

1 HB673  
2 130775-2  
3 By Representatives Boothe and Vance  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 24-MAY-11

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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.

4  
5                           A BILL  
6                           TO BE ENTITLED  
7                           AN ACT

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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 the State of  
21 Alabama. In the event an assisted living administrator dies,  
22 unexpectedly resigns, becomes incapacitated, or has his or her  
23 license revoked, the person or persons then responsible for  
24 the management of the assisted living facility shall  
25 immediately notify the board and the State Board of Health.  
26 The board may issue an emergency permit to a person performing  
27 the functions of administrator in the assisted living facility

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

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

21 "§34-2A-8.

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

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

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

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

21 "§34-2A-11.

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

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

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

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

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

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



1 employment as an administrator/chief executive officer of an  
2 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.