

1 HB377
2 149446-1
3 By Representatives Boothe, Wren, Moore (B) and Vance
4 RFD: Boards, Agencies and Commissions
5 First Read: 28-FEB-13

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8 SYNOPSIS: Existing law provides for the licensing and
9 regulation of assisted living administrators.

10 This bill would establish a replacement
11 license fee for a stolen, lost, or misplaced
12 licensing card.

13 This bill would require that each person who
14 applies for licensure as an assisted living
15 administrator shall pay an annual administrative
16 fee as determined by the board.

17 This bill would require each person holding
18 an expired license to follow all procedures for new
19 licensure and pay a reapplication fee established
20 by the board.

21 This bill would allow the board to
22 discipline a person practicing or offering to
23 practice assisted living administration if the
24 person has entered a plea of nolo contendere, nolo
25 contender, or no contender, no contest, or guilty
26 in any case involving a lewd or lascivious act
27 against a child or an adult, inappropriate sexual

1 conduct with a child or an adult, or any other
2 crime in which the punishment could include a
3 sentence of imprisonment exceeding one year.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

8
9 To amend Sections 34-2A-2, 34-2A-8, 34-2A-11,
10 34-2A-12, and 34-2A-13, Code of Alabama 1975, relating to
11 assisted living administrators; to establish a replacement
12 license fee for a stolen, lost, or misplaced licensing card;
13 to require each person who applies for licensure as an
14 assisted living administrator to pay an annual administrative
15 fee as determined by the board; to require each applicant for
16 licensure as an assisted living administrator to pay an annual
17 administrative fee; to require each person holding an expired
18 license, in addition to other requirements, to pay a
19 reapplication fee established by the board; and to allow the
20 board to discipline a person practicing or offering to
21 practice assisted living administration if the person has
22 entered a plea of nolo contendere, nolo contender, no
23 contender, no contest, or guilty in any case involving a lewd
24 or lascivious act against a child or an adult, inappropriate
25 sexual conduct with a child or an adult, or any other crime in
26 which the punishment could have included a sentence of
27 imprisonment exceeding one year.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 34-2A-2, 34-2A-8, 34-2A-11,
3 34-2A-12, and 34-2A-13, Code of Alabama 1975, are amended to
4 read as follows:

5 "§34-2A-2.

6 "(a) All administrators of assisted living
7 facilities or specialty care assisted living facilities as
8 recorded in the records of the State Department of Public
9 Health shall be issued a provisional license, as defined
10 herein, upon the effective date of this act. On and after
11 September 1, 2003, no assisted living facility in the state
12 may operate unless it is under the supervision of an
13 administrator who holds a currently valid assisted living
14 administrator's license, or new initial provisional license,
15 issued by the board. No person shall practice or offer to
16 practice assisted living administration in this state or use
17 any title, sign, card, or device to indicate that he or she is
18 an assisted living administrator unless the person shall have
19 been duly licensed as an assisted living administrator or as a
20 provisional assisted living administrator in this state. In
21 the event an assisted living administrator dies, unexpectedly
22 resigns, becomes incapacitated, or has his or her license
23 revoked, the person or persons then responsible for the
24 management of the assisted living facility shall immediately
25 notify the board and the State Board of Health. The board may
26 issue an emergency permit to a person performing the functions
27 of administrator in the assisted living facility for a

1 reasonable period of time from the date of death, unexpected
2 resignation, incapacitation, or revocation of the license of
3 the assisted living administrator, but not to exceed 120 days.
4 Although the State Board of Health, in its discretion, may
5 permit the assisted living facility to continue to operate
6 under the supervision of a person issued an emergency permit,
7 nothing in this section shall be construed as prohibiting the
8 State Board of Health from denying or revoking the license of
9 the assisted living facility where the State Board of Health
10 has determined that the person with the emergency permit does
11 not demonstrate an ability or willingness to comply with State
12 Board of Health rules governing assisted living facilities or
13 where the State Board of Health has determined that the
14 facility is not otherwise in compliance with those rules.

15 "(b) Nothing in this section shall be construed to
16 prohibit a licensed assisted living administrator from
17 supervising more than one assisted living facility if specific
18 permission is granted by the State Department of Public
19 Health.

20 "§34-2A-8.

21 "(a) The board shall admit to examination for
22 licensure as an assisted living administrator any candidate
23 who submits evidence of good moral character and suitability
24 as prescribed by the board and who submits evidence to the
25 board that he or she is at least 19 years of age, a citizen of
26 the United States or, if not a citizen of the United States, a
27 person who is legally present in the United States with

1 appropriate documentation from the federal government, that he
2 or she is a high school graduate or has completed an
3 educational program equivalent thereto, and that he or she has
4 completed any additional educational requirements prescribed
5 by the board. The board may exempt the educational
6 requirements for practicing administrators on March 1, 2002,
7 based on acceptable experience and tenure in the applicant's
8 current position. Each candidate shall also be required, prior
9 to admission to the examination, to pay an examination fee
10 established by the board pursuant to its rule-making
11 authority.

12 "(b) The board may establish an application fee for
13 the internship or administrator in training (AIT) program, if
14 such a program is established, and a fee for preceptor,
15 certification, and recertification of any administrator in
16 training (AIT) program pursuant to its rule-making authority.

17 "(c) The board may establish a replacement license
18 fee for any licensing card previously issued by the board that
19 has been stolen, lost, or misplaced.

20 "§34-2A-11.

21 "(a) The board may, subject to this chapter and the
22 rules and regulations of the board prescribing the
23 qualifications for an assisted living administrator license,
24 issue a license to an assisted living administrator who has
25 been issued a license by the proper authorities of any other
26 state or issued a certificate of qualification by any national
27 organization, upon complying with the provisions of licensure,

1 payment of a fee established by the board pursuant to its
2 rule-making authority, and upon submission of evidence
3 satisfactory to the board of all of the following:

4 "(1) That the other state or national organization
5 maintained a system and standards of qualification and
6 examinations for an assisted living administrator license or
7 certificate which were substantially equivalent to those
8 required in this state at the time the other license or
9 certificate was issued by the other state or national
10 organization.

11 "(2) That the other state gives similar recognition
12 and endorsement to assisted living administrator licenses of
13 this state. The board may charge a fee for completion of a
14 reciprocity questionnaire, pursuant to its rule-making
15 authority.

16 "(b) Any person who has a license in good standing
17 in this state, and continuously maintains such license as a
18 licensed nursing home administrator, shall be exempt from the
19 licensure requirement herein if the person at the time of
20 application has responsibility for administration of an
21 assisted living facility subject to the following conditions:

22 "(1) If the person wishes to also be issued a
23 license as an assisted living administrator, the person shall
24 pay an annual administrative fee as determined by the board
25 and document initially and annually thereafter the good
26 standing of the nursing home administrator license.

1 "(2) If any person requests an exemption from the
2 licensure requirements provided herein during the initial
3 18-month licensing period described in subsection (a) of
4 Section 34-2A-2, the initial license issued shall be a
5 provisional license until the end of the 18-month period at
6 which time, and thereafter, an active license shall be issued.

7 "(3) Any assisted living administrator license
8 issued according to subdivision (1) or subdivision (2) of this
9 subsection shall become void if the requisite nursing home
10 administrator license becomes void. Further, the license shall
11 become inactive, as described in subsection (e) of Section
12 34-2A-12, if the licensee no longer has responsibility for an
13 assisted living facility. After 12 months in inactive status,
14 the license shall expire and become void.

15 "(c) Any person who is an administrator/chief
16 executive officer of an acute care hospital in this state
17 shall be exempt from the licensure requirement herein if the
18 person at the time of application has responsibility for
19 administration of an assisted living facility subject to the
20 following conditions:

21 "(1) If the person wishes to also be issued a
22 license as an assisted living administrator, the person shall
23 pay an annual administrative fee as determined by the board
24 and document initially and annually thereafter their continued
25 employment as an administrator/chief executive officer of an
26 acute care hospital.

1 "(2) If any person requests an exemption from the
2 licensure requirements provided herein during the initial
3 18-month licensing period described in subsection (a) of
4 Section 34-2A-2, the initial license issued shall be a
5 provisional license until the end of the 18-month period at
6 which time, and thereafter, an active license shall be issued.

7 "(3) Any assisted living administrator license
8 issued according to subdivision (1) or subdivision (2) of this
9 subsection shall become void if the person no longer is the
10 administrator/chief executive officer of a hospital. Further,
11 the license shall become inactive, as described in subsection
12 (e) of Section 34-2A-12 if the licensee no longer has
13 responsibility for an assisted living facility. After 12
14 months in inactive status, the license shall expire and become
15 void.

16 "(4) For the purpose of this subsection, the term
17 "acute care hospital" shall be defined as a health institution
18 planned, organized, and maintained for offering to the public
19 generally facilities and beds for use in the diagnosis and/or
20 treatment of illness, disease, injury, deformity, abnormality,
21 or pregnancy, when the institution offers such care of service
22 for not less than 24 consecutive hours in any week to two or
23 more individuals not related by blood or marriage to the owner
24 and/or chief executive officer/administrator and, in addition,
25 the hospital may provide for the education of patients,
26 medical and health personnel, as well as conduct research

1 programs to promote progress and efficiency in clinical and
2 administrative medicine.

3 "§34-2A-12.

4 "(a) Every individual who holds a valid current
5 license as an assisted living administrator issued by the
6 board under this chapter shall immediately upon issuance have
7 the right and privilege of acting and serving as an assisted
8 living administrator and of using the abbreviation "A.L.A."
9 after his or her name. Thereafter, the individual shall
10 annually be required to make application to the board for a
11 renewal of license and to report any facts requested by the
12 board on forms provided for that purpose.

13 "(b) Upon making application for a renewal of a
14 license, the individual shall pay an annual license fee
15 established as determined by the board pursuant to the
16 rule-making authority and, at the same time, shall submit
17 evidence satisfactory to the board that during the year
18 immediately preceding application for renewal he or she has
19 complied with the requirements of the board concerning the
20 continuation of education of assisted living administrators.

21 "(c) Upon receipt of the application for renewal of
22 a license, the renewal fee, and the evidence with respect to
23 continuing education, the board shall issue a license renewal
24 to the assisted living administrator.

25 "(d) (1) Failure to secure an annual renewal of a
26 license based on a failure to meet the continuing education
27 requirements, shall result in the expiration of the license.

1 An expired license may not be reactivated. All persons holding
2 an expired license shall be required to submit a new
3 application and follow all procedures for new licensure of a
4 new applicant and pay a reapplication fee established by the
5 board.

6 "(2) A licensee who complies with the continuing
7 education requirements, but who does not renew within 90 days
8 following its due date, shall be deemed delinquent and may
9 renew within the 90-day period by paying a late renewal fee
10 established by the board pursuant to its rule-making
11 authority. A license that is not renewed within the 90-day
12 period shall be deemed expired and is subject to reapplication
13 as provided in subdivision (1).

14 "(e) A licensee who holds a current license and who
15 is not practicing as an assisted living administrator may
16 place that license into an inactive status upon written
17 application to the board. Any licensee whose license has been
18 placed on inactive status may not engage in the practice of
19 assisted living administration.

20 "(f) A licensee whose license is on inactive status
21 who wishes to reactivate that license may do so by making
22 application to the board. The applicant shall attach proof of
23 having completed twice the annual hours' requirement of
24 approved continuing education credits within one year of
25 making application for license reactivation and shall pay a
26 reactivation fee established by the board pursuant to its
27 rule-making authority. A licensee may not have his or her

1 license in inactive status for more than five years. After
2 five years in inactive status, the license automatically
3 expires.

4 "(g) The board shall maintain a file of all
5 applications for licensure that includes the following
6 information on each applicant: Residence, name, age, the name
7 and address of his or her employer or business connection, the
8 date of application, educational experience qualifications,
9 action taken by the board, serial numbers of licenses issued
10 to the applicant, and the date on which the board acted on or
11 reviewed the application. An assisted living administrator
12 shall notify the board within 15 days of any change of
13 employment or home address. The board may establish an
14 information change fee which shall be charged to all licensees
15 who fail to provide the board with information regarding a
16 change of employment or home address within 15 days of the
17 event requiring board notification.

18 "(h) The board shall maintain a list of current
19 licensees of the board and shall furnish the list on demand to
20 any person who pays a fee established by the board pursuant to
21 its rule-making authority. The State Department of Public
22 Health and other state agencies with a direct need shall be
23 provided copies at no cost.

24 "(i) The board shall adopt a program for continuing
25 education for its licensees by September 1, 2002. After that
26 date, successful completion of the continuing education

1 program by board licensees shall be required in order to
2 obtain a renewal license.

3 "(j) Continuing education shall not result in a
4 passing or failing grade.

5 "§34-2A-13.

6 "(a) The board may discipline its licensees by the
7 adoption and collection of administrative fines, not to exceed
8 one thousand dollars (\$1,000) per violation, and may institute
9 any legal proceedings necessary to effect compliance with this
10 chapter.

11 "(b) The license of any person practicing or
12 offering to practice assisted living administration may be
13 revoked or suspended by the board, or the person may be
14 reprimanded, censured, or otherwise disciplined in accordance
15 with the provisions of this section upon decision and after
16 due hearing in any of, but not limited to, the following
17 cases:

18 "(1) Upon proof that the person has willfully or
19 repeatedly violated any of the provisions of this chapter or
20 the rules enacted in accordance with this chapter.

21 "(2) Conduct or practices deemed to be detrimental
22 to the lives, health, safety, or welfare of the residents or
23 patients of any assisted living facility or health care
24 facility in this state or any other jurisdiction.

25 "(3) Conviction in this state or any other
26 jurisdiction of a felony or any crime involving the physical,
27 sexual, mental, or verbal abuse of an individual.

1 "(4) Conviction in this state or any other
2 jurisdiction of any crime involving fraud.

3 "(5) Pleas of nolo contendere, nolo contender, no
4 contender, no contest, or guilty in any case involving a lewd
5 or lascivious act against a child or an adult, inappropriate
6 sexual conduct with a child or an adult, or any other crime in
7 which the punishment could include a sentence of imprisonment
8 exceeding one year.

9 "(c) The board shall have the jurisdiction to hear
10 all charges brought under this section against any person
11 having been issued a license as an assisted living
12 administrator or having been issued a license as a provisional
13 assisted living administrator and, upon a hearing, shall
14 determine the charges upon their merits. If the board
15 determines that disciplinary measures should be taken, the
16 board may revoke his or her license, suspend him or her from
17 practice, or reprimand, censure, or otherwise discipline the
18 person.

19 "(d) All proceedings under this section shall be
20 conducted by the board, according to its administrative rules,
21 and the Alabama Administrative Procedure Act.

22 "(e) Any party aggrieved by a final decision or
23 order of the board suspending, revoking, or refusing to issue
24 a license is entitled to a review of the decision or order by
25 taking an appeal to the circuit court of the county in which
26 the assisted living administrator or applicant resides. In
27 such cases, the appeal shall be taken by filing notice thereof

1 with the circuit court within 30 days of the date of notice by
2 the board of its decision. Appeals from any order or judgment
3 rendered thereon by the circuit court to the Supreme Court of
4 Alabama shall be available as in other cases.

5 "(f) The board shall report to the Department of
6 Public Health all final disciplinary actions taken under this
7 section."

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.