

1 HB239  
2 164436-1  
3 By Representative Harper  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 11-MAR-15

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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 authorize the board to  
22 establish and charge an information change fee  
23 under certain circumstances relating to a change of  
24 the place of employment or change of home address  
25 of a licensee.

1                   This bill would increase the maximum  
2                   administrative fine that may be charged by the  
3                   board per violation from \$1,000 to \$5,000.

4                   This bill would allow the board to  
5                   discipline a person practicing or offering to  
6                   practice assisted living administration if the  
7                   person has entered a plea of nolo contendere, nolo  
8                   contender, or no contender, no contest, or guilty  
9                   in any case involving a lewd or lascivious act  
10                  against a child or an adult, inappropriate sexual  
11                  conduct with a child or an adult, or any other  
12                  crime in which the punishment could include a  
13                  sentence of imprisonment exceeding one year.

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15                                   A BILL  
16                                   TO BE ENTITLED  
17                                   AN ACT

18  
19                   To amend Sections 34-2A-2, 34-2A-8, 34-2A-11,  
20                   34-2A-12, and 34-2A-13, Code of Alabama 1975, relating to  
21                   assisted living administrators; to establish a replacement  
22                   license fee for a stolen, lost, or misplaced licensing card;  
23                   to require each person who applies for licensure as an  
24                   assisted living administrator to pay an annual administrative  
25                   fee as determined by the board; to require each applicant for  
26                   licensure as an assisted living administrator to pay an annual  
27                   administrative fee; to require each person holding an expired

1 license, in addition to other requirements, to pay a  
2 reapplication fee established by the board; to authorize the  
3 board to establish and charge an information change fee  
4 relating to a change of the place of employment or change of  
5 home address of a licensee; to increase the maximum  
6 administrative fine that may be charged by the board per  
7 violation from \$1,000 to \$5,000; and to allow the board to  
8 discipline a person practicing or offering to practice  
9 assisted living administration if the person has entered a  
10 plea of nolo contendere, nolo contender, no contender, no  
11 contest, or guilty in any case involving a lewd or lascivious  
12 act against a child or an adult, inappropriate sexual conduct  
13 with a child or an adult, or any other crime in which the  
14 punishment could have included a sentence of imprisonment  
15 exceeding one year.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 34-2A-2, 34-2A-8, 34-2A-11,  
18 34-2A-12, and 34-2A-13, Code of Alabama 1975, are amended to  
19 read as follows:

20 "§34-2A-2.

21 "(a) All administrators of assisted living  
22 facilities or specialty care assisted living facilities as  
23 recorded in the records of the State Department of Public  
24 Health shall be issued a provisional license, as defined  
25 herein, upon the effective date of this act. On and after  
26 September 1, 2003, no assisted living facility in the state  
27 may operate unless it is under the supervision of an

1 administrator who holds a currently valid assisted living  
2 administrator's license, or new initial provisional license,  
3 issued by the board. No person shall practice or offer to  
4 practice assisted living administration in this state or use  
5 any title, sign, card, or device to indicate that he or she is  
6 an assisted living administrator unless the person shall have  
7 been duly licensed as an assisted living administrator or as a  
8 provisional assisted living administrator in this state. In  
9 the event an assisted living administrator dies, unexpectedly  
10 resigns, becomes incapacitated, or has his or her license  
11 revoked, the person or persons then responsible for the  
12 management of the assisted living facility shall immediately  
13 notify the board and the State Board of Health. The board may  
14 issue an emergency permit to a person performing the functions  
15 of administrator in the assisted living facility for a  
16 reasonable period of time from the date of death, unexpected  
17 resignation, incapacitation, or revocation of the license of  
18 the assisted living administrator, but not to exceed 120 days.  
19 Although the State Board of Health, in its discretion, may  
20 permit the assisted living facility to continue to operate  
21 under the supervision of a person issued an emergency permit,  
22 nothing in this section shall be construed as prohibiting the  
23 State Board of Health from denying or revoking the license of  
24 the assisted living facility where the State Board of Health  
25 has determined that the person with the emergency permit does  
26 not demonstrate an ability or willingness to comply with State  
27 Board of Health rules governing assisted living facilities or

1 where the State Board of Health has determined that the  
2 facility is not otherwise in compliance with those rules.

3 "(b) Nothing in this section shall be construed to  
4 prohibit a licensed assisted living administrator from  
5 supervising more than one assisted living facility if specific  
6 permission is granted by the State Department of Public  
7 Health.

8 "§34-2A-8.

9 "(a) The board shall admit to examination for  
10 licensure as an assisted living administrator any candidate  
11 who submits evidence of good moral character and suitability  
12 as prescribed by the board and who submits evidence to the  
13 board that he or she is at least 19 years of age, a citizen of  
14 the United States or, if not a citizen of the United States, a  
15 person who is legally present in the United States with  
16 appropriate documentation from the federal government, that he  
17 or she is a high school graduate or has completed an  
18 educational program equivalent thereto, and that he or she has  
19 completed any additional educational requirements prescribed  
20 by the board. The board may exempt the educational  
21 requirements for practicing administrators on March 1, 2002,  
22 based on acceptable experience and tenure in the applicant's  
23 current position. Each candidate shall also be required, prior  
24 to admission to the examination, to pay an examination fee  
25 established by the board pursuant to its rule-making  
26 authority.

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

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

9           "§34-2A-11.

10           "(a) The board may, subject to this chapter and the  
11 rules and regulations of the board prescribing the  
12 qualifications for an assisted living administrator license,  
13 issue a license to an assisted living administrator who has  
14 been issued a license by the proper authorities of any other  
15 state or issued a certificate of qualification by any national  
16 organization, upon complying with the provisions of licensure,  
17 payment of a fee established by the board pursuant to its  
18 rule-making authority, and upon submission of evidence  
19 satisfactory to the board of all of the following:

20           "(1) That the other state or national organization  
21 maintained a system and standards of qualification and  
22 examinations for an assisted living administrator license or  
23 certificate which were substantially equivalent to those  
24 required in this state at the time the other license or  
25 certificate was issued by the other state or national  
26 organization.

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

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

12           "(1) If the person wishes to also be issued a  
13 license as an assisted living administrator, the person shall  
14 pay an annual administrative fee as determined by the board  
15 and document initially and annually thereafter the good  
16 standing of the nursing home administrator license.

17           "(2) If any person requests an exemption from the  
18 licensure requirements provided herein during the initial  
19 18-month licensing period described in subsection (a) of  
20 Section 34-2A-2, the initial license issued shall be a  
21 provisional license until the end of the 18-month period at  
22 which time, and thereafter, an active license shall be issued.

23           "(3) Any assisted living administrator license  
24 issued according to subdivision (1) or subdivision (2) of this  
25 subsection shall become void if the requisite nursing home  
26 administrator license becomes void. Further, the license shall  
27 become inactive, as described in subsection (e) of Section

1 34-2A-12, if the licensee no longer has responsibility for an  
2 assisted living facility. After 12 months in inactive status,  
3 the license shall expire and become void.

4 "(c) Any person who is an administrator/chief  
5 executive officer of an acute care hospital in this state  
6 shall be exempt from the licensure requirement herein if the  
7 person at the time of application has responsibility for  
8 administration of an assisted living facility subject to the  
9 following conditions:

10 "(1) If the person wishes to also be issued a  
11 license as an assisted living administrator, the person shall  
12 pay an annual administrative fee as determined by the board  
13 and document initially and annually thereafter their continued  
14 employment as an administrator/chief executive officer of an  
15 acute care hospital.

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

22 "(3) Any assisted living administrator license  
23 issued according to subdivision (1) or subdivision (2) of this  
24 subsection shall become void if the person no longer is the  
25 administrator/chief executive officer of a hospital. Further,  
26 the license shall become inactive, as described in subsection  
27 (e) of Section 34-2A-12, if the licensee no longer has

1 responsibility for an assisted living facility. After 12  
2 months in inactive status, the license shall expire and become  
3 void.

4 "(4) For the purpose of this subsection, the term  
5 "acute care hospital" shall be defined as a health institution  
6 planned, organized, and maintained for offering to the public  
7 generally facilities and beds for use in the diagnosis and/or  
8 treatment of illness, disease, injury, deformity, abnormality,  
9 or pregnancy, when the institution offers such care of service  
10 for not less than 24 consecutive hours in any week to two or  
11 more individuals not related by blood or marriage to the owner  
12 and/or chief executive officer/administrator, and, in  
13 addition, the hospital may provide for the education of  
14 patients, medical and health personnel, as well as conduct  
15 research programs to promote progress and efficiency in  
16 clinical and administrative medicine.

17 "§34-2A-12.

18 "(a) Every individual who holds a valid current  
19 license as an assisted living administrator issued by the  
20 board under this chapter shall immediately upon issuance have  
21 the right and privilege of acting and serving as an assisted  
22 living administrator and of using the abbreviation "A.L.A."  
23 after his or her name. Thereafter, the individual shall  
24 annually be required to make application to the board for a  
25 renewal of license and to report any facts requested by the  
26 board on forms provided for that purpose.

1           "(b) Upon making application for a renewal of a  
2 license, the individual shall pay an annual license fee  
3 established as determined by the board pursuant to the  
4 rule-making authority and, at the same time, shall submit  
5 evidence satisfactory to the board that during the year  
6 immediately preceding application for renewal he or she has  
7 complied with the requirements of the board concerning the  
8 continuation of education of assisted living administrators.

9           "(c) Upon receipt of the application for renewal of  
10 a license, the renewal fee, and the evidence with respect to  
11 continuing education, the board shall issue a license renewal  
12 to the assisted living administrator.

13           "(d) (1) Failure to secure an annual renewal of a  
14 license based on a failure to meet the continuing education  
15 requirements, shall result in the expiration of the license.  
16 An expired license may not be reactivated. All persons holding  
17 an expired license shall be required to submit a new  
18 application and follow all procedures for new licensure ~~of a~~  
19 ~~new applicant~~ and pay a reapplication fee established by the  
20 board.

21           "(2) A licensee who complies with the continuing  
22 education requirements, but who does not renew within 90 days  
23 following its due date, shall be deemed delinquent and may  
24 renew within the 90-day period by paying a late renewal fee  
25 established by the board pursuant to its rule-making  
26 authority. A license that is not renewed within the 90-day

1 period shall be deemed expired and is subject to reapplication  
2 as provided in subdivision (1).

3 "(e) A licensee who holds a current license and who  
4 is not practicing as an assisted living administrator may  
5 place that license into an inactive status upon written  
6 application to the board. Any licensee whose license has been  
7 placed on inactive status may not engage in the practice of  
8 assisted living administration.

9 "(f) A licensee whose license is on inactive status  
10 who wishes to reactivate that license may do so by making  
11 application to the board. The applicant shall attach proof of  
12 having completed twice the annual hours' requirement of  
13 approved continuing education credits within one year of  
14 making application for license reactivation and shall pay a  
15 reactivation fee established by the board pursuant to its  
16 rule-making authority. A licensee may not have his or her  
17 license in inactive status for more than five years. After  
18 five years in inactive status, the license automatically  
19 expires.

20 "(g) The board shall maintain a file of all  
21 applications for licensure that includes the following  
22 information on each applicant: Residence, name, age, the name  
23 and address of his or her employer or business connection, the  
24 date of application, educational experience qualifications,  
25 action taken by the board, serial numbers of licenses issued  
26 to the applicant, and the date on which the board acted on or  
27 reviewed the application. The assisted living administrator

1 shall notify the board within 15 days of any place of  
2 employment change or home address change. The board may  
3 establish an information change fee, which shall be charged to  
4 any licensee who fails to provide the board with information  
5 regarding a change in his or her place of employment address  
6 or home address within 15 days after the change.

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

13 "(i) The board shall adopt a program for continuing  
14 education for its licensees by September 1, 2002. After that  
15 date, successful completion of the continuing education  
16 program by board licensees shall be required in order to  
17 obtain a renewal license.

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

20 "§34-2A-13.

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

26 "(b) The license of any person practicing or  
27 offering to practice assisted living administration may be

1 revoked or suspended by the board, or the person may be  
2 reprimanded, censured, or otherwise disciplined in accordance  
3 with the provisions of this section upon decision and after  
4 due hearing in any of, but not limited to, the following  
5 cases:

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

9 "(2) Conduct or practices deemed to be detrimental  
10 to the lives, health, safety, or welfare of the residents or  
11 patients of any assisted living facility or health care  
12 facility in this state or any other jurisdiction.

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

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

18 "(5) A plea of nolo contendere, nolo contender, no  
19 contender, no contest, or guilty in any case involving a lewd  
20 or lascivious act against a child or an adult, inappropriate  
21 sexual conduct with a child or an adult, or any other crime in  
22 which the punishment could include a sentence of imprisonment  
23 exceeding one year.

24 "(c) The board shall have the jurisdiction to hear  
25 all charges brought under this section against any person  
26 having been issued a license as an assisted living  
27 administrator or having been issued a license as a provisional

1 assisted living administrator and, upon a hearing, shall  
2 determine the charges upon their merits. If the board  
3 determines that disciplinary measures should be taken, the  
4 board may revoke his or her license, suspend him or her from  
5 practice, or reprimand, censure, or otherwise discipline the  
6 person.

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

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

20 "(f) The board shall report to the Department of  
21 Public Health all final disciplinary actions taken under this  
22 section."

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