

ALABAMA STATE COMMITTEE OF PUBLIC HEALTH
DIVISION OF LICENSURE AND CERTIFICATION
ADMINISTRATIVE CODE

CHAPTER 420-5-10
NURSING FACILITIES

420-5-10-.02 Licensing And Administrative Procedures.

(1) Legal Authority for Adoption of Regulations. Pursuant to the authority granted by Code of Ala. 1975, §22-21-20 et seq. and in accordance with the Alabama Administrative Procedures Act, Code of Ala. 1975, §41-22-1 et seq., the State Board of Health does hereby adopt and promulgate rules governing all nursing facilities in Alabama except those exempt by law from licensure.

(2) Types of License. All licenses are issued for the calendar year and shall expire December 31, unless renewed by the owner for the succeeding year.

(a) Regular License. A regular license shall be issued by the State Board of Health after the Board has determined that the nursing facility is in substantial compliance with the rules herein adopted.

(b) Probational License. The State Board of Health may, in its discretion and in lieu of license revocation, issue a probational license to a facility when inspection shows that the maintenance and operation of the facility are such that the facility no longer substantially complies with the rules adopted herein. However, the Board may issue a probational license only after determining that the health and safety of residents are adequately protected despite the non-compliance, and that the facility has submitted an adequate written plan to correct the non-compliance in a timely manner.

(3) Application and Fee

(a) Every facility shall be required to submit an application for license accompanied by the required statutory fee, in accordance with the provisions of Section 22-21-24 of the Code of Ala. 1975. Every application must be submitted on a form supplied by the Board and must contain all the information requested on said form, along with the required fee, in order for the application to be processed and considered.

(b) Name of Facility. Every facility shall be designated by a permanent and distinctive name, which shall be used in applying for a license and shall not be changed without prior written notice to the Board specifying the name to be discontinued as well as the new name.

(4) Licensing.

(a) Issuance of License. The license document issued by the State Board of Health shall set forth the name and location of the facility, the type of facility, and the bed capacity for which the institution is licensed, and the type of license (temporary, regular, or probational).

(b) Separate License. A separate license shall be required for each nursing facility when more than one facility is operated under the same management; (Separate licenses are not required for separate buildings on the same grounds used by the same facility). Facilities offering different types of health care services in one building or complex of buildings (e.g., a building housing a nursing facility and a hospital) shall also be separately licensed.

(c) Basis for Denial of License.

1. The State Board of Health may deny a license to any corporation, partnership or individual making application to own or operate any nursing facility if said corporation, partnership or individual:

(i) Falsified any information or record required by the application or license; or

(ii) Has been convicted of a felony, in this or any other state or federal jurisdiction, for physical, mental, or verbal abuse or neglect of an individual or misappropriation of property of a nursing facility resident or financial abuse of residents; or

(iii) Has been convicted of fraud in this or any other state or federal jurisdiction; or

(iv) Has previously been the subject of license revocation proceedings and does not demonstrate a recent ability and willingness to fully comply with State Board of Health rules; or

(v) Does not demonstrate adequate resources, ability, or intent, to fully comply with the State Board of Health rules.

(d) Basis for License Revocation. The State Board of Health may revoke a license to operate a nursing facility if the owner and/or operator of said facility:

1. Violates any of the provisions of Code of Ala. 1975, §22-21-20 et seq., or the rules and regulations issued pursuant thereto;

2. Permits, aides or abets the commission of any illegal act in such facility; or

3. Engages in conduct or practices deemed by the State Board of Health to be detrimental to the welfare of the residents of such facility.

(5) Right of Review. Whenever a license is denied or revoked, the applicant or licensee will be afforded an opportunity for a hearing in accordance with the requirements for contested case proceedings under the Alabama Administrative Procedures Act, Code of Ala. 1975, §41-22-1 et seq., and Chapter 420-1-3 of the Alabama Administrative Code.

(a) In the case of a license revocation, prior notice of the grounds for proposed revocation and the date, time and place set for the hearing shall be given in accordance with the Alabama Administrative Procedures Act, Code of Ala. 1975, 41-22-1 et seq. and Chapter 420-1-3, of the Alabama Administrative Code (AAC).

(b) All due process and procedural protection granted to the licensee or applicant by the Alabama Administrative Procedures Act shall be provided.

(c) All appeals from adverse hearing proceedings shall be subject to the requirements of the Alabama Administrative Procedures Act.

(6) Re-issuance of License.

(a) The following changes in the status of the facility will require issuance of a new license, upon application and payment of license fee:

1. Change in facility ownership.

(i) A change of ownership occurs whenever there is a change in the legal form under which the controlling entity is organized. Transactions constituting a change of ownership include, but are not limited to, the following:

(I) Sale or donation of the facility's legal title

(II) Lease of the entire facility's real and personal property

(III) A sole proprietor becomes a member of a partnership or corporation, succeeding him as the new operator

(IV) A partnership dissolves

(V) One partnership is replaced by another through the removal, addition or substitution of a partner

(VI) A general partnership becomes a limited partnership, or a limited partnership becomes general

(VII) Two (2) or more corporations merge and the originally licensed corporation does not survive

(VIII) Corporations consolidate

(IX) A non-profit corporation becomes a general corporation, or a for-profit corporation becomes; non-profit

(X) Transfers between levels of government

2. Increase in bed capacity

(b) The following status changes require issuance of a new license without payment of licensure fee:

1. Change in type of care offered (e.g., nursing facility to skilled, distinct part SNF changes)

2. Change of location

3. Change in name of the facility

(c) The governing authority shall file with the State Board of Health, an application for license 30 days before any proposed change requiring a new license, in order to permit processing of the application and issuance of the license prior to the desired effective date of the change.

(7) Compliance Exceptions. At its discretion, the State Board of Health may grant an exception to, or modify the application of, one or more provisions of these rules or referenced codes, for a period and under conditions, if any, determined by the Board. The exceptions or modification shall be based on hardship, impracticability, or economic infeasibility in complying with the rules. The facility's request shall be in writing, shall state the specific provisions for which the exception or modification is requested, and reasons for each requested exception or modification.

(8) Compliance with State and Local Laws.

(a) Licensing of Staff. Staff of the facility shall be currently licensed or registered in accordance with the applicable laws.

(b) Compliance with Other Laws. The facility shall be in compliance with laws relating to fire and safety, sanitation, communicable and reportable diseases, Certificate of Need, and other relevant health and safety requirements.

(9) Inspections. Failure or refusal to submit to a survey will result in initiation of license revocation proceedings. Findings noted during a survey shall be corrected by execution of an acceptable plan of correction. The plan of correction shall be succinctly written to address identified problems in a timely manner and returned to Alabama Department of Public Health not later than 10 calendar days after receipt of Statement of Deficiencies.

(10) A renewal application and an annual Licensure fee must be submitted to arrive at the Alabama Department of Public Health, not later than December 15 each year to assure continued Licensure status.

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