

1 HB9
2 112908-1
3 By Representative Mitchell
4 RFD: Judiciary
5 First Read: 12-JAN-10
6 PFD: 09/23/2009

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8 SYNOPSIS: Under existing law, an employee or contract
9 employee of the state may not disclose in advance
10 the date or time of an inspection of a hospital or
11 other health care facility to a person with a
12 financial interest in a licensed health care
13 facility, to an employee or agent of a licensed
14 health care facility, to a consultant or contractor
15 who performs services for or on behalf of licensed
16 health care facilities, or to a person related by
17 blood or marriage to an owner, employee, agent,
18 consultant, or contractor of a licensed health care
19 facility.

20 This bill would prohibit an employee or
21 contract employee of a county health department or
22 any other agent of the state or county from
23 disclosing in advance the date or time of an
24 inspection of a hospital or other health care
25 facility and would provide for criminal penalties
26 for violations.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of Amendment 621. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in Amendment 621.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

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26 To amend Section 22-21-29, Code of Alabama 1975,
27 relating to hospitals and other health care facilities; to

1 prohibit an employee of a county health department or any
2 agent of the state or a county from disclosing in advance the
3 date or time of an inspection of a hospital or other health
4 care facility; provide penalties for a violation; and in
5 connection therewith would have as its purpose or effect the
6 requirement of a new or increased expenditure of local funds
7 within the meaning of Amendment 621 of the Constitution of
8 Alabama of 1901, now appearing as Section 111.05 of the
9 Official Recompilation of the Constitution of Alabama of 1901,
10 as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 22-21-29, Code of Alabama 1975,
13 is amended to read as follows:

14 "§22-21-29.

15 "(a) Every hospital licensed under this article
16 shall be open to inspection to the extent authorized in this
17 section by employees and agents of the State Board of Health,
18 under rules as shall be promulgated by the board with the
19 advice and consent of the advisory board. Employees and agents
20 of the board shall also inspect unlicensed and suspected
21 unlicensed facilities. Nothing in this section shall authorize
22 the board to inspect quarters therein occupied by members of
23 any religious group or nurses engaged in work in any hospital
24 or places of refuge for members of religious orders for whom
25 care is provided, but any inspection shall be limited and
26 confined to the parts and portions of the hospital as are used
27 for the care and treatment of the patients and the general

1 facilities for their care and treatment. No hospital shall, by
2 reason of this section, be relieved from any other types of
3 inspections authorized by law.

4 "(b) All inspections undertaken by the State Board
5 of Health shall be conducted without prior notice to the
6 facility and its staff. Notwithstanding the foregoing, an
7 inspection of a hospital or other health care facility, prior
8 to its licensure, may be scheduled in advance. An employee or
9 contract employee of the state or a county health department,
10 or any agent of the state or a county, shall not disclose in
11 advance the date or the time of an inspection of a hospital or
12 other health care facility to any person with a financial
13 interest in any licensed health care facility, to any employee
14 or agent of a licensed health care facility, to any consultant
15 or contractor who performs services for or on behalf of
16 licensed health care facilities, or to any person related by
17 blood or marriage to an owner, employee, agent, consultant, or
18 contractor of a licensed health care facility. For purposes of
19 this section, the term inspection shall include periodic and
20 follow-up compliance inspections and surveys on behalf of the
21 State Board of Health, complaint investigations and follow-up
22 investigations conducted by the State Board of Health, and
23 compliance inspections and surveys, complaint investigations,
24 and follow-up visits conducted on behalf of the United States
25 Department of Health and Human Services, Health Care Financing
26 Administration, or its successors. The board may prescribe by
27 rule exceptions to the prohibition where considerations of

1 public health or safety make advance disclosure of inspection
2 dates or times reasonable. Disclosure in advance of inspection
3 dates when such disclosure is required or authorized pursuant
4 to federal law or regulation shall not be a violation of this
5 section. Scheduling inspections of hospitals or other health
6 care facilities by the board at regular, periodic intervals
7 which may be predictable shall not be a violation of this
8 section.

9 "(c) Any employee or contract employee of the state
10 or a county health department, or any other agent of the state
11 or a county, who discloses in advance the date or time of an
12 inspection in violation of subsection (b) shall be guilty of a
13 Class A misdemeanor. Any person who solicits an employee or
14 contract employee of the state or a county or other agent of
15 the state or a county to disclose in advance the date or time
16 of an inspection in violation of subsection (b) for the
17 purpose of disclosing the information to others shall be
18 guilty of a Class A misdemeanor.

19 "(d) The State Board of Health shall not undertake
20 the licensure or inspection of any applicant for licensure as
21 a hospice unless, on the date the application for licensure as
22 a hospice is filed, all hospices licensed prior to that date
23 have been inspected within the previous 12 months. This
24 subsection shall not apply to any application for licensure as
25 a hospice filed with the State Board of Health prior to July
26 7, 2006, or an applicant who has obtained a letter of
27 nonreviewability from SHPDA by July 7, 2006, and files an

1 application for licensure as a hospice with the State Board of
2 Health within 12 months of the date of the letter of
3 nonreviewability."

4 Section 2. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 3. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.