

**ALABAMA STATE COMMITTEE OF PUBLIC HEALTH
ALABAMA DEPARTMENT OF PUBLIC HEALTH
ADMINISTRATIVE CODE**

**CHAPTER 420-5-17
HOSPICES**

420-5-17-A2 Appendix.

§22-21-20. Definitions. For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

(1) HOSPITALS. General and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, homes for the aged, domiciliary care facilities and related health care institutions when such institution is primarily engaged in offering room, board, laundry and personal assistance with activities of daily living and incidentals thereto. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This section shall not apply to county or district health departments.

(2) PERSON. Such term includes individuals, partnerships, corporations and associations. (Acts 1975, 3rd Ex. Sess., No. 140, p. 382, §1; Acts 1979, No. 79-798, p. 1461; Acts 1991, No. 91-548, p. 1010, §1; Act 1997, No. 97-632, §1.)

§22-21-21. Purpose of article. The purpose of this article is to promote the public health, safety and welfare by providing for the development, establishment and enforcement of standards for the treatment and care of individuals in institutions within the purview of this article and the establishment, construction, maintenance and operation of such institutions which will promote safe and adequate treatment and care of individuals in such institutions. (Acts 1949, No. 530, p. 835, §1; Acts 1962, Ex. Sess., No. 122, p. 157, §1.)

§22-21-22. License -- Required; exceptions. No person shall establish, conduct or maintain any hospital as defined in Section 22-21-20 without first obtaining the license provided in this article. Hospitals operated by the federal government and mental hospitals under the supervision of the board of trustees of the Alabama State Hospitals shall be exempt from the provisions of this article. (Acts 1949, No. 530, p. 835, §2; Acts 1962, Ex. Sess., No. 122, p. 157, §2.)

§22-21-23. License -- Application. Any person desiring licensing under this article shall apply to the State Board of Health therefor. The applicant shall state the name of the applicant and whether an individual, partnership, corporation or other entity, the type of institution for which a license is desired, the location thereof and the name of the person in direct supervision and charge thereof. The person in charge of such hospital must be at least 19 years of age, of reputable and responsible character and in sound physical and mental health. Like evidence of fitness shall be submitted when required, except for age, as to those individuals employed at, or in, such hospital in a supervisory capacity. The applicant shall likewise submit evidence of ability to comply with the minimum standards provided in this article or by regulations issued under its authority. (Acts 1949, No. 530, p. 835, §4.)

§22-21-24. License -- Fees; term; form; nontransferable; posting; renewal; hospital licensable when accredited by joint commission. The application for a license to operate a hospital shall be accompanied by a standard fee of \$200.00, plus a fee of \$5.00 per bed for each bed over 10 beds to be licensed in accordance with regulations promulgated under Section 22-21-28. Increase in a hospital's bed capacity during the calendar year is assessed at the standard fee of \$200.00 plus \$5.00 each for the net gain in beds. No fee shall be refunded. All fees received by the State Board of Health under the provision of this article shall be paid into the State Treasury to the credit of the State Board of Health and shall be used for carrying out the provisions of this article. All licenses issued under this article shall expire on December 31 of the year in which it was issued. All licenses shall be on a form prescribed by said department, shall not be transferable or assignable, shall be issued only for the premises named in the application, shall be posted in a conspicuous place on the licensed premises and may be renewed from year to year upon application, investigation and payment of the required license fee, as in the case of procurement of the original license. All fees collected under this article are hereby appropriated for expenditure by the State Health Department. All hospitals which are accredited by the joint commission on accreditation of hospitals shall be deemed by the State Health Department to be licensable without further inspection or survey by the personnel of the State Department of Health. Further accreditation by the joint commission on accreditation of hospitals shall in no way relieve that hospital of the responsibility of applying for

licensure and remitting the appropriate licensure fee as specified in this article. (Acts 1949, No. 530, p. 835, §5; Acts 1975, 3rd Ex. Sess., No. 140, p. 382, §2; Acts 1980, No. 80-642, p. 1213; Acts 1988, 1st Ex. Sess., No. 88-902, p. 470.)

§22-21-25. License -- Issuance; suspension or revocation; new applications after revocation.

(a) The State Board of Health is hereby authorized to issue licenses for the operation of hospitals which are found to comply with the provisions of this article and any regulations lawfully promulgated by the said State Board of Health.

(b) The State Board of Health is hereby authorized to suspend or revoke a license issued under this article on any of the following grounds:

(1) Violation of any of the provisions of this article or the rules and regulations issued pursuant thereto;

(2) Permitting, aiding or abetting the commission of any illegal act in such institution; or

(3) Conduct or practices deemed by the State Board of Health to be detrimental to the welfare of the patients of said institution.

(c) Before any such license issued under this article is suspended or revoked, written notice shall be given the licensee, stating the grounds of the complaint, and the date, time and place set for the hearing of said complaint, which date of hearing shall be not less than 30 days from the date of the notice. Such a notice shall be sent by registered or certified mail to the licensee at the address where the institution concerned is located. The licensee shall be entitled to be represented by legal counsel at the hearing.

(d) If a license is revoked as provided in this section, a new application for license shall be considered by the State Board of Health if, when and after the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished. A new license shall then be granted after proper inspection has been made and all provisions of this article and rules and regulations promulgated under this article have been satisfied. (Acts 1949, No. 530, p. 835, §7.)

§22-21-26. License -- Judicial review of suspension or revocation.

Any party aggrieved by a final decision or order of the Board of Health suspending or revoking a license is entitled to a review of such decision or order by taking an appeal to the circuit court of the county in which the hospital is located or is to be located. (Acts 1949, No. 530, p. 835, §11.)

§22-21-27. Advisory board.

(a) There shall be an advisory board of 12 members to assist in the establishment of rules, regulations and standards necessary to carry out the provisions of this article and to serve as consultants to the State Health Officer. The board shall meet at least twice each year and at the call of the State Health Officer. The members of the board shall annually elect one of its members to serve as chairman.

(b) The advisory board shall be constituted in the following manner:

(1) Four representatives of hospitals, who shall be appointed by the Board of Trustees of the Alabama Hospital Association as follows:

- a. One administrator of a governmental hospital;
- b. One administrator of a nongovernmental nonprofit hospital;
- c. One owner or administrator of a proprietary hospital; and
- d. One member of a managing board of a nonprofit hospital;

(2) Three representatives who shall be doctors of medicine appointed by the Board of Censors of the Alabama State Medical Association;

(3) One representative who shall be a registered nurse appointed by the executive board of the Alabama State Nurses Association;

(4) One representative from the State Board of Human Resources to be appointed by the board;

(5) One registered pharmacist actively engaged in the practices of pharmacy in the State of Alabama, to be appointed by the Alabama State Board of Pharmacy;

(6) One member of the advisory board shall be appointed by the executive committee of the Alabama Nursing Home Association, who shall be the operator of a duly qualified licensed nursing home; and

(7) One member shall be appointed by the Alabama Hospice Association and said person shall vote only on issues relating to hospices.

Of the original representatives appointed by the Board of Trustees of the Alabama Hospital Association, one shall serve for three years, two shall serve for four years, and one shall serve for five years. One of the representatives appointed by the Board of Censors of the Alabama State Medical Association shall serve for two years, one shall serve for three years, and one shall serve for five years. The one representative appointed by the Alabama State Nurses Association shall serve for four years. The one representative from the State Board of Human Resources shall serve for four years, and the one representative from the State Board of Pharmacy shall serve for four years. The representative appointed by the executive committee of the Alabama Nursing Home Association shall serve for five years. Thereafter, each new appointee shall serve for five years or until his successor is appointed; except, that in the case of a vacancy, the appointee shall serve for the remainder of the unexpired term. Any vacancy shall be filled by the original organization selecting said member.

(c) Members of the advisory board shall not be eligible to succeed themselves after they have served one full five-year term, but shall be eligible for reappointment if they have not served immediately preceding their reappointment.

(d) Members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for expenses incurred in the performance of the duties of their office pursuant to Article 2 of Chapter 7 of Title 36. (Acts 1949, No. 530, p. 835, §9; Acts 1959, No. 134, p. 656; Acts 1991, No. 91-548, p. 1010, §1.)

§22-21-28. Rules and regulations.

(a) In the manner provided in this section, the State Board of Health, with the advice and after approval by the advisory board, shall have the power to make and enforce, and may modify, amend and rescind, reasonable rules and regulations governing the operation and conduct of hospitals as defined in Section 22-21-20. All such regulations shall set uniform minimum standards applicable alike to all hospitals of like kind and purpose in view of the type of institutional care being offered there and shall be confined to setting minimum standards of sanitation and equipment found to be necessary and prohibiting conduct and practices inimicable to the public interest and the public health. The board shall not have power to promulgate any regulation in conflict with law nor power to interfere with the internal government and operation of any hospital on matters of policy. Thirty days notice of any proposed amendment, rescission or new regulations shall be given in writing to all licensed hospitals of the date of such hearing and of the substance of any new regulation, amendment

to or rescission of regulation proposed to be made. All hearings shall be joint hearings set by the Board of Health and the advisory board established in Section 22-21-27 at Montgomery, Alabama. At such hearing, any interested hospital or any member of the public may be heard.

(b) Any person affected by any regulation, amendment or rescission thereof may appeal consideration thereof to the circuit court of the county of that person's residence or in which that person does business or to the Circuit Court of Montgomery County, within 30 days from the adoption of the same following the hearing provided in this section by giving security for costs and the filing of a petition with court, setting forth the interest of the appellant, the ruling complained of and the facts upon which the petitioner relies for relief. And upon appeal the question of the reasonableness of such regulation shall be a question of fact for the court to determine, and no presumption shall be indulged that the regulation adopted was and is a reasonable regulation.

(c) Regulations adopted under this section shall become effective upon the expiration of 30 days from the date of adoption, amendment or rescission or, if an appeal has been taken, upon the final disposition of the appeal. From any judgment of the circuit court in any case appealed to it, an appeal shall lie to the court of civil appeals of Alabama within 42 days from the date of entry of the judgment, in the same manner as other appeals are now authorized by law, and no presumption shall be indulged by the court of civil appeals as to the correctness of the trial court's finding of facts. (Acts 1949, No. 530, p. 835, §8.)

§22-21-29. Inspections.

(a) Every hospital licensed under this article shall be open to inspection to the extent authorized in this section by the State Board of Health, under rules as shall be promulgated by the board with the advice and consent of the advisory board. Nothing in this section shall authorize the board to inspect quarters therein occupied by members of any religious group or nurses engaged in work in such hospital or places of refuge for members of religious orders for whom care is provided, but any inspection shall be limited and confined to the parts and portions of such hospital as are used for the care and treatment of the patients and the general facilities for their care and treatment. No hospital shall, by reason of this section, be relieved from any other types of inspections authorized by law.

(b) All inspections undertaken by the State Board of Health shall be conducted without prior notice to the facility and its staff. Notwithstanding the foregoing, an inspection of a hospital or other health care facility, prior to its

licensure, may be scheduled in advance. An employee or contract employee of the state shall not disclose in advance the date or the time of an inspection of a hospital or other health care facility to any person with a financial interest in any licensed health care facility, to any employee or agent of a licensed health care facility, to any consultant or contractor who performs services for or on behalf of licensed health care facilities, or to any person related by blood or marriage to an owner, employee, agent, consultant, or contractor of a licensed health care facility. For purposes of this section, the term inspection shall include periodic and follow-up compliance inspections and surveys on behalf of the State Board of Health, complaint investigations and follow-up investigations conducted by the State Board of Health, and compliance inspections and surveys, complaint investigations, and follow-up visits conducted on behalf of the United States Department of Health and Human Services, Health Care Financing Administration, or its successors. The board may prescribe by rule exceptions to the prohibition where considerations of public health or safety make advance disclosure of inspection dates or times reasonable. Disclosure in advance of inspection dates when such disclosure is required or authorized pursuant to federal law or regulation shall not be a violation of this section. Scheduling inspections of hospitals or other health care facilities by the board at regular, periodic intervals which may be predictable shall not be a violation of this section.

(c) Any employee or contract employee of the state who discloses in advance the date or time of an inspection in violation of subsection (b) shall be guilty of a Class A misdemeanor. Any person who solicits an employee or contract employee of the state to disclose in advance the date or time of an inspection in violation of subsection (b) for the purpose of disclosing the information to others shall be guilty of a Class A misdemeanor. (Acts 1949, No. 530, p. 835, §6; Act 1997, No. 97-632, §1.)

§22-21-30. Disclosure of information.

Information received by the State Board of Health through on-site inspections conducted by the State Licensing Agency is subject to public disclosure and may be disclosed upon written request. Information received through means other than inspection will be treated as confidential and shall not be directed publicly except in a proceeding involving the question of licensure or revocation of license. (Acts 1949, No. 530, p. 835, §10; Acts 1975, 3rd Ex. Sess., No. 140, p. 383, §3.)

§22-21-31. Practice of medicine, etc., not authorized; child-placing. Nothing in this article shall be construed as authorizing any person to engage in any manner in the practice of medicine or any other profession nor to authorize any person to engage in the

business of child-placing. Any child born in any such institution whose mother is unable to care for such child or any child who, for any reason, will be left destitute of parental support shall be reported to the State Department of Health and Human Resources or to any agency authorized or licensed by the State Department of Health and Human Resources to engage in child placing for such service as the child and the mother may require. In the rendering of such service, representatives of the State Department of Health and Human Resources and agencies authorized or licensed by the State Department of Health and Human Resources shall have free access to visit the child and the mother concerned. (Acts 1949, No. 530, p. 835, §2; Acts 1962, Ex. Sess., No. 122, p. 157, §2.)

§22-21-32. Repealed by Acts 1977, 1st Ex. Sess., No. 82, p. 1509, §19, effective June 16, 1977.

§22-21-33. Penalty for violation of article, etc. Any individual establishing, conducting, managing or operating a hospital without first obtaining a license therefor as provided in this article or who shall violate any of the provisions of this article, or regulations promulgated thereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not to exceed \$100.00 or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court. Any association, corporation or partnership operating a hospital in violation of any provisions of this article, or any regulation promulgated thereunder, shall be subject to the payment of a penalty of \$25.00 per day for each day of such illegal operation, which may be recovered by the State Board of Health in an appropriate civil action. The State Board of Health may, upon the advice of the Attorney General, maintain an action in the name of the state for an injunction to restrain any state, county or local governmental unit, or any division, department, board or agency thereof, from operating, conducting or managing a hospital in violation of any provisions of this article, or any regulation promulgated thereunder. (Acts 1949, No. 530, p. 835, §12.)

Author:

Statutory Authority:

History: