Register 182

Authority: AS 18.05.040

AS 47.32.010

AS 47.32.030

7 AAC 12.650. Employee health program

(a) Each facility must have an employee health program that

(1) requires each employee to be evaluated within the first two weeks of employment and, except as provided otherwise in this paragraph, annually after that, to detect active cases of pulmonary tuberculosis, as follows:

(A) an employee who has never had a positive tuberculin skin test result shall obtain a tuberculin Mantoux skin test; if the tuberculin skin test result is negative, the employee does not need to have further annual tuberculosis evaluation under this paragraph if the employee's duties never require him or her to be in a room where patients or residents might enter, and if the employee does not handle clinical specimens or other material from patients or from their rooms; an example of such an employee is an administrative person or research worker whose place of work is remote from patient or residential care areas and who does not come in contact with clinical specimens;

(B) an employee who has previously had a positive tuberculin skin test result, or an employee whose tuberculin skin test obtained under (A) of this paragraph has a positive result

(i) shall have a health evaluation by a health care provider to identify symptoms suggesting that tuberculosis disease is present; the health evaluation must also include evaluation for the presence of any of the following risk factors: evidence of inadequately treated past tuberculosis disease, history of close exposure to a case of communicable pulmonary tuberculosis within the previous two years, history of a negative tuberculin test within the previous two years, diabetes mellitus (severe or poorly controlled), diseases associated with severe immunologic deficiencies, immunosuppressive therapy, silicosis, gastrectomy, excessive alcohol intake, or

human immunodeficiency virus infection; if symptoms suggesting tuberculosis disease are present, or if any of the risk factors is present, a chest x-ray shall be obtained as part of the health evaluation and the health care provider shall report the case to the section of epidemiology, division of public health; and

(ii) if the employee has previously received appropriate antituberculosis chemotherapy and has no symptoms suggesting that tuberculosis is present, the employee need not have further annual tuberculosis evaluation under this paragraph;

(2) requires evidence of immunization against rubella by

(A) a valid immunization certificate signed by a physician listing the date of rubella vaccination;

(B) a copy of a record from a clinic or health center showing the date of vaccination;
or

(C) the result of a serologic test approved by the department showing the employee is immune; and

(3) requires evidence of immunization against hepatitis B by

(A) a valid immunization certificate signed by a physician listing the date of vaccination; or

(B) a copy of a record from a clinic or health center showing the date of vaccination.

(b) The requirements of this section do not apply to hospice agencies that do not provide inpatient care on agency premises. The requirements of (a)(2) of this section do not apply to home health agencies, nursing homes, or ambulatory surgical facilities, and, for employees of other facilities, may be waived if a physician signs a certificate that there are medical reasons that dictate that an employee should not be vaccinated against rubella.

History: Eff. 11/19/83, Register 88; am 7/17/87, Register 103; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: AS 18.05.040

AS 47.32.010

AS 47.32.030

7 AAC 12.660. Personnel

(a) A facility must plan and retain records of employee orientation, in-service training programs, and employee supervision. In addition, the facility must maintain for each employee a file that includes

(1) a current job description;

(2) a copy of the employee's current license or certification, if a license or certification is required by statute for the employee's profession;

(3) a summary of the employee's education, training, and experience;

(4) evidence of the employee's compliance with the employee health requirements of 7 AAC 12.650; and

(5) evidence of compliance with the applicable requirements of AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990 (Barrier Crimes, Criminal History Checks, and Centralized Registry).

(b) If required by AS 08, patient care personnel must be currently licensed, certified, authorized, or registered in the state for the practice of their particular profession.

(c) Physicians, licensed nurses, pharmacists, physical therapists, dietitians, and social workers must be involved in the orientation and in-service education program for patient care personnel.

(d) The facility shall

(1) document in personnel files that each employee has completed all required orientation, education, and training; and

(2) establish and implement personnel policies requiring an annual evaluation of each employee's performance.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 12/3/2006, Register 180; am 2/9/2007, Register 181; am 5/24/2007, Register 182

Authority: AS 18.05.040

AS 47.32.010

AS 47.32.030

7 AAC 12.670. Nursing service

(a) A licensed nurse shall write a patient care plan for each patient in consultation with other patient care personnel and the patient.

(b) The patient care plan must reflect analysis of patient problems and needs, treatment goals, medication prescribed and, upon discharge, instructions given to the patient and the patient's family regarding medication management, including any risks, side effects, and benefits expected, and including any recommended activities and diet.

(c) Each facility must have a registered nurse as the director for nursing services. The director shall perform the following duties:

- (1) assure that all nurses comply with the requirements of (a) of this section;
- (2) provide a sufficient number of registered nurses to meet patient needs;
- (3) write an annual evaluation on the performance of each nurse;
- (4) maintain records on the number of nurses employed and the hours and weeks of employment;
- (5) delegate to a registered nurse the responsibility to plan, assign, supervise, and evaluate the nursing care for each patient;
- (6) select and promote nursing personnel based on their qualifications and terminate employees when necessary; and
- (7) establish and implement a standard procedure for the safe administration of medications.

(d) Only a registered nurse who has been appropriately trained may perform a blood transfusion. All other nursing services may be performed only under the direction of a registered nurse. A licensed practical nurse may administer medications, or perform limited infusion therapy functions, if

- (1) the licensed practical nurse is authorized under AS 08 to perform these services;
- (2) these services are authorized in the facility program standards; and

(3) the program standards have been approved by the hospital administrator and the pharmacist.

(e) Licensed nursing personnel who meet the requirements under (d) of this section to administer medications, and who have been authorized in writing by the hospital administrator and the pharmacist, may perform the following services if a pharmacist is not available:

(1) inventory and restocking of emergency drugs at least every 30 days; and

(2) removal of a single dose of a prescribed drug for a patient or any drug packaged by a pharmacist from the licensed pharmacy or drug room.

(f) If licensed nursing personnel perform a service described in (e)(2) of this section, a pharmacy or drug room record must be kept and signed by the licensed nurse showing the name, strength and amount of the drug, the date and time taken, and the patient to whom the drug is administered.

(g) Except as provided in (i) of this section for a critical access hospital or 7 AAC [12.275](#) for a nursing facility, a facility that provides a nursing service must have a registered nurse on duty at all times.

(h) The nursing staff shall hold regular meetings to review and evaluate ways of improving nursing care. Minutes of the meetings must be made available to staff members.

(i) The department will waive the requirement of (g) of this section for a critical access hospital if the hospital establishes to the department's satisfaction that

(1) to have a registered nurse on duty at all times is not financially feasible for the hospital;

(2) the community served by the hospital was involved in the decision to discontinue having a registered nurse on duty at all times and is aware that the hospital's emergency department may close on occasion;

(3) the hospital's emergency medical service plan submitted under 7 AAC [12.612\(c\)](#) (6) assures that a registered nurse will be available at the hospital's emergency room to receive patients delivered by local emergency services personnel; and

(4) the hospital will have a registered nurse on duty whenever an inpatient is present in the facility.

(j) A frontier extended stay clinic is exempt from the requirements of this section.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 12/3/2006, Register 180

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.680. Pharmaceutical service

(a) A facility which dispenses drugs must employ a pharmacist on a regular or consultant basis. The pharmacist shall perform the following duties:

(1) procure, label, and maintain a sufficient quantity of drugs to meet patient needs at all times;

(2) inventory emergency drugs every 30 days and restock, as necessary;

(3) dispose of drugs that have been discontinued or have expired;

(4) dispose of scheduled drugs that have been discontinued or have expired which are listed in schedules I - V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 as amended, 21 U.S.C. 801 et seq.;

(5) assure that there is no more than one person on each shift who is performing the duties under 7 AAC [12.670\(e\)](#), or is a physician, who has access to the pharmacy stock of drugs or controlled substances;

(6) assure that drugs, chemicals, and biologicals are properly labeled regarding their content and strength;

(7) if a consultant pharmacist, provide a written quarterly report to the administrator on the status of the pharmaceutical service; and

(8) document and evaluate medication errors to prevent reoccurrence and to ensure the accuracy and adequacy of the medication distribution system.

(b) When a pharmacist dispenses drugs by written prescription, the prescription must be an original or a carbon copy of the original and must be kept on file in the pharmacy. A pharmacist may dispense drugs based on a written order by a person authorized by law to prescribe drugs.

(c) A facility that dispenses drugs must have a pharmacy and therapeutics committee that is

(1) composed of

(A) a physician or the physician's representative;

(B) a pharmacist or the pharmacist representative;

(C) a registered nurse or the registered nurse's representative; and

(D) an administrator or the administrator's representative; and

(2) responsible for the

(A) development and maintenance of a formulary of drugs;

(B) development and implementation of procedures for safe and effective control, storage, dispensing, and administration of medications; those procedures must ensure that

(i) drugs and biologicals are stored in secure areas; and

(ii) drugs listed in schedules II, III, IV, and V under 21 U.S.C. 801 - 904 (Comprehensive Drug Abuse Prevention and Control Act of 1970) are kept locked within a secure area; and

(C) development and implementation of policies limiting the duration of drug therapy and for determining the stock of poison antidotes.

(d) A verbal order for a drug may be given only to a licensed nurse or pharmacist by a person lawfully authorized to prescribe medication, and must be recorded promptly in the patient's medical record, identifying the name of the person who prescribed the order, and the signature of the person receiving the order.

(e) A standing order for a drug must specify the circumstances for drug administration, dosage, route, duration, and frequency of administration. The order must be reviewed annually and, if necessary, renewed. When a standing order is

implemented for a specific patient, it must be entered into the patient's record, dated, and signed by the person who prescribed the order within 24 hours.

(f) If the facility permits bedside storage of medications, written policies and procedures must be established for dispensing, storage, and maintenance of records for use of these medications.

(g) An investigational drug may be used only under supervision of a principal investigator who is a member of the medical staff. Basic information concerning the dosage, route of administration, strength, actions, uses, side effects, interactions and symptoms of toxicity of an investigational drug must be available at the nursing station where an investigational drug is being administered and in the pharmacy. The pharmacist shall be responsible for the proper labeling, storage, and distribution of such drugs in accordance with the written order of the investigator.

(h) A drug supplied by a facility may not be taken from the facility unless the medication has been properly labeled and prepared by the pharmacist in accordance with state and federal law for use outside of the facility.

(i) A hospice agency that does not provide inpatient care on agency premises, a free-standing birth center, and a frontier extended stay clinic are exempt from the requirements of this section.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 12/3/2006, Register 180; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.690. Physical therapy service

(a) A facility that provides physical therapy services must retain, as an employee or under contract as a consultant of the facility, a physical therapist licensed under AS 08.84. If treatment is to be rendered by a physical therapy assistant, the physical therapy assistant must be licensed under [AS 08.84](#), and the treatment must be planned, delegated, and supervised by the physical therapist.

(b) A physical therapist may evaluate a patient and establish a treatment program only upon written or verbal instructions from the treating physician. A treatment program and any modification to it must be approved by the referring physician. A physical therapist may accept a verbal order of a physician.

(c) A physical therapist shall perform the following duties or, if one or more of these duties is delegated to a physical therapy assistant, the physical therapist shall ensure that the duties are properly performed:

(1) enter each treatment into the patient's medical record;

(2) prepare clinical progress notes;

(3) prepare summaries of care.

History: Eff. 11/19/83, Register 88; am 5/24/2007, Register 182

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.700. Social work service

(a) A facility that provides social work services must retain a social worker licensed under [AS 08.95](#) as an employee or consultant of the facility. The social worker shall

(1) regularly assess the social service needs for each patient, resident, or client, implementing the plan of care to meet those needs, and reevaluating those needs as appropriate;

(2) link each patient, resident, or client and that individual's family with applicable community resources as necessary to assist in meeting ongoing social, emotional, and economic needs;

(3) assist the physician, any interdisciplinary team, and other staff in understanding the social and emotional factors related to the health of each patient, resident, or client;

(4) prepare clinical and progress notes;

(5) participate in in-service training; and

(6) plan, supervise, and delegate any services furnished by a social services specialist as provided in (c) of this section.

(b) A facility that provides social work services must identify and provide interventions in response to the medically-related mental, behavioral, psychosocial, and advocacy needs of a patient. Social work services must assist staff, patients, and patients' families to understand and cope with emotional and social problems associated with health care.

(c) A social services specialist must have a baccalaureate degree in social work or in a human service field, and at least one year of social work experience in a health care setting. A social services specialist shall act as an assistant to the social worker and shall

(1) perform services delegated by the social worker, in accordance with the plan of care;

(2) assist in preparing clinical progress notes;

(3) participate in the interdisciplinary team meetings; and

(4) participate in in-service training.

(d) In this section, "human service field" means sociology, special education, rehabilitation counseling, psychology, or another field related to social work.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/24/2007, Register 182

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.710. Occupational therapy service

(a) A facility which provides occupational therapy services must retain an occupational therapist as an employee or consultant of the facility.

(b) Repealed 5/28/92.

(c) An occupational therapist shall directly supervise assistants.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122

Authority: AS 18.05.040

AS 18.20.010

AS 18.20.060

7 AAC 12.720. Dietetic service

(a) A facility that provides dietetic services, with the exception of frontier extended stay clinics, must comply with the provisions of this section.

(b) Except as provided in (p) and (q) of this section, a facility must employ

(1) a full-time dietitian who is registered by the American Dietetic Association; or

(2) a full-time dietetic service supervisor to supervise the dietetic service and a registered dietitian on a consulting basis.

(c) A registered dietitian must be available not less than once every three months to provide advice to the administrator and medical staff, and guidance to the supervisor and staff of the dietetic service, and shall participate in the development or revision of dietetic policies and procedures.

(d) The dietetic service must provide food of the quality and quantity to meet the patient's needs in accordance with physician's orders and, to the extent medically possible, to meet the National Research Council's *Recommended Dietary Allowances*, 10th edition (1989), adopted by reference. If food is provided by an outside food service establishment, the facility shall ensure that the requirements of this subsection are met.

(e) A facility that provides dietetic services must comply with 18 AAC 31. The facility shall retain written reports of the inspections performed under 18 AAC 31.900 on file, with notation of corrective actions in response to citations, if any.

(f) A facility must maintain adequate space, equipment, and staple food supplies to provide food service to patients in emergencies.

(g) If a facility provides dietetic services, it must maintain a current profile card for each patient indicating prescribed diet, likes and dislikes, and other pertinent information concerning the patient's dietary needs.

(h) The facility must maintain lavatories for handwashing, with hot and cold running water, soap, and disposable towels, conveniently located in the service area used by persons who handle food.

(i) A current manual for therapeutic diets, approved by the dietitian, must be available in the dietetic service area.

(j) A copy of the menus, with menu substitutions, must be retained for at least 60 days.

(k) Records of food purchased, showing dates of purchases, quantity, and itemized cost, must be retained on file for at least one year.

(l) Standardized recipes must be maintained and used exclusively in food preparation.

(m) Current work schedules by job titles and weekly duty schedules for dietetic service personnel must be posted in the dietetic service area and retained for at least three months.

(n) Routine cleaning schedules must be posted and records of cleaning must be maintained on file for at least three months.

(o) In this section, a "dietetic service supervisor" means a person who

(1) is a graduate of a dietetic technician or dietetic manager training program, corresponding or classroom, approved by the American Dietetic Association;

(2) is a graduate of a course approved by the department that provided 90 or more hours of classroom instruction in food service supervision, and who has a minimum of two years of experience as a supervisor in a health care institution with consultation from a dietitian;

(3) has training and experience in food service supervision and management in a military service equivalent in content to the programs in (1) or (2) of this subsection;

(4) has completed all nutrition and related coursework necessary to take the registration examination required to become a registered dietitian by the American Dietetic Association;

(5) is certified by the Certifying Board for Dietary Managers of the Dietary Managers Association;

(6) has completed a dietary manager course curriculum approved by the American Dietary Manager Association, is registered by the American Dietetic Association, and is qualified to take the examination required to become certified by the certifying board for dietary managers of the Dietary Managers Association; or

(7) has at least three years of experience in institutional dietary management, 200 or more documented contact hours with a dietitian registered by the American Dietetic Association, and 30 or more continuing education credits that

(A) have been approved by the American Dietetic Association or Dietary Managers Association; and

(B) directly relate to food service management and clinical nutrition.

(p) A rural primary care hospital or a critical access hospital must have a dietitian registered by the American Dietetic Association or a dietetic service supervisor to supervise and monitor the dietary services to ensure the facility meets patients' nutritional needs and the requirements of this section. The services of a registered dietitian or a dietetic services supervisor may be provided on a part-time, offsite basis.

(q) A nursing home that is licensed separately under this chapter, but that is part of a licensed critical access hospital under 7 AAC 12.104, must employ a qualified dietitian either full time, part time, or on a consultant basis to plan, manage, and implement dietary service activities to assure that the residents receive adequate nutrition and that the dietary department of the nursing home is functioning properly. If a qualified dietitian is not employed full time, the facility is subject to the following requirements:

(1) the facility must designate a person to serve as the

(A) dietetic service supervisor; or

(B) manager of food service; a manager of food service is exempt from the requirements of (o) of this section;

(2) the facility shall ensure that the dietitian

(A) makes frequently scheduled onsite consultation visits to the facility;

(B) functions collaboratively with the dietetic service supervisor or manager of food service in meeting the nutritional needs of the residents;

(C) provides supervision for dietary department functions;

(D) develops and implements continuing education programs for dietary services and nursing personnel; and

(E) participates in interdisciplinary care planning.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 12/17/2005, Register 176; am 12/3/2006, Register 180

Authority: [AS 47.32.010](#)

[AS 47.32.030](#)

Editor's note: A copy of *Recommended Dietary Allowances*, adopted by reference in 7 AAC12.720(d), may be obtained from the National Academies Press at 500 Fifth Street N.W., Lockbox 285, Washington, D.C., 20055; telephone: (888) 624-8373.

Information on currently registered dietitians; coursework, qualified training programs, and examination requirements to become a registered dietitian; or approved continuing education courses may be obtained from the American Dietetic Association, 120 South Riverside Plaza, Suite 2000, Chicago, IL 60606-6995; telephone: (800) 877-1600.

Information on currently certified dietary managers, approved course curriculum, or continuing education courses for certified dietary managers may be obtained from the Dietary Managers Association, 406 Surrey Woods Drive, St. Charles, IL 60174; telephone: (800) 323-1908.

7 AAC 12.730. Central service

(a) If a facility processes sterilized instruments and supplies, it must meet the requirements in this section. If a facility receives sterilized instruments and supplies from another entity through contract or agreement, the facility must ensure the contractor meets the requirements in this section.

(b) A facility must maintain a separate area for processing, decontamination, if necessary, and storage of sterile supplies and materials.

(c) A facility must develop and implement written policies and procedures for the cleaning, antimicrobial processing, and storage of supplies and equipment to prevent the transmission of infection through their use.

(d) Traffic in an area designated for processing, decontamination, and storage of supplies must be restricted to properly attired authorized personnel. Birth centers, frontier extended stay clinics, and nursing homes are not required to comply with this subsection.

(e) Shipping cartons may not be stored with sterile products.

(f) A facility must retain records of bacteriological efficiency monitoring of autoclaves at recommended frequency for three years.

(g) Instructions for the operation of autoclaves must be posted near the equipment.

(h) Each facility must maintain a retrieval system for supplies whose sterility is questionable.

(i) A hospice agency that does not provide inpatient care on agency premises is exempt from the requirements of this section.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 12/3/2006, Register 180; am 5/24/2007, Register 182

Authority: AS 18.05.040

AS 47.32.010

AS 47.32.030

7 AAC 12.740. Laundry service

(a) Each facility, with the exception of home health agencies, frontier extended stay clinics, and intermediate care facilities for the mentally retarded, must provide a laundry service.

(b) A facility must develop and implement written procedures for handling, processing, storage, and transportation of linen in a manner that will prevent the spread of infection and will assure the maintenance of clean linen.

(c) If a facility operates its own laundry, it must be

(1) located so that steam, odors, lint, and objectionable noises do not reach patient or personnel areas;

(2) well-lighted, ventilated, and adequate in size for the needs of the facility;

(3) maintained in a sanitary manner and in good repair;

(4) separate from any storage area; and

(5) organized so that clean and soiled functions are physically separated.

(d) A facility must have laundry equipment that provides hot water at a temperature of 160 degrees Fahrenheit unless the facility uses an alternative disinfectant measure, including ozonized water, bleach, or a bleach byproduct, at a lower temperature recommended by the product manufacturer. If the facility uses an alternative disinfectant measure, the facility must develop a written policy and procedure for use of the product and must maintain documentation of the manufacturer's minimum recommended water temperature.

(e) Hand-washing and toilet facilities for laundry personnel must be provided at a location convenient to the laundry.

(f) Separate covered carts must be used for transporting soiled and clean linen. The carts must be clearly labeled and equipped with washable covers that are laundered or suitably cleaned daily.

(g) If laundry service is provided by an outside laundry service establishment, the facility must choose an establishment that meets the requirements of this section.

History: Eff. 11/19/83, Register 88; am 12/3/2006, Register 180; am 9/30/2007, Register 183

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.750. Housekeeping service

(a) Each facility, with the exception of home health agencies and intermediate care facilities for the mentally retarded, must provide a housekeeping service.

(b) A facility must have routine cleaning procedures for furniture, floors, walls, ceilings, supply and exhaust grills, and lighting fixtures.

(c) A facility must have written procedures for cleaning all areas of the facility, including cleaning of a patient unit following discharge of a patient.

(d) Housekeeping personnel must wear clean cap, mask, and gown when cleaning a surgical or delivery suite.

(e) A facility must maintain sufficient housekeeping cleaning supplies and equipment. Separate equipment must be provided, as applicable, for operating rooms, delivery rooms, the nursery, and the dietary area. Housekeeping equipment and cleaning supplies, other than those in bulk, must be stored in designated housekeeping supply rooms. A detergent germicide must be used for all cleaning and dusting purposes. Mop heads must be removable and must be changed at least daily.

(f) Each facility must provide a sufficient housekeeping service to maintain the interior of the facility in a safe, clean, orderly and attractive manner and free from offensive odors.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 12/3/2006, Register 180

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.760. Infection control

(a) Each facility, with the exception of home health agencies and hospice agencies that do not provide inpatient care on agency premises, must have an infection control committee.

(b) The administrator or medical staff shall appoint an infection control committee composed of representatives of the medical staff, administration, nursing, and other services, that is responsible for maintenance and supervision of an infection control program.

(c) The infection control committee shall establish and maintain, as part of the infection control program,

(1) specific procedures for diagnosing, reporting, investigating, reviewing, and maintaining records of infection of residents and personnel, such as the procedures set out in the federal Centers for Disease Control guidelines;

(2) written procedures for all departments incorporating principles or practices that reduce the risk of infection in all patient care services and areas;

(3) a system for reporting communicable diseases in accordance with 7 AAC 27.005 - 7 AAC27.010; and

(4) written isolation and body substance isolation techniques for known or suspected communicable diseases or infections.

(d) The infection control committee shall meet not less than quarterly, and shall retain written minutes of all meetings for at least three years.

(e) Infectious wastes must be disposed of in an incinerator which provides complete combustion.

(f) The infection control committee shall approve proposed disinfectant-detergent formulations and policies and procedures for their use.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 05/24/2007, Register 182

Authority: AS 18.05.040

AS 47.32.010

AS 47.32.030

Editor's note: A copy of the federal Centers for Disease Control guidelines may be obtained from Centers for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

7 AAC 12.770. Medical record service

(a) Each facility, with the exception of home health agencies, hospice agencies, intermediate care facilities for the mentally retarded, and birth centers, must have a medical record service that complies with the applicable provisions of this section. A frontier extended stay clinic must comply with (b), (d), (g), and (i) - (k) of this section in addition to the requirements of 7 AAC 12.483.

(b) A facility must keep records on all patients admitted or accepted for treatment. The medical records, including x-ray films, are the property of the facility and are maintained for the benefit of the patients, the medical staff, and the facility. Medical records are subject to the requirements of AS 18.05.042, 7 AAC 43.030, and 7

AAC 43.032. This section does not affect other statutory or regulatory requirements regarding access to, use of, disclosure of, confidentiality of, or retention of record contents, or regarding maintenance of health information in patients' records by health care providers. A facility must maintain originals or accurate reproductions of the contents of the originals of all records, including x-rays, consultation reports, and laboratory reports, in a form that is legible and readily available

(1) upon request, to the attending physician or other practitioner responsible for treatment, a member of the facility's medical staff, or a representative of the department; and

(2) upon the patient's written request, to another practitioner.

(c) Each in-patient medical record must include, as appropriate

(1) an identification sheet which includes the

(A) patient's name;

(B) medical record number;

(C) patient's address on admission;

(D) patient's date of birth;

(E) patient's sex;

(F) patient's marital status;

(G) patient's religious preference;

(H) date of admission;

(I) name, address, and telephone number of a contact person;

(J) name of the patient's attending physician;

(K) initial diagnostic impression;

(L) date of discharge and final diagnosis; and

(M) source of payment;

- (2) a medical and psychiatric history and examination record;
- (3) consultation reports, dental records, and reports of special studies;
- (4) an order sheet which includes medication, treatment, and diet orders signed by a physician;
- (5) progress notes for each service or treatment received;
- (6) nurses' notes which must include
 - (A) an accurate record of care given;
 - (B) a record of pertinent observations and response to treatment including psychosocial and physical manifestations;
 - (C) an assessment at the time of admission;
 - (D) a discharge plan;
 - (E) the name, dosage, and time of administration of a medication or treatment, the route of administration and site of injection, if other than by oral administration, of a medication, the patient's response, and the signature of the person who administered the medication or treatment; and
 - (F) a record of any restraint used, showing the duration of usage;
- (7) court orders relevant to involuntary treatment;
- (8) laboratory reports;
- (9) x-ray reports;
- (10) consent forms;
- (11) operative report on in-patient and out-patient surgery including pre-operative and post-operative diagnosis, description of findings, techniques used, and tissue removed or altered, if appropriate;
- (12) anesthesia records including pre-operative diagnosis and post-anesthesia follow-up;
- (13) a pathology report, if tissue or body fluid is removed;

(14) recovery room records;

(15) labor record;

(16) delivery record;

(17) record of a neonatal physical examination and condition on discharge;

(18) if the patient was in inpatient care for 48 hours or more, a discharge summary, prepared and signed by the attending physician or mid-level practitioner, that summarizes

(A) significant findings and events of the patient's stay in the facility;

(B) conclusions as to the patient's primary and any associated diagnoses; and

(C) disposition of the patient at discharge including instructions, medications, and recommendations and arrangements for future care; and

(19) if the patient was in inpatient care for less than 48 hours, a final discharge progress note signed by the attending physician or mid-level practitioner.

(d) A facility must maintain procedures to protect the information in medical records from loss, defacement, tampering, or access by unauthorized persons. A patient's written consent is required for release of information that is not authorized to be released without consent. A facility may not use or disclose protected health information except as required or permitted by 45 C.F.R. Part 160, subpart C, and 45 C.F.R. Part 164, subpart E, revised as of October 1, 2005, and adopted by reference.

(e) A record must be completed within 30 days of discharge and authenticated or signed by the attending physician, dentist, or other practitioner responsible for treatment. The facility must establish policies and procedures to ensure timely completion of medical records. A record may be authenticated by a signature stamp or computer key instead of the treating practitioner's signature if the practitioner has given a signed statement to the hospital administration that the practitioner is the only person who

(1) has possession of the stamp or key; and

(2) may use the stamp or key.

(f) Medical records must be filed in accordance with a standard health information archival system to ensure the prompt location of a patient's medical record.

(g) The facility must ensure that a transfer summary, signed by the physician or other practitioner responsible for treatment, accompanies the patient, or is sent by electronic mail or facsimile transmission to the receiving facility or unit, if the patient is transferred to another facility or is transferred to a nursing or intermediate care service unit within the same facility. The transfer summary must include essential information relative to the patient's diagnosis, condition, medications, treatments, dietary requirement, known allergies, and treatment plan.

(h) Each facility subject to the provisions of this section, with the exception of an ambulatory surgical facility and a frontier extended stay clinic, must employ the services of a health information administrator who is registered by the American Health Information Management Association or a records technician who is accredited by the American Health Information Management Association to supervise the medical record service. If the administrator or technician is a consultant only, the administrator or technician must visit the facility not less than biannually to organize and evaluate the operation of the service and to provide written reports to the medical record service and the administration of the facility.

(i) The facility must safely preserve patient records for at least seven years after discharge of the patient, except that

(1) x-ray films or reproductions of films must be kept for at least five years after discharge of the patient; and

(2) the records of minors must be kept until the minor has reached the age of 21 years, or seven years after discharge, whichever is longer.

(j) If a facility ceases operation, the facility must inform the department within 48 hours before ceasing operations of the arrangements made for safe preservation of patient records as required in this section. The facility must have a policy for the preservation of patients' medical records in the event of the closure of the facility.

(k) If ownership of the facility changes, the previous licensee and the new licensee shall, before the change of ownership, provide the department with written documentation that

(1) the new licensee will have custody of the patient's records upon transfer of ownership, and that the records are available to both the new and former licensee and other authorized persons; or

(2) arrangements have been made for the safe preservation of patients' records, as required in this section, and the records are available to the new and former licensees and other authorized persons.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 12/3/2006, Register 180; am 5/24/2007, Register 182

Authority: AS 18.05.040

AS 18.20.085

AS 47.32.010

AS 47.32.030

Editor's note: Verification of status as a registered health information administrator or as an accredited records technician may be obtained from the American Health Information Management Association at 233 N. Michigan Avenue, Suite 2150, Chicago, IL, 60601-5800.

7 AAC 12.780. Radiological service

(a) A facility that provides radiological services, with the exception of frontier extended stay clinics, must comply with the requirements of this section.

(b) If a facility which provides radiological services does not have a radiologist on its staff, a radiologist must provide consultation services to the facility at least twice a year to assure high quality of the diagnostic radiological service.

(c) A physician or a radiologist must have clinical responsibility for the radiological services.

(d) Radiological services may be performed only upon the order of a person lawfully authorized to diagnose and treat illness.

(e) If an x-ray examination is to be provided to a patient, a request by the attending physician for the x-ray examination must contain a diagnosis or a tentative diagnosis, or a concise statement of the reasons for the x-ray examination.

(f) A report of a radiological examination must be filed in the patient's medical record and maintained in the radiology unit.

(g) Diagnostic x-ray film processing must conform to the time and temperature recommendations of the manufacturer.

(h) All individuals who are employed or involved in providing radiological services or who may be exposed to radiation shall wear devices that monitor radiation exposure.

(i) A facility must keep records identifying employees who have been exposed to radiation and the amount of exposure for each employee.

(j) A facility which provides nuclear medicine services must report the type of those services provided to the department and must conform, unless specifically excepted by law, to the applicable standards of the Nuclear Regulatory Commission, 10 C.F.R. Parts 0 - 170, as in effect April 30, 1983, and 18 AAC [85](#).

(k) Radiation therapy may be given only under the direction of a radiation therapist using equipment which is specifically designed for radiation therapy.

(l) A facility which uses x-ray equipment must conform to the radiation protection standards set out in 18 AAC [85.010](#) - 18 AAC [85.770](#).

(m) In this section, "nuclear medicine services" means medical procedures that use radio isotopes or other atomic entities in the treatment or diagnosis of illness or disease.

History: Eff. 11/19/83, Register 88; am 12/3/2006, Register 180

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.790. Laboratory service

(a) A facility that provides laboratory services must comply with 7 AAC [12.790](#) - 7 AAC [12.850](#) and must meet the requirements of 42 C.F.R. Part 493, Laboratory Requirements, as revised as of October 1, 2005, and adopted by reference.

(b) A facility must have and maintain written procedures on the scope of onsite laboratory services necessary to support the facility's emergency and patient care services. For laboratory tests not performed in the facility, the facility must make arrangements with an approved laboratory to meet the requirements of this section.

Information specifying the laboratory tests performed at the facility, and laboratory tests available under arrangement, must be provided to the medical staff.

(c) A laboratory that provides blood or blood products must

(1) have those products onsite or readily available from another source; and

(2) maintain storage areas for those products under adequate control and supervision.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 6/23/2006, Register 178

Authority: [AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.800. Laboratory service policy and procedure

Repealed.

History: Eff. 11/19/83, Register 88; repealed 6/23/2006, Register 178

7 AAC 12.810. Laboratory safety program

Repealed.

History: Eff. 11/19/83, Register 88; repealed 6/23/2006, Register 178

7 AAC 12.820. Laboratory service proficiency test program

Repealed.

History: Eff. 11/19/83, Register 88; repealed 6/23/2006, Register 178

7 AAC 12.830. Mailing of laboratory specimens

A laboratory specimen may be referred and mailed only to an approved laboratory. The mailing containers to be used must be provided by the laboratory to which the specimens are sent.

History: Eff. 11/19/83, Register 88

Authority: [AS 47.32.010](#)

AS 47.32.030

7 AAC 12.840. Supervision and direction of laboratory service

(a) A laboratory must be under the supervision and direction of a physician, a laboratory specialist, or a medical technologist who

(1) meets the applicable qualification requirements of 42 C.F.R. Part 493, adopted by reference in 7 AAC 12.790; and

(2) is either employed by the laboratory or under contract to the laboratory.

(b) If a medical technologist supervises the laboratory under contract, a consulting physician or laboratory specialist supervising the laboratory under contract must make quarterly visits to the laboratory and prepare a written evaluation with recommendations to the administrator and medical staff of the facility after each visit. For a consulting physician, up to two of the required visits and evaluations each year may be made by the physician's representative, who must be a medical technologist competent in one or more laboratory specialties. If a medical technologist supervises a laboratory as an employee of the laboratory, a consulting physician or a laboratory specialist under contract must make at least biannual visits to the laboratory and prepare a written evaluation and recommendations after each visit.

(c) In this section, "laboratory specialties" include microbiology, serology, chemistry, hematology, and immunohematology.

History: Eff. 11/19/83, Register 88; am 6/23/2006, Register 178

Authority: AS 47.32.010

AS 47.32.030

7 AAC 12.850. Laboratory testing service requirements

Repealed.

History: Eff. 11/19/83, Register 88; repealed 6/23/2006, Register 178

7 AAC 12.860. Risk management

A facility, with the exception of home health agencies and hospice agencies that do not provide inpatient care on agency premises, must have a risk management program that has

(1) provision for monitoring, evaluating, identifying, correcting, and reassessing care practices that negatively affect quality of care and services provided or result in accident or injury to a patient, resident, or staff, and provisions for documenting deficiencies found and remedial actions taken;

(2) a preventive maintenance program that is designed to ensure the proper functioning, safety and performance of all electrical and mechanical equipment used in the care, diagnosis, and treatment of patients or residents, and for the physical plant including the electrical, plumbing, heating, and ventilation systems and their parts, including

(A) implementation of policies that specify procedures and frequencies for the maintenance of all equipment and systems and all their parts, that meets or exceeds manufacturers' recommendations; and

(B) documentation of the preventive maintenance that has occurred;

(3) a procedure to investigate, analyze, and respond to patient or resident grievances that relate to patient or resident care;

(4) a job-specific orientation program and an in-service training program for each employee that provides annual instruction in

(A) policies and procedures for that service;

(B) the employee's job responsibilities and the skills necessary to meet those responsibilities;

(C) safety, fire, and disaster plans; and

(D) principles and techniques of infection control;

(5) provision of 24-hour emergency service by a physician, on site or on call, including posting the on-call physician's name and phone number at each nursing station; a frontier extended stay clinic or free-standing birth center is exempt from the requirements of this paragraph;

(6) quarterly fire drills for each work shift, a record showing when each drill was held, and coordination with community or area mass casualty drills;

(7) an annual review of written policies and procedures approved, signed, and dated by the administrator or the administrator's designee;

(8) a training program by an instructor certified in cardiopulmonary resuscitation (CPR) for all personnel who are engaged in patient care; the training program must include certification of employees by an approved organization;

(9) a method of ensuring safe storage and transportation of gas cylinder tanks; and

(10) a disaster plan developed in coordination with the local community to address the facility's response in case of a disaster; the plan must include community and state resources for staffing and supplies, and prioritized options to account for staffing shortages, disruptions in the supply line, community allocation of staff resources, telephone triage, and plans for establishing and maintaining communication with local, state, and federal emergency response agencies; the disaster plan must be in place on or before January 1, 2007, and must address response to

(A) an earthquake, flood, major fire, tsunami, or other potential disaster relative to the area; and

(B) a pandemic influenza outbreak; the plan must include plans for

(i) separate entrances to buildings, and segregated seating, for patients with influenza-like illness; and

(ii) other measures to contain or prevent transmission of the illness.

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 12/3/2006, Register 180; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: [AS 18.05.040](#)

[AS 18.20.075](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

7 AAC 12.870. Emergency care service

(a) If a facility provides emergency care services, those services must be available 24 hours a day and must include

(1) a determination by trained staff of whether a person entering the service should receive a medical, psychological, or social evaluation;

(2) treatment of acute and potentially life-threatening disorders; and

(3) supervision of medically ill persons by trained medical staff.

(b) Guidelines for care of persons with mental or emotional problems must be present and readily accessible in the emergency room.

(c) Guidelines or protocol for the treatment of and referral for substance abuse must be present and readily accessible in the emergency room.

(d) A roster of names and telephone numbers of physicians, specialty consultants, poison control centers, and referral resources must be maintained in the emergency room.

(e) The emergency care service must maintain a control register which contains, for each person served,

(1) the person's name, or adequate identification;

(2) the date and time of arrival;

(3) an emergency record number for the person;

(4) the nature of the person's complaint;

(5) disposition; and

(6) time of and condition on departure.

(f) The emergency medical record must contain for each patient

(1) adequate identification of the patient;

(2) the time of and means by which the patient arrived, including by whom transported;

(3) pertinent history of the patient's current condition;

(4) diagnosis and treatment given;

(5) condition of the patient on discharge or transfer; and

(6) final disposition, including instructions given to the patient or the patient's family regarding necessary followup care.

(g) The emergency care service must have a written plan, developed in cooperation with members of the community served, which specifies how it will deal with an extreme emergency in the community. The plan must include a triage process which describes the methods for the

(1) marshalling of resources to deal with the emergency;

(2) determination of the level of urgency of each case; and

(3) determination of appropriate services to be performed.

(h) The emergency care service must have available a communication system to maintain contact with the police department, rescue squads, and other emergency services of the community.

(i) A critical access hospital shall, at a minimum, ensure that a physician or mid-level practitioner with training or experience in emergency care is on call and immediately available by telephone or radio contact and available on site within 30 minutes on a 24-hours per day basis.

(j) A frontier extended stay clinic is exempt from the requirements of this section.

History: Eff. 11/19/83, Register 88; am 9/1/2000, Register 155; am 12/3/2006, Register 180

(I) solaria, waiting rooms, and similar areas which are not permanently set aside, equipped, and staffed exclusively for inpatient bed care; and

(J) unfinished space, which does not include an area which is finished except for movable equipment.

(f) Bed space under construction on or after November 19, 1983 must contain,

(1) for each patient, fixed available oxygen, suction, a bedlight, and a closet;

(2) for every two patients, a lavatory with fixtures and adjacent toilet; and

(3) for each bed in a multiple-bed room, cubicle curtain tracks.

(g) Facilities in existence before January 1, 1995, will be allowed a variance of 10 square feet from the standards for square footage of patient rooms required by *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference in (b)(1) of this section.

(h) Except as provided in 7 AAC [12.150\(h\)](#), the department may waive compliance with, or grant a variance from, a requirement in this section if the commissioner determines that an equivalent alternative is provided and the safety and well-being of patients is assured. If a facility wishes to obtain a waiver or variance, its governing body must apply in writing to the commissioner and must include in the application

(1) the justification for the waiver;

(2) an explanation of the reasons why the particular requirement cannot be satisfied;

(3) a description of the equivalent alternative proposed; and

(4) if the application for waiver involves fire safety or other municipal or state requirements, evidence that it has been reviewed by the appropriate municipal or state authorities.

History: Eff. 11/19/83, Register 88; am 12/31/94, Register 132; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 12/17/2005, Register 176; am 6/23/2006, Register 178; am 12/3/2006, Register 180

Authority: [AS 47.32.010](#)

[AS 47.32.030](#)

Editor's note: A copy of *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference in 7 AAC [12.900\(b\)](#) (1), may be obtained from the American Institute of Architects Press, 1735 New York Avenue, Washington, D.C. 20006. To order a prepaid copy, call (202) 626-7541 or (800) 242-3837, press 4. For an order using a purchase order or that must be billed, call (800) 365-2724.

The *International Building Code* and the *International Mechanical Code* referred to in 7 AAC [12.900\(b\)](#) (5) and (b)(6), respectively, may be obtained from the International Conference of Building Officials, 5360 Workman Mill Rd., Whittier, California 90601-2298; telephone: (800) 284-4406; (562) 699-0541.

The National Fire Protection Association (NFPA) standards adopted by reference in 7 AAC 12.900(c) may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471; telephone: (800) 344-3555.

7 AAC 12.910. Contracts

(a) A facility may contract with another facility or agent to perform services or provide resources to the facility.

(b) Services regulated under this chapter that are provided by contract must meet the requirements of this chapter.

(c) A contract for resources or services required by regulation and not provided directly by a facility must be in writing, must be dated and signed by both parties, and must

(1) specify the respective functions and responsibilities of the contractor and the facility, and the frequency of onsite consultation by the contractor;

(2) identify the type and frequency of services to be furnished;

(3) specify the qualifications of the personnel providing services;

(4) require documentation that services are provided in accordance with the agreement;

(5) specify how and when communication will occur between the facility and the contractor;

(6) specify the manner in which the care or services will be controlled, coordinated, supervised, and evaluated by the facility;

(7) identify the procedures for payment for services furnished under the contract; and

(8) include the current license or registration number of the contractor, if required by state statute or regulation.

(d) Ambulatory surgical facilities, specialized hospitals, rural primary care hospitals, critical access hospitals, nursing homes, and intermediate care facilities for the mentally retarded must have a signed agreement with a general acute care hospital for transfer of patients who require medical or emergency care beyond the scope of the ability or license of the facility.

History: Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: AS 18.05.040

AS 47.32.010

AS 47.32.030

7 AAC 12.920. Applicable federal, state, and local laws and regulations

A facility must comply with all applicable federal, state, and local laws and regulations. If a conflict or inconsistency exists between codes or standards, the more restrictive provision applies.

History: Eff. 11/19/83, Register 88

Authority: AS 18.05.040

AS 18.20.010

AS 18.20.060

7 AAC 12.925. Accredited entities

(a) An entity licensed under this chapter with a current accreditation from a nationally recognized organization with standards the department determines meet the intent of AS 47.32 and this chapter may submit a written request to the department for a waiver of a biennial inspection by the department under AS 47.32.060. The entity must submit a separate request for each licensing period during which the accrediting organization inspected the entity. The entity must include with the request a copy of the accrediting organization's most recent report of inspection, and a plan of correction and proof of corrective action if applicable.

(b) The department will waive its biennial inspection under AS 47.32.060 during the licensing period in which the accrediting organization conducted an inspection if the entity passed that inspection or has corrected any deficiencies noted by the accrediting organization. The inspection waiver will be in effect for the remainder of that licensing period unless revoked under (c) of this section.

(c) Nothing in this section precludes the department from responding to a complaint received under AS 47.32.090, and from taking any necessary action under AS

47.32.130 or 47.32.140. If the entity fails to fulfill any plan of correction developed under AS 47.32.130 or 47.32.140, the waiver from inspection will be revoked.

History: Eff. 12/3/2006, Register 180

Authority: AS 18.05.010

AS 18.05.040

AS 47.32.010

AS 47.32.030

AS 47.32.050

AS 47.32.060

AS 47.32.090

AS 47.32.100

AS 47.32.110

AS 47.32.120

AS 47.32.130

AS 47.32.140

AS 47.32.150

7 AAC 12.990. Definitions

In this chapter, unless the context requires otherwise,

(1) "administrator" means an employee appointed by the governing body to be responsible for the overall operation of a facility;

(2) "advanced nurse practitioner" means a person who is authorized to practice as an advanced nurse practitioner under 12 AAC 44.400;

(3) "alcoholism" means a chronic and progressive disease characterized by tolerance, physical dependency, or pathological organic changes which are consequences of alcohol ingestion;

(4) "ambulatory surgical facility" means a facility described in 7 AAC [12.350](#);

(5) "anesthesia service" means the administration by authorized personnel of anesthesia of the type and in the manner required by the patient's condition;

(6) "anesthesiologist" means a physician who has training and experience in the field of anesthesiology, and is certified or eligible for certification by the American Board of Anesthesiologists, Inc.;

(7) "approved laboratory" means a laboratory that is

(A) certified by the

(i) federal government under the Clinical Laboratories Improvement Act of 1967, 42 U.S.C. 263(a) or Title XVIII of the Social Security Act, as amended, 42 U.S.C. 1395 et seq.;

(ii) College of American Pathologists; or

(iii) Joint Commission on Accreditation of Hospitals; or

(B) operated by the department;

(8) "birth center" means a free-standing birth center;

(9) "bureau of vital statistics" means the bureau of vital statistics within the department;

(10) "central service" means a service which provides cleaning, storing, and dispensing of supplies and equipment required for all aspects of patient care, diagnosis, and treatment;

(11) "client" has the meaning given in

(A) 7 AAC [12.349](#), if the facility is a hospice agency; and

(B) 7 AAC [12.449](#), if the facility is a birth center;

(12) "commissioner" means the commissioner of health and social services;

(13) "completed application" means an application which is complete, signed, and accompanied by the appropriate fee;

(14) "controlled substance" means a narcotic drug, a depressant, a hallucinogenic or stimulant drug as set out in the schedules in [AS 11.71.140](#) - 11.71.190, and any drug subject to the Controlled Substances Act of 1970, PL 91-513, as amended;

(15) "detoxification" means the process in which a person recovers from intoxication and physiological reactions associated with withdrawal;

(16) "dentist" means a person who is licensed as a dentist under AS 08.36;

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

(18) "dietetic service" means a service which provides nutritionally adequate food to patients;

(19) "direct supervision" means the supervisor is present in the same building as the person being supervised and available for consultation or assistance;

(20) "dispense" means selecting, measuring, packaging, labeling, and issuing a drug under an appropriate order;

(21) "division of public health" means the division of public health, Department of Health and Social Services;

(22) "drug administration" means the act in which a single dose of a prescribed drug is given to a patient;

(23) "drug room" means an area used exclusively for the storage, preservation, and control of bulk supply drugs;

(24) "electroconvulsive therapy" means a form of treatment of mental disorders in which convulsions are produced by the passage of electric current through the brain;

(25) "emergency service" means a medical service provided in response to the perceived individual needs of a patient for immediate medical care to prevent the loss of life or the aggravation of a physical or psychological illness or injury;

(26) "facility" means a

(A) general acute care hospital;

- (B) specialized hospital;
- (C) nursing home;
- (D) intermediate care facility for the mentally retarded;
- (E) ambulatory surgical center;
- (F) birth center;
- (G) mental health center;
- (H) home health agency;
- (I) rural primary care hospital;
- (J) critical access hospital;
- (K) long-term acute care hospital; and
- (L) frontier extended stay clinic;

(27) "general acute care hospital" means a facility that provides inpatient hospitalization for medical and surgical care of acute illness or injury, perinatal care, and other services described in 7 AAC12.105(a) ;

(28) "home health agency" means a facility described in 7 AAC 12.500;

(29) "intermediate care facility for the mentally retarded" means a facility described in 7 AAC12.300;

(30) "intermediate nursing care" means nursing care which is provided on a regular basis to persons who do not require hospitalization or skilled nursing care, but who require services above the level of residential care as defined in 7 AAC 43.280, and includes the observation, assessment, and treatment of an individual with a long-term disability whose condition is relatively stable, and care for a person who is nearing recovery and discharge whose condition is relatively stable but who continues to require professional medical or nursing supervision;

(31) "investigational drug" means a drug approved by the Food and Drug Administration for use for investigational purposes;

(32) "licensed nurse" means a person who is licensed as a professional or practical nurse under AS 08.68;

(33) "licensee" means the owner of a licensed facility;

(34) "linen" means sheets, pillow cases, towels, washcloths, bed spreads, scrub suits, blankets, and infant diapers, bands, and shirts;

(35) "long-term care service" means a service which provides long-term nursing and other supportive care;

(36) "medical asepsis" means the practice of techniques which reduce the level of microorganismic presence to reduce a risk of infection;

(37) "medical record service" means a service which maintains medical records;

(38) "medical service" means preventive, diagnostic, and therapeutic measures performed by or at the direction of a physician;

(39) "medical staff" means physicians and other medical practitioners appointed by the governing body to practice within medical staff bylaws adopted under 7 AAC [12.110\(b\)](#) , 7 AAC [12.210\(b\)](#) , and 7 AAC [12.465\(b\)](#) ;

(40) "mental illness" means an organic, mental, or emotional impairment that has substantial adverse effects on an individual's ability to exercise conscious control of his actions or ability to perceive reality or to reason or understand; mental retardation, epilepsy, drug addiction, and alcoholism do not by themselves constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness;

(41) "midwife" means a person who is

(A) authorized to practice as an advanced nurse practitioner under 12 AAC [44.400](#) and who is certified to practice midwifery by a national certification body recognized under 12 AAC [44.420](#) and 12 AAC [44.430](#);

(B) a direct-entry midwife certified to practice midwifery under 12 AAC [14.100](#) - 12 AAC [14.120](#); or

(C) an apprentice who meets the requirements of 12 AAC [14.130](#) and is supervised as provided under 12 AAC [14.220](#);

(42) "nursing home" means a facility described in 7 AAC [12.250](#);

(43) "nursing service" means the provision of direct and extended care to patients by professional and nonprofessional personnel under the supervision of a registered nurse;

(44) "nursing staff" means the licensed nurses, nurse's aides, and orderlies employed by a facility;

(45) "occupational therapist" means a person who is a graduate of an occupational therapy program which is approved by a nationally recognized accrediting body, or who holds a current certificate as a registered occupational therapist, from the American Occupational Therapy Association;

(46) "outpatient service" means a service which provides nonemergency health care to patients who remain in the facility less than 24 hours;

(47) "patient" means a person who is receiving diagnostic, therapeutic or preventive health services or who is under observation or treatment for illness or injury, or care during and after pregnancy in a facility other than a birth center;

(48) "patient-care personnel" means persons who provide direct patient-care services, including physicians, registered nurses, licensed practical nurses, rehabilitative professionals, aides, and orderlies;

(49) "patient-teaching" means instruction of a patient in diet, medication, exercise, and other therapeutic measures to be taken by the patient upon discharge;

(50) "perinatal service" means a service which provides medical care during pregnancy, labor, delivery, postpartum, and neonatal periods;

(51) "pharmaceutical service" means a service which procures, stores, manufactures, compounds, dispenses, distributes, and administers drugs and includes the provision of pharmaceutical information to health professionals and patients;

(52) "pharmacist" means a person who is registered as a pharmacist under AS 08.80;

(53) "pharmacy" means an area in a hospital where drugs are stored, compounded, and dispensed;

(54) "physical plant" means the building and grounds of a facility;

(55) "physical restraint" means a mechanical device used to control a patient's physical activity in order to protect the patient or others from injury;

(56) "physical therapist" means a person who is licensed as a physical therapist under AS 08.84;

(57) "physical therapy assistant" means a person who is licensed as a physical therapy assistant under AS 08.84;

(58) "physical therapy service" means a service which provides physical therapy within the meaning of [AS 08.84.190](#) (3);

(59) "physician" means a person who is licensed as a doctor of medicine or osteopathy under AS 08.64;

(60) "physician's assistant" means a person who is authorized to act as a physician's assistant under [AS 08.64.107](#) ;

(61) "progress note" means a written and dated notation by a member of the clinical staff which shows the care provided a patient and the response to that treatment for a stated period of time;

(62) "psychiatric service" means a service which provides inpatient or outpatient care for patients with mental disorders;

(63) "psychiatrist" means a person who is licensed as a doctor of medicine under [AS 08.64](#) and who has specialized training in psychiatry or is certified by the Board of Psychiatry and Neurology;

(64) "psychological service" means a service offered by a psychologist, social worker, or other appropriate practitioner which provides therapeutic treatment of mental or emotional disorders or substance abuse;

(65) "psychologist" means a person who is licensed as a psychologist under AS 08.86;

(66) "radiation therapist" means a person who is a physician who applies x-radiation, the ionizing radiation emitted from particle accelerators, or sealed sources of radioactive material to persons for therapeutic purposes;

(67) "radiological service" means a service which provides x-ray or other external ionizing radiation for the detection, diagnosis, or treatment of human illness or injury;

(68) "radiologist" means a person who is a specialist in the branch of medical science which deals with the use of radiant energy in diagnosis and treatment of disease;

(69) "recreational therapy" means a program of treatment for patients with physical or mental disabilities which includes adaptive sports, dramatics, social activities, arts and crafts, or other similar activities;

(70) "registered dietitian" means a person who is authorized by the Commission on Dietetic Registration to use the title Registered Dietitian (R.D.);

(71) "registered nurse" means a person who is licensed to practice professional nursing under AS 08.68;

(72) "registered nurse anesthetist" means a person who is authorized to practice as a "nurse anesthetist" as defined in [AS 08.68.850](#) (7);

(73) "respiratory therapy service" means a service which provides diagnostic evaluation, treatment, management, and monitoring of patients with deficiencies or abnormalities of cardiopulmonary functions;

(74) "scheduled drug" means a narcotic drug, a depressant, a hallucinogenic, or stimulant drug as set out in the schedules in [AS 11.71.140](#) - 11.71.190, and any drug subject to the Controlled Substance Act of 1970, PL 91-513, as amended;

(75) "seclusion room" means a room specifically designed and organized to provide for temporary placement, care, and observation of a single patient with minimal sensory stimuli, maximum security and protection, and visual access to the patient by authorized persons;

(76) "skilled care" or "skilled nursing care" means nursing care at the level described in [7 AAC43.180](#);

(77) "social worker" means an individual who has obtained a master's degree in social work from a school that is accredited or recognized by the Council on Social Work Education;

(78) "social work service" means a service which assists staff, patients, and patient's families to understand and cope with emotional and social problems associated with health care;

(79) "specialized hospital" means a facility described in [7 AAC 12.200](#);

(80) "speech pathologist" means a person who is eligible for a Certificate of Clinical Competency granted by the American Speech and Hearing Association, or who meets

the educational requirements for that certificate and is currently accumulating the experience required for certification;

(81) "substance abuse" means frequent habitual consumption of damaging or potentially damaging chemical substances, including alcohol, which adversely affect the cognitive function;

(82) repealed 5/24/2007;

(83) "surgical service" means the performance of surgical procedures with the appropriate staff, space, equipment and supplies in a specially designated area;

(84) "surgical suite" means an area that is designated for and restricted to the purpose of performance of surgical procedures;

(85) "interdisciplinary team" means the team described in

(A) 42 C.F.R. 483.20(d)(2)(ii), revised as of October 1, 1991, if the facility is a nursing facility; and

(B) 7 AAC [12.327](#), if the facility is a hospice agency;

(86) "mid-level practitioner" means the following health professionals authorized to practice under AS 08:

(A) physician's assistant;

(B) advanced nurse practitioner;

(87) "rural primary care hospital" means a facility that has been determined by the department to meet the requirements of 7 AAC [12.102](#);

(88) "critical access hospital" means a facility that has been determined by the department to meet the requirements of 7 AAC [12.104](#) or that has been certified as a critical access hospital under 42 C.F.R. 485.601 - 42 C.F.R. 485.645;

(89) "critical care service" means a hospital service that provides specialized medical and nursing care to patients who are critically ill;

(90) "short-term hospitalization" means hospitalization for a period that does not exceed, as determined on an annual, average basis, 96 hours per patient;

(91) "long-term acute care hospital" means a hospital that provides long-term inpatient hospitalization for medical care of acute illness or injury and the services described in 7 AAC [12.105\(c\)](#) ;

(92) "community health center" means a facility or clinic providing outpatient services

(A) for the prevention or diagnosis of illness, or the care and treatment of emergency illnesses or injured patients; and

(B) that are provided principally for persons residing in an area of the state in or near which the facility or clinic is situated;

(93) "credentialing" means the formal process, conducted by the medical staff of an entity, to delineate the privileges of, and evaluate the professional and technical competence of, an individual practitioner to provide specified levels of patient care, for the purpose of determining, based on criteria established by law and by the entity's bylaws, whether the individual is qualified for initial appointment to, or for continuing membership with, the entity's medical staff;

(94) "federally qualified health center" means a facility that has been determined by the department to meet the requirements of 7 AAC [43.870](#);

(95) "frontier extended stay clinic" has the meaning given in [AS 47.32.900](#) ;

(96) "governing body" means the entity that establishes policy and is legally responsible for the overall operation of a facility;

(97) "hospital" has the meaning given in [AS 47.32.900](#) ;

(98) "laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings; in this paragraph, "examination" includes procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body; "laboratory" does not include a facility that only

(A) collects or prepares specimens without examination; or

(B) serves as a mailing service and does not perform examinations;

(99) "licensed practical nurse" means a person who is licensed under [AS 08](#) for the practice of practical nursing within the meaning given in [AS 08.68.850](#) ;

(100) "practitioner" means a health care provider licensed under [AS 08](#) who provides, prescribes, and oversees the health care services and medical services provided to patients in a health facility licensed under [AS 47.32](#) and this chapter within the authorization, course, and scope of that provider's license, practice, and privileges;

(101) "rural health clinic" has the meaning given in [AS 47.32.900](#) ; "rural health clinic" includes a community health center and a federally qualified health center under 7 AAC [43.870](#);

(102) "standing order" means a written order stipulating a specific treatment approach for patients who meet certain criteria or have a specific medical condition, thus eliminating the need for individual physician's orders for those patients, unless otherwise indicated;

(103) "hospice agency" means a

(A) program that primarily provides hospice services where a client lives or stays, that uses designated staff time and facility services, and that is distinct from other programs; or

(B) place, including a freestanding structure or a separate part of a structure in which other services are provided, that primarily provides hospice services and a place of residence for clients;

(104) "free-standing birth center" has the meaning given in [AS 47.32.900](#) .

History: Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 6/23/2006, Register 179; am 12/3/2006, Register 180; am 5/24/2007, Register 182; am 9/30/2007, Register 183

Authority: [AS 18.05.040](#)

[AS 47.32.010](#)

[AS 47.32.030](#)

Editor's note: In 2002 the revisor of statutes, acting under [AS 01.05.031](#) , renumbered the paragraphs in former [AS 08.68.410](#) to place defined terms in alphabetical order; and in 2010 the revisor of statutes, again acting under [AS 01.05.031](#) , renumbered

former AS 08.68.410 as AS 08.68.850. As of Register 196 (January 2011), the regulations attorney made conforming technical revisions under AS 44.62.125 (b)(6), to the definitions of "registered nurse anesthetist" and "licensed practical nurse" in 7 AAC 12.990, so that cross-references to former AS 08.68.410(6) and AS 08.68.410 now refer to the realphabetized and renumbered statute, AS 08.68.850 (7) and 08.68.850, respectively.

Statutes and Regulations **Nursing Home** **Administrators**

December 2010

(Centralized Statutes and Regulations not included)



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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**CHAPTER 70.
NURSING HOME ADMINISTRATORS.**

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Sec. 08.70.050. Regulation by department. (a) The department shall

(1) adopt standards for licensing nursing home administrators to ensure that licensees have knowledge and experience in health care and institutional administration necessary for competent administrators, and update the standards when necessary;

(2) examine, approve issuance of licenses to and renewal of licenses of qualified persons;

(3) establish procedures to ensure that licensees continue to uphold the department's standards; impose disciplinary sanctions upon persons who fail to uphold the standards;

(4) adopt criteria for educational programs for persons preparing for the licensing examination and for the continuing education of licensees; review the educational programs available in the state and accredit the programs meeting the criteria;

(5) adopt regulations ensuring that renewal of a license is contingent upon proof of continued competency by the licensee.

(b) The department may adopt regulations necessary for the performance of its duties and to meet the requirements of Title 19 of the Social Security Act, the federal regulations adopted under it, and other federal requirements.

Sec. 08.70.080. License required. Only a licensed nursing home administrator may manage, supervise, or be generally in charge of a nursing home. The care provided by a nursing home or a licensed hospital providing nursing home care through the use of skilled nursing beds or intermediate care beds shall be supervised by a licensed nursing home administrator or by a person exempted from licensure requirements under this section. This section does not apply to persons engaged on July 1, 1980 in managing or administering an Alaska Pioneers' Home or a hospital with skilled nursing beds or intermediate care beds.

Sec. 08.70.090. Application. Applicants shall file applications with the Department of Commerce, Community, and Economic Development on forms provided by the department. Information requested on the forms shall be given under oath.

Sec. 08.70.110. Licensing. (a) The department shall license

(1) applicants who pass the written examination administered by the department and meet the standards established by the department under AS 08.70.050;

(2) persons licensed under emergency regulations 7 AAC 12.045 promulgated in Register 51, July 8, 1974, who have practiced as administrators since licensing.

(b) The department may issue a license without examination to a person holding a current license as a nursing home administrator from another jurisdiction, if the department finds that the standards for licensing in the other jurisdiction are substantially equivalent to those in this state, and the person is otherwise qualified.

(c) Notwithstanding other provisions of this chapter, the department may refuse to issue a license to a person

(1) who attempts to secure the license through deceit, fraud, or intentional misrepresentation; or

(2) for a reason for which it may impose disciplinary sanctions under AS 08.70.155.

Sec. 08.70.120. Examination. The purpose of the examination is to test the applicant's knowledge of the health and safety standards of the state and the applicant's experience in the practice of health care. The department shall determine the content, scope, format, and grading procedure. Examinations shall be given at least annually, at the time and place chosen by the department.

Sec. 08.70.130. Provisional licenses. (a) A provisional license may be granted without examination to a person who meets the standards adopted by the department under AS 08.70.050 and who is needed to fill a vacancy in an administrative position.

(b) The provisional license is valid for six months and is nonrenewable.

Sec. 08.70.140. Expired licenses. A person whose license has expired for a period of 24 months or more shall apply for a license in the same manner as an applicant who has not been licensed before.

Sec. 08.70.150. Fees. The department shall set fees under AS 08.01.065 for examination and investigation of persons applying for a license, initial license, and license renewal.

Sec. 08.70.155. Grounds for imposition of disciplinary sanctions. The department may impose the disciplinary sanctions authorized for boards under AS 08.01.075 or otherwise authorized for the department under AS 08.01 when it finds that a licensee

- (1) secured a license through deceit, fraud, or intentional misrepresentation;
- (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;
- (3) advertised professional services in a false or misleading manner;
- (4) intentionally or negligently engaged in or permitted the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards regardless of whether actual injury to the patient occurred;
- (5) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the department;
- (6) continued to practice after becoming unfit due to
 - (A) professional incompetence;
 - (B) addiction or severe dependency on alcohol or other drugs that impairs the licensee's ability to practice safely;
 - (C) physical or mental disability;
- (7) sold or furnished a license to another;
- (8) practiced as a nursing home administrator or used a designation tending to imply that the licensee is a nursing home administrator without a license issued under this chapter unless exempted from licensure requirements under AS 08.70.080.

Sec. 08.70.170. Penalties. A person convicted of violating a provision of this chapter is guilty of a class B misdemeanor.

Sec. 08.70.175. Facilities operated by religious organizations. Nothing in this chapter or the regulations under this chapter is to be construed as requiring a person who applies for a license as administrator of a facility operated by a religious organization relying on spiritual means alone for healing to have skills in medical techniques or educational qualifications that are not in accord with the care and treatment provided in the facility.

Sec. 08.70.180. Definitions. In this chapter,

- (1) "department" means the Department of Commerce, Community, and Economic Development;
- (2) "license" means the certificate awarded by the department to a qualified person that entitles the person to be a nursing home administrator in this state;
- (3) "licensee" means a person who has been granted a license to be a nursing home administrator in this state by the department;
- (4) "nursing home" means a facility which is operated in connection with a hospital or in which nursing care, intermediate care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery within the state for the accommodation of convalescents or other persons who are not acutely ill but who do require skilled or intermediate nursing care and related medical services; the term "nursing home" is restricted to those facilities the purpose of which is to provide skilled or intermediate nursing care and related medical services for a period of not less than 24 hours a day to individuals admitted because of illness, disease or physical or mental infirmity;
- (5) "nursing home administrator" means a person who manages, supervises, or is in general charge of a nursing home, even though the duties are shared with another person; a member of a board of directors of a nursing home is an administrator only if the board member also serves in the administrative capacity defined in this paragraph.

CHAPTER 46.
NURSING HOME ADMINISTRATORS.

Section

- 10. Eligibility for a nursing home administrator license**
- 20. Application for initial license**
- 30. Examination of requirements**
- 41. Nursing home administrator-in-training program**
- 51. Administrator-in-training preceptor requirements**
- 70. Application for license renewal**
- 900. Definitions.**

12 AAC 46.010. ELIGIBILITY FOR A NURSING HOME ADMINISTRATOR LICENSE. (a) To be eligible for an initial license as a nursing home administrator, an applicant must

(1) be at least 19 years of age;

(2) have a baccalaureate or higher degree in a health-care or business related field from a college or university that is accredited by a national or regional accrediting association recognized by the United States Secretary of Education;

(3) meet the experience and training requirements of (b) of this section;

(4) pass the examination required in 12 AAC 46.030; and

(5) demonstrate to the satisfaction of the department that the licensee is fit to practice as a nursing home administrator, by showing that the applicant has not engaged in any conduct listed in AS 08.70.110(c) or 08.70.155.

(b) To meet the experience and training requirements for an initial license as a nursing home administrator, an applicant must have completed either

(1) a minimum of 12 months of experience in health care facility management that meets the requirements of (c) of this section; the 12 months of experience need not be consecutive; or

(2) an administrator-in-training (AIT) program that meets the requirements in 12 AAC 46.041 or an AIT program approved by another licensing jurisdiction.

(c) The department will only credit experience under (b)(1) of this section for a month, if

(1) the applicant earned at least 40 hours of experience during that month;

(2) the experience was earned under the supervision of a health care facility administrator who can verify the applicant's experience; and

(3) the applicant's experience was in institutional management in a health care facility, including general administration techniques, fiscal management, personnel management, client care issues, physical facility management, federal and state regulations, and public relations.

Authority: AS 08.70.050

12AAC 46.020. APPLICATION FOR INITIAL LICENSE. (a) An applicant for an initial nursing home administrator license by examination shall submit

- (1) a completed application on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.290;
- (3) official college or university transcripts verifying the applicant's education;
- (4) verification of the experience required by 12 AAC 46.010(b);
- (5) information on any licensing action in another jurisdiction, including
 - (A) action to revoke or suspend a license;
 - (B) any unresolved complaint, review procedure, or disciplinary proceeding; or
 - (C) a license surrendered while under investigation;
- (6) information regarding conviction of a crime related to the grounds for license denial or imposition of disciplinary sanctions in AS 08.70.110(c) and 08.70.155; and
- (7) responses to questions, on the form provided by the department, regarding the applicant's professional history, and mental and physical fitness to practice as a nursing home administrator, under the standards established for license denial or imposition of disciplinary sanctions in AS 08.70.110(c) and 08.70.155.

(b) To be scheduled for an examination, an applicant shall file with the department the items listed in (a) of this section at least 45 days before the date set for that examination.

(c) An applicant for an initial nursing home administrator license without examination as provided in AS 08.70.110(b) shall submit the items listed in (a) of this section and arrange for the submission of

(1) evidence, directly from the Professional Examination Service, that the applicant has passed the licensing examination required by 12 AAC 46.030 with a score at least equivalent to the score recommended by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) as the passing point for that administration of the examination; and

(2) verification that the applicant holds a current nursing home administrator license in good standing in another licensing jurisdiction that was issued based upon standards at least equivalent to those in 12 AAC 46.010; verification must be sent to the department directly from the licensing agency in that jurisdiction.

Authority: AS 08.70.050 AS 08.70.090 AS 08.70.110

Editor's note: Information about reporting of examination scores by the Professional Examination Service may be obtained from the Professional Examination Service, 475 Riverside Drive, New York, NY 10115.

12AAC 46.030. EXAMINATION REQUIREMENTS. (a) The examination required for licensure as a nursing home administrator is the Nursing Home Administration Licensing Examination of the NAB.

(b) To pass the examination for licensure, an individual must receive at least a scaled score of 113, as reported by NAB.

Authority: AS 08.70.050 AS 08.70.120

Editor's note: Information about the examination required under 12 AAC 46.030 may be obtained from the National Association of Boards of Examiners of Long Term Care Administrators, 1444 I Street NW, Suite 700, Washington, DC 20005-2210.

12AAC 46.041. NURSING HOME ADMINISTRATOR-IN-TRAINING PROGRAM. (a) An applicant for a nursing home administrator license may meet the experience and training requirements of 12 AAC 46.010 by satisfactorily completing an administrator-in-training (AIT) program that meets the requirements of this section.

(b) An acceptable AIT program must

(1) be conducted under the guidance and supervision of a preceptor who meets the requirements of 12 AAC 46.051;

(2) require completion of all of the activities and forms provided in the *NAB Five-Step Program Administrator in Training Internship Manual (1997 Edition)*, which is adopted by reference;

(3) be a minimum of six months in duration; and

(4) be completed within two years of the date that the AIT program proposal is submitted to the department under (c) of this section.

(c) Before beginning an AIT program, an individual shall submit

(1) a completed form for application for a nursing home administrator license;

(2) the application fee required in 12 AAC 02.290; and

(3) a complete AIT program proposal, on a form provided by the department, that

(A) shows the anticipated dates of completion of each AIT activity;

(B) lists the qualifications of the applicant's preceptor; and

(C) is signed by both the applicant and the preceptor.

Authority: AS 08.70.050

Editor's note: The *NAB Five-Step Program Administrator in Training Internship Manual* referenced in 12 AAC 46.041 is available from NAB Publications, 808 17th Street, NW, Suite 200, Washington, DC 20006.

12AAC 46.051. ADMINISTRATOR-IN-TRAINING PRECEPTOR REQUIREMENTS. (a) To serve as an administrator-in-training (AIT) preceptor, an individual must

(1) be currently licensed as a nursing home administrator in the jurisdiction where the AIT is completing the training activities;

(2) be currently employed in an administrative position in the nursing home where the AIT is completing the training activities;

(3) agree, in writing, to fulfill the duties and responsibilities of a preceptor, as outlined in the *NAB Five-Step Program Administrator in Training Internship Manual (1997 Edition)*, which is adopted by reference.

(b) A preceptor shall conduct a weekly supervisory conference with the AIT to monitor the education and activities of the AIT.

Authority: AS 08.70.050

Editor's note: The *NAB Five-Step Program Administrator in Training Internship Manual* referenced in 12 AAC 46.051 is available from NAB Publications, 808 17th Street, NW, Suite 200, Washington, DC 20006.

12AAC 46.070. APPLICATION FOR LICENSE RENEWAL. A licensee applying for renewal of a nursing home administrator license shall submit to the department

(1) a completed license renewal application form;

(2) proof of continued competence consisting of a signed statement completed by the licensee, on a form provided by the department, responding to questions about any violations of the licensee of the provisions of AS 08.70.155 and providing an explanation of those responses that demonstrates to the satisfaction of the department that the licensee is fit to practice as a nursing home administrator; and

(3) the biennial license renewal fee established in 12 AAC 02.290.

Authority: AS 08.70.050 AS 08.70.155

12AAC 46.900. DEFINITIONS. In this chapter

- (1) “department” means the Department of Commerce, Community, and Economic Development;
- (2) “health care facility” means a place devoted primarily to the inpatient diagnosis, treatment, or care of two or more unrelated individuals suffering from illness, disease, injury, or physical or mental disability;
- (3) “NAB” means the National Association of Boards of Examiners for Nursing Home Administrators, Inc.;
- (4) “nursing home” has the meaning given in AS 08.70.180.

Authority: AS 08.70.050

**APPENDIX:
TRANSITIONAL PROVISIONS**

The Legislature of the State of Alaska enacted ch. 91, SLA 1995 abolishing the Board of Nursing Home Administrators and transferring the regulation of nursing home administrators to the Department of Commerce, Community, and Economic Development. The Legislature included the following provisions in the Act:

***Sec. 13. TRANSITION.** (a) A regulation adopted by the Board of Nursing Home Administrators and in effect on the effective date of this Act remains in effect and shall be implemented and enforced by the Department of Commerce, Community, and Economic Development after the effective date of this Act until the department amends the regulation. To be consistent with the changes made by this Act, wherever in the regulations adopted by the Board of Nursing Home Administrators the board is identified, that reference shall be read as referring to the Department of Commerce, Community, and Economic Development. Under AS 44.62.125(b)(6), the regulations attorney shall implement this subsection in the administrative regulations.

(b) All litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Act, or in connection with functions transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Licenses and orders issued under authority of a law amended or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Act, and in effect on the effective date of this Act remain in effect notwithstanding this Act's taking effect. Records, equipment, and other property of the Board of Nursing Home Administrators are transferred to the Department of Commerce, Community, and Economic Development.

***Sec. 14.** This Act takes effect immediately [June 29, 1995] under AS 01.10.070(c).