

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

CHAPTER 420-5-20  
SPECIALTY CARE ASSISTED LIVING FACILITIES

420-5-20-AA      Appendix A Forms.

## Appendix A

**Physical Self-Maintenance Scale (PSMS)**

Activities of Daily Living

Patient's Name: \_\_\_\_\_ Date: \_\_\_\_\_

Rated by: \_\_\_\_\_

Numbers one through five in each category represent worsening states of function. Choose the number that best describes the patient's functional status. Scores in all six categories should then be totaled. The higher the final score, the greater degree of impairment:

- A. Toileting**
1. Cares for self at toilet completely, no incontinence.
  2. Needs to be reminded or needs help in cleaning self, or has rare (weekly) accidents.
  3. Soiling or wetting while asleep more than once a week.
  4. Soiling or wetting while awake more than once a week.
  5. No control of bowels or bladder. \_\_\_\_\_

- B. Feeding**
1. Eats without assistance.
  2. Eats with minor assistance at mealtimes and/or with special preparation of food, or help in cleaning up \_\_\_\_\_ after meals.
  3. Feeds self with moderate assistance and is untidy.
  4. Requires extensive assistance for all meals.
  5. Does not feed self at all and resists efforts of others to feed him/her. \_\_\_\_\_

- C. Dressing**
1. Dresses, undresses, and selects clothes from own wardrobe.
  2. Dresses and undresses self with minor assistance.
  3. Needs moderate assistance in dressing or selection of clothes.
  4. Needs major assistance in dressing, but cooperates with efforts of others to help.
  5. Completely unable to dress self and resists efforts of others to help. \_\_\_\_\_

- D. Grooming**
1. Always neatly dressed, well groomed, without assistance.
  2. Grooms self adequately with occasional minor assistance, e.g., shaving.
  3. Needs moderate and regular assistance or supervision in grooming.
  4. Needs total grooming care, but can remain well-groomed after help from others.
  5. Actively negates all efforts of others to maintain grooming. \_\_\_\_\_

- E. Physical Ambulation**
1. Goes about grounds or city.
  2. Ambulates within residence or about one block distance.
  3. Ambulates with assistance of (check one)  
☐ another person    ☐ railing    ☐ cane    ☐ walker  
☐ wheelchair-gets in and out without help    ☐ wheelchair-needs help w/ getting in/out
  4. Sits unsupported in chair or wheelchair, but cannot propel self without help.
  5. Bedridden more than half the time. \_\_\_\_\_

- F. Bathing**
1. Bathes self (tub, shower, sponge bath) without help.
  2. Bathes self with help in getting in and out of tub.
  3. Washes face and hands only, but cannot bathe rest of body.
  4. Does not wash self but is cooperative with those who bathe him/her.
  5. Does not try to wash self, and resists efforts to keep him/her clean. \_\_\_\_\_

TOTAL SCORE \_\_\_\_\_

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To track patient cognitive and functional status, record the base and follow-up scores of the MMSE and PSMS in the chart provided:

Baseline  
Follow-up  
Follow-up  
Follow-up  
Follow-up  
Follow-up

MMSE	PSMS	DATE

## Appendix A

## BEHAVIOR SCREEN (BS)

Date: \_\_\_\_\_ Patient's Name \_\_\_\_\_

Informant: \_\_\_\_\_

Explain and  
describe  
all "Yes" answers.

In the past 6 months has the patient been:

Disruptive/Loud:

No Yes

\_\_\_\_\_

\_\_\_\_\_

Socially Objectionable: (ex. Spitting/stripping/masturbating, etc.)

No Yes

\_\_\_\_\_

\_\_\_\_\_

Demanding:

No Yes

\_\_\_\_\_

\_\_\_\_\_

Verbally Aggressive:

No Yes

\_\_\_\_\_

\_\_\_\_\_

Hitting/Fighting/Scratching:

No Yes

\_\_\_\_\_

\_\_\_\_\_

Destructive to Self or Property:

No Yes

\_\_\_\_\_

\_\_\_\_\_

Wandering/Pacing:

No Yes

\_\_\_\_\_

\_\_\_\_\_

Delusional: (Express false ideas)

No Yes

\_\_\_\_\_

\_\_\_\_\_

Hallucinations: (See/Hear things not there)

No Yes

\_\_\_\_\_

\_\_\_\_\_

On Drugs for Behavior: (Drug/Reason/How Long)

No Yes

\_\_\_\_\_

\_\_\_\_\_

Has Patient Lost Weight in the Past Few Months: (if yes, how much?)

No Yes

\_\_\_\_\_

\_\_\_\_\_

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**APPENDIX A**  
**CODE OF ALA. 1975, SECTIONS 22-21-20, ET. SEQ.**

**§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, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. 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.** The 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 2001-1058, 4th Sp. Sess., p. 1044, §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 therefore. 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 and of reputable and responsible character. The applicant shall 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; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

**§22-21-24. License -- Fees; Expiration and Renewal; Accreditation.**

The application for a license to operate a hospital other than an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care shall be accompanied by a standard fee of two hundred dollars (\$200), plus a fee of five dollars (\$5) 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 two hundred dollars (\$200) plus five dollars (\$5) each for the net gain in beds. The initial licensure fee and subsequent annual licensure renewal fee for an assisted living facility and for a specialty care assisted living facility rising to the level of intermediate care shall be two hundred dollars (\$200) plus fifteen dollars (\$15) for each bed. A license renewal application for any hospital, as defined by this article, which is not received by the expiration date in a properly completed form and accompanied by the appropriate renewal fee shall be subject to a late penalty equal to two hundred fifty dollars (\$250) or 100 percent of the renewal fee, whichever is greater. 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. A license granted under this article shall expire on December 31 of the year in which it was granted. A license certificate shall be on a form prescribed by the department, and shall be posted in a conspicuous place on the licensed premises.

Licenses shall not be transferable or assignable and shall be granted only for the premises named in the application. Licenses 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; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

**§22-21-25. License -- Issuance; Suspension or Revocation; New Applications After Revocation.**

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

(b) The State Board of Health may suspend or revoke a license granted 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 the institution.
- (3) Conduct or practices deemed by the State Board of Health to be detrimental to the welfare of the patients of the institution.

(c) Before any license granted 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 the complaint, which date of hearing shall be not less than 30 days from the date of the notice. The 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; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

**§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 17 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.
- 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 Medical Association of the State of Alabama.

(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 who shall 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 Executive Committee of the Alabama Pharmacy Association.

(6) Three members who shall be appointed by the Executive Committee of the Alabama Nursing Home Association, each of whom shall be the operator of a duly qualified licensed nursing home.

(7) One member who shall be appointed by the Alabama Hospice Association.

(8) Two members who shall be appointed by the Assisted Living Association of Alabama, one of whom shall be the operator of a licensed assisted living facility or licensed specialty care assisted living facility rising to the level of intermediate care with 16 or fewer beds, and one of whom shall be the operator of an assisted living facility or licensed specialty care assisted living facility rising to the level of intermediate care with more than 16 beds.

(9) One member who shall be appointed by the Governor to represent the interests of consumers. The consumer representative shall be at least 65 years of age and shall have no financial interest in any facility licensed under this article. Each new appointee shall serve for five years or until his or her successor is appointed, whichever is later. Any vacancy caused by a member leaving the position before the expiration of his or her term shall be filled by the organization selecting the original member. The replacement member appointed shall serve for the remainder of the unexpired term.

(c) A member of the advisory board shall not be eligible to succeed himself or herself after serving one full five-year term, but shall be eligible for reappointment if he or she has served only a portion of a five-year term or if he or she has not served immediately preceding the 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 the office at the same rate allowed state employees pursuant to general law. (Acts 1949, No. 530, p. 835, §9; Acts 1959, No. 134, p. 656, §1; Acts 1991, No. 91-548, p. 1010, §1; Act 2001-1058, 4th Sp. Sess., p. 1044, §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 inimical 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. The procedure for adopting, amending, or rescinding any rules authorized by this article shall conform to the Alabama Administrative Procedure Act. At any public hearing called for the purpose of soliciting public comment on proposed rules, 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, pursuant to the Alabama Administrative Procedure Act. 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 as provided in the Alabama Administrative Procedure Act. (Acts 1949, No. 530, p. 835, §8; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

#### **§22-21-29. Inspections.**

(a) Every hospital licensed under this article shall be open to inspection to the extent authorized in this section by employees and agents of the State Board of Health, under rules as shall be promulgated by the board with the advice and consent of the advisory board. Employees and agents of the board shall also inspect unlicensed and suspected unlicensed facilities. 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 any 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 the 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; Acts 1997, No. 97-632, p. 1146, §1; Act 2001-1058, 4th Sp. Sess., p. 1044, §1; Act 2006-617, p. 1688, §1; Act 2009-492, p. 906, §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 Department of Human Resources or to any agency authorized or licensed by the Department of Human Resources to engage in child placing for such service as the child and the mother may require. In the rendering of service, representatives of the Department of Human Resources and agencies authorized or licensed by the Department of 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; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

**§22-21-33. Penalties for Operation of or Referring Persons to Unlicensed Hospital.**

(a) (1) Any individual, association, corporation, partnership, limited liability company, or other business entity who operates or causes to be operated a hospital of any kind as defined in this article or any rules promulgated hereunder, without having been granted a license by the State Board of Health shall be guilty of a Class B misdemeanor upon conviction, except that any individual, association, corporation, partnership, limited liability company, or other business entity who operates or causes to be operated a hospital of any kind as defined in this article or any rules promulgated hereunder without having been granted a license by the State Board of Health shall be guilty of a Class A misdemeanor upon conviction of a second or any subsequent offense.

(2) The State Board of Health, upon determination that a facility or business is operating as a hospital, within the meaning of this article or any rules promulgated hereunder, and that the facility or business does not have a current and valid license granted by the State Board of Health, may apply to the circuit court of the county in which the unlicensed facility or business is located for declaratory and injunctive relief. The proceedings shall be expedited. The sole

evidentiary questions before the court in a proceeding shall be whether the facility or business that is the subject of the action meets the definition of a hospital, within the meaning of this article and any rules promulgated hereunder, and whether the facility or business has been granted a current and valid license to operate by the State Board of Health. If the State Board of Health prevails on these questions, then the court, upon request of the State Board of Health, shall grant declaratory and injunctive relief requiring the operator or operators to close the facility or business and requiring the operator or operators to move all residents or patients to appropriate placements. Any individual failing to obey an injunction to close a hospital shall be guilty of a Class A misdemeanor. Any individual, after having once been subject to such an injunction, who shall later operate or cause to be operated a hospital, as defined in this article or any rules promulgated hereunder, without having been granted a license therefore by the State Board of Health shall be guilty of a Class A misdemeanor.

(3) The State Board of Health, upon the advice of the Attorney General, may 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, or any individual, association, corporation, partnership, limited liability company, or other business entity, from operating, conducting, or managing a hospital in violation of this article, or any rule promulgated hereunder. Evidence that a person who is a licensed health care professional is or has been operating an unlicensed hospital or knowingly is or has been an employee of an unlicensed hospital shall be grounds for license revocation by the applicable professional licensing board or boards.

(4) No county or municipality shall grant a business license to a hospital, as defined in this article, unless the facility holds a current license to operate granted by the State Board of Health.

(5) In any action to collect a fee for services brought against a resident or patient by a hospital, as defined in this article or rules promulgated hereunder, it shall be a defense to the action to demonstrate that the operator of the hospital did not have a current and valid license to operate pursuant to this article at the time the services in question were rendered.

(b)(1) A licensed inpatient hospital acting through an authorized agent of the licensed inpatient hospital shall not knowingly refer to an unlicensed hospital any person who is in

need of care rendered by a licensed hospital. A licensed hospice or certified home health agency acting through an authorized agent of the licensed hospice or certified home health agency shall not knowingly provide treatment or services in an unlicensed hospital to a person who is in need of care rendered by a licensed hospital.

(2) The Department of Public Health shall maintain, in electronic format and available on the Internet, a current directory of all licensed hospitals. The directory shall be maintained in a searchable database so that the licensure status of all licensed hospitals may be determined for the preceding four years and the then current year.

The Department, upon written request from a licensed inpatient hospital, shall provide to a designated representative of the hospital, a listing of any changes to the directory of all licensed hospitals through use of electronic communication, such as email, on a weekly basis.

(3) A determination of actual knowledge that a facility or business was unlicensed shall be supported by evidence that the unlicensed hospital was not listed in the directory maintained by the department on the day the referral or the admission was made or treatment was provided. In any action to levy a fine or revoke a license under this section, it shall be a defense to the action to demonstrate that the unlicensed inpatient hospital appeared in the directory as a licensed inpatient hospital on the day the referral or admission was made or the treatment was provided.

(4) Any licensed inpatient hospital acting through an authorized agent of the licensed inpatient hospital that knowingly makes a referral to an unlicensed hospital of a person in need of care rendered by a licensed hospital, or any licensed hospice or any certified home health agency acting through an authorized agent of the licensed hospice or certified home health agency that knowingly provides treatment in an unlicensed hospital to a person in need of care rendered by a licensed hospital, may be subject to a civil penalty imposed by the Board of Health not to exceed one thousand five hundred dollars (\$1,500) per instance.

(5) All civil monetary penalties collected pursuant to this section or Section 22-21-34 shall be paid to the Department of Human Resources and held in a dedicated fund for the sole purpose of making grants or disbursements to assist protected persons, as this term is defined in Section 38-9-2, with appropriate placement

or relocation from an unlicensed facility into a licensed facility or relocation from a facility undergoing license termination, suspension, or revocation, pursuant to Section 22-21-25, to an appropriate setting. The Department of Human Resources is hereby authorized to make grants or disbursements from this fund to protected persons or to individuals or public or private organizations acting on behalf of a protected person.

**(c) (1)** For the purposes of this section, the term "licensed inpatient hospital" shall mean a licensed acute care hospital, long-term acute care hospital, rehabilitation hospital, inpatient hospice, skilled nursing facility, intermediate care facility, assisted living facility, or specialized care assisted living facility.

**(2)** For the purposes of this section, the term "knowingly" shall mean actual knowledge by a licensed inpatient hospital, licensed hospice, or certified home health agency acting through an authorized agent making a referral or providing services, that the unlicensed hospital to which the referral is made or services rendered is unlicensed within the meaning of this section. (Acts 1949, No. 530, p. 835, §12; Act 2001-1058, 4th Sp. Sess., p. 1044, §1; Act 2008-389, p. 732, §1; Act 2017-280, §1.)

**§22-21-34. Assisted Living Facility, etc., Rising to Level of Intermediate Care.**

Under the circumstances listed below, an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care may be subject to a civil money penalty imposed by the Board of Health not to exceed ten thousand dollars (\$10,000) per instance. The imposition of the penalty may be appealed pursuant to the Alabama Administrative Procedure Act. All money penalties imposed pursuant to this section shall be remitted to the Department of Public Health and shall be deposited in the State General Fund. The penalties shall be deposited in the General Fund and shall not be earmarked for the Department of Public Health. Failure of an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care to pay a civil money penalty within 30 days after its imposition or within 30 days after the final disposition of any appeal shall be grounds for license revocation unless arrangements for payment are made that are satisfactory to the State Board of Health. No assisted living facility or specialty care assisted living facility rising to the level of intermediate care may renew its license to operate if it has any unpaid civil money penalties which were imposed more than 30 days prior to the facility's license expiration date, except for any penalties imposed which are still subject to appeal and

except for penalties for which arrangements for payment have been made that are satisfactory to the State Board of Health.

(1) A civil money penalty may be imposed for falsification of any record kept by an assisted living facility or specialty care assisted living facility rising to the level of intermediate care, including a medication administration record or any record or document submitted to the State Board of Health, by an employee or agent of the facility, where such falsification is deliberate and undertaken with intent to mislead the Board of Health, or its agents or employees, or residents, sponsors, family members, another state, county, or municipal government agency, or the public, about any matter of legal compliance, regulatory compliance, compliance with fire or life safety codes, or quality of care.

(2) A civil money penalty may be imposed as a result of a false statement made by an employee or agent of an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care to an employee or agent of the State Board of Health, if the statement is made with intent to deceive or mislead the Board of Health, its agents or employees, about any matter of legal compliance, regulatory compliance, compliance with fire or life safety codes, or quality of care. A civil money penalty shall not be imposed if the facility's employee or agent makes a false statement when he or she has no reason to believe the false statement is authorized by the administrator or operator of the facility and if it is likely that the facility's employee or agent made the statement with the intent to cause damage to the facility. (Act 2001-1058, 4th Sp. Sess., p. 1044, §2.)

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