

1 HB594  
2 117568-4  
3 By Representative Boothe  
4 RFD: Health  
5 First Read: 17-FEB-10

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
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8 To amend Sections 34-2A-2, 34-2A-3, 34-2A-11,  
9 34-2A-12, and 34-2A-13, Code of Alabama 1975, relating to  
10 assisted living administrators; to allow each consumer member  
11 of the board to vote in all matters before the board; to  
12 require each person who applies for licensure as an assisted  
13 living administrator to pay an annual administrative fee as  
14 determined by the board; to require each applicant for  
15 licensure as an assisted living administrator to pay an annual  
16 administrative fee; to require each person holding an expired  
17 license, in addition to other requirements, to pay a  
18 reapplication fee established by the board; and to allow the  
19 board to discipline a person practicing or offering to  
20 practice assisted living administration if the person has  
21 entered a plea of nolo contendere, nolo contendere, no  
22 contender, no contest, or guilty in any case involving a lewd  
23 or lascivious act against a child or an adult, inappropriate  
24 sexual conduct with a child or an adult, or any other crime in  
25 which the punishment could have included a sentence of  
26 imprisonment exceeding one year.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4                   "§34-2A-2.

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

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

21 "(a) There is created a Board of Examiners of  
22 Assisted Living Administrators composed of nine members, seven  
23 members as set out in this subsection, and two additional  
24 consumer members as set out in subsection (b). The membership  
25 of the board shall be inclusive and reflect the racial,  
26 gender, geographic, urban/rural, and economic diversity of the  
27 state. The seven original members shall be composed as

1 follows: Five members shall be assisted living administrators  
2 duly licensed and registered under this chapter; one member  
3 shall be a physician licensed under the laws of the state who  
4 is actively concerned in a practice with the care of  
5 chronically ill and infirm, aged patients; and one shall be a  
6 licensed nursing home administrator who in the same or  
7 contiguous facility manages assisted living beds. Appointments  
8 to the board for those positions to be held by assisted living  
9 administrators shall be made by the Governor from a list of  
10 three nominees for each position to be submitted to the  
11 Governor by the Assisted Living Association of Alabama, Inc.  
12 The appointment of the nursing home administrator shall be  
13 made from a list of three nominees submitted to the Governor  
14 by the Alabama Nursing Home Association, Inc. The appointment  
15 to the board of the member for the position to be held by a  
16 physician shall be made from a list of three nominees  
17 submitted to the Governor by the Medical Association of the  
18 State of Alabama.

19 "(b) Within 30 days of March 1, 2002, the Governor  
20 shall appoint two consumer members of the board. The consumer  
21 members shall vote in all matters ~~except licensure or~~  
22 ~~discipline of licensees or applicants~~. At least one consumer  
23 member shall be 65 years of age or older and no consumer  
24 member, or a spouse or immediate family member of a consumer  
25 member, shall be a licensee of the board or be employed in the  
26 assisted living profession.

1           "(c) When the terms of all members of the board  
2 expire in April 2005, the Governor shall appoint five members  
3 to two-year terms and four members to three-year terms as  
4 follows: Three assisted living administrators, the licensed  
5 nursing home administrator, and one consumer member shall be  
6 appointed to two-year terms; two assisted living  
7 administrators, the licensed physician, and one consumer  
8 member shall be appointed to three-year terms. Thereafter, all  
9 members shall serve three-year terms of office.

10           "(d) All members of the board shall be citizens of  
11 the United States and shall be residents of the state.

12           "(e) Except as otherwise provided in this section,  
13 each member shall serve three-year staggered terms and no  
14 board member shall serve more than two consecutive full  
15 three-year terms. All members shall continue to serve until  
16 the Governor appoints a successor.

17           "(f) The Governor may remove any board member for  
18 misconduct, incapacity, incompetence, or neglect of duty after  
19 the board member so charged has been served with a written  
20 statement of charges and has been given an opportunity to be  
21 heard. Absence from any three consecutive meetings of the  
22 board within a calendar year, without cause acceptable to the  
23 Governor and the board, shall be deemed cause for removal.

24           "(g) Any vacancy created by the death, resignation,  
25 or removal of any board member shall be filled by the Governor  
26 for the unexpired term in the same manner as required by this  
27 chapter to make appointments.

1           "(h) Each member of the board shall receive a per  
2     diem fee of not less than fifty dollars (\$50) nor more than  
3     one hundred dollars (\$100) to be determined by the board for  
4     the time spent in the performance of official duties. Each  
5     member shall be reimbursed for all necessary and proper travel  
6     and incidental expenses incurred in implementing this chapter  
7     as is provided to state employees by the laws of the state and  
8     regulations of the State Personnel Director. In setting the  
9     per diem fee, the board shall give due consideration to funds  
10    which are available for that purpose.

11           "(i) The board shall hold four or more meetings a  
12    year. A majority of the members of the board shall constitute  
13    a quorum at any meeting except as provided in Section  
14    34-2A-13. A majority vote of the members present shall be  
15    sufficient to transact the business of the board except as  
16    provided in Section 34-2A-13. Meetings may be called by the  
17    chair or by a majority of the members of the board. Members  
18    shall be given seven days' written notice of all meetings.

19           "(j) The board shall annually elect from its members  
20    a chair and a vice-chair, at the first meeting of the board  
21    held after October 1 of each year, and each shall serve until  
22    the first meeting held after October 1 of the following year.  
23    In the event of the death, resignation, or removal of the  
24    chair from the board, the vice-chair shall succeed as chair  
25    for the remainder of the unexpired term. In the event of the  
26    death, resignation, removal, or succession to the office of  
27    chair or a vice-chair, a successor shall be elected by the

1 board to fill the remainder of the unexpired term as  
2 vice-chair. The chair, or in the absence of the chair, the  
3 vice-chair, shall preside at all meetings of the board. The  
4 chair of the board may appoint an executive director to the  
5 board, with the consent of the members of the board, who shall  
6 serve at the pleasure of the board. The board shall fix the  
7 salary of the executive director. The executive director shall  
8 be the executive officer to the board but may not be a member  
9 of the board. The executive director shall have those powers  
10 and shall perform those duties as are prescribed by law and  
11 the rules and regulations of the board. A clerk and sufficient  
12 deputy clerks to adequately assist the board and executive  
13 director in the keeping of the records and in the performance  
14 of their duties may be appointed by the board subject to the  
15 Merit System.

16 "(k) The board is subject to the Alabama Sunset Law  
17 of 1981, and is classified as an enumerated agency pursuant to  
18 Section 41-20-3. The board shall automatically terminate on  
19 October 1, 2004, and every four years thereafter, unless a  
20 bill is passed that the board be continued, modified, or  
21 reestablished.

22 "§34-2A-11.

23 "(a) The board may, subject to this chapter and the  
24 rules and regulations of the board prescribing the  
25 qualifications for an assisted living administrator license,  
26 issue a license to an assisted living administrator who has  
27 been issued a license by the proper authorities of any other



1 state or issued a certificate of qualification by any national  
2 organization, upon complying with the provisions of licensure,  
3 payment of a fee established by the board pursuant to its  
4 rule-making authority, and upon submission of evidence  
5 satisfactory to the board of all of the following:

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

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

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

24 "(1) If the person wishes to also be issued a  
25 license as an assisted living administrator, the person shall  
26 pay an annual administrative fee as determined by the board

1 and document initially and annually thereafter the good  
2 standing of the nursing home administrator license.

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

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

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

23 "(1) If the person wishes to also be issued a  
24 license in Alabama as an assisted living administrator, the  
25 person shall pay an annual administrative fee as determined by  
26 the board and document initially and annually thereafter their

1 continued employment as an administrator/chief executive  
2 officer of an acute care hospital.

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

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

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

1 medical and health personnel, as well as conduct research  
2 programs to promote progress and efficiency in clinical and  
3 administrative medicine.

4 "§34-2A-12.

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

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

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

26 "(d) (1) Failure to secure an annual renewal of a  
27 license based on a failure to meet the continuing education

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

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

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

21 "(f) A licensee whose license is on inactive status  
22 who wishes to reactivate that license may do so by making  
23 application to the board. The applicant shall attach proof of  
24 having completed twice the annual hours' requirement of  
25 approved continuing education credits within one year of  
26 making application for license reactivation and shall pay a  
27 reactivation fee established by the board pursuant to its

1 rule-making authority. A licensee may not have his or her  
2 license in inactive status for more than five years. After  
3 five years in inactive status, the license automatically  
4 expires.

5 "(g) The board shall maintain a file of all  
6 applications for licensure that includes the following  
7 information on each applicant: Residence, name, age, the name  
8 and address of his or her employer or business connection, the  
9 date of application, educational experience qualifications,  
10 action taken by the board, serial numbers of licenses issued  
11 to the applicant, and the date on which the board acted on or  
12 reviewed the application.

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

19 "(i) The board shall adopt a program for continuing  
20 education for its licensees by September 1, 2002. After that  
21 date, successful completion of the continuing education  
22 program by board licensees shall be required in order to  
23 obtain a renewal license.

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

26 "§34-2A-13.

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

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

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

16           "(2) Conduct or practices deemed to be detrimental  
17 to the lives, health, safety, or welfare of the residents or  
18 patients of any assisted living facility or health care  
19 facility in this state or any other jurisdiction.

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

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

25           "(5) Pleas of nolo contendere, nolo contender, no  
26 contender, no contest, or guilty in any case involving a lewd  
27 or lascivious act against a child or an adult, inappropriate

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

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

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

17 "(e) Any party aggrieved by a final decision or  
18 order of the board suspending, revoking, or refusing to issue  
19 a license is entitled to a review of the decision or order by  
20 taking an appeal to the circuit court of the county in which  
21 the assisted living administrator or applicant resides. In  
22 such cases, the appeal shall be taken by filing notice thereof  
23 with the circuit court within 30 days of the date of notice by  
24 the board of its decision. Appeals from any order or judgment  
25 rendered thereon by the circuit court to the Supreme Court of  
26 Alabama shall be available as in other cases.



1                   "(f) The board shall report to the Department of  
2                   Public Health all final disciplinary actions taken under this  
3                   section."

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

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House of Representatives

Read for the first time and  
referred to the House of Represen-  
tatives committee on Health ..... 17-FEB-10

Read for the second time and placed  
on the calendar ..... 11-MAR-10

Read for the third time and passed  
as amended ..... 13-APR-10

Yeas 101, Nays 0, Abstains 0

Greg Pappas  
Clerk