

1 SB514
2 130775-2
3 By Senator Taylor
4 RFD: Small Business
5 First Read: 25-MAY-11

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

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

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§34-2A-2.

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

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

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

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

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

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

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

"(5) Pleas of nolo contendere, nolo contender, no
contender, no contest, or guilty in any case involving a lewd
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.