

**RULES
OF
ALABAMA STATE BOARD OF HEALTH
DIVISION OF LICENSURE AND CERTIFICATION**

CHAPTER 420-5-3

CEREBRAL PALSY TREATMENT CENTERS



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STATE OF ALABAMA
DEPARTMENT OF PUBLIC HEALTH
MONTGOMERY, ALABAMA

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420-5-3.01 General.

- (1) **Legal Authority.** Under and by virtue of authority vested in it by the Legislature of Alabama, *Code of Alabama 1975*, Section 22-21-20, et seq., the State Board of Health does hereby adopt and promulgate the following rules governing all hospitals, sanatoria, and other related institutions except hospitals operated by the Federal Government and mental hospitals under the supervision of the Board of Trustees of the Alabama State Hospitals.
- (2) **Definitions.**
- (a) "AAC Rule" means Alabama Administrative Code Rule.
 - (b) "Advisory Board" means the Advisory Board set up by law to assist in the establishment of rules necessary to carry out the provisions of this Act and to serve as consultant to the State Board of Health.
 - (c) "Board or State Board of Health" means the Alabama State Board of Health.
 - (d) "Cerebral Palsy Treatment Centers" means a building or place maintained for the care of patients suffering from that group of neuromuscular disorders in which there is impairment or loss of muscular control due to an abnormality of the brain. Included are institutions that provide dormitory facilities and which offer custodial care or an educational program, but this does not include day schools or clinics where the patients attend during the day and return to their homes at night.
 - (e) "Convalescent, Rest or Nursing Home" means a building or place maintained for the care of patients who are not acutely ill or do not require special facilities such as surgical or maternity care. These homes also include private homes boarding aged and infirmed persons, provided the home is giving chronic or convalescent care, for a period of twenty-four hours or longer, to two or more unrelated persons at any one time.
 - (f) "Duly Licensed" when applied to a person means that the person to whom the term is applied has been duly and regularly licensed by the proper authority to follow his or her profession within the State of Alabama, and when applied to an institution, means that the institution has been duly and regularly licensed by the Alabama State Board of Health.
 - (g) "Hospitals" means hospitals, sanatoria, and other related institutions, when such institution is primarily engaged in offering to the public generally facilities for the diagnosis and treatment of injury, deformity, disease or obstetrical care and when such institution offers such care for not less than twenty-four hours in any week to two or more non-related individuals.

- (h) "Maternity Home" means a building or other place maintained and conducted for the care and treatment of women during pregnancy, delivery and subsequent to the birth of children.
- (i) "Registered Nurse" means a person graduated from an accredited school of nursing and currently registered in the State of Alabama in accordance with *Code of Alabama 1975*, Section 34-21-2.
- (j) "These Rules" means Rules 420-5-3.01 through 420-5-03.04, Chapter 420-5-3, Cerebral Palsy Treatment Centers, Alabama Administrative Code.

Author: Tigner S. Zorn

Statutory Authority: *Code of Alabama 1975*, Section 22-21-20 et seq.

History: Original Rules Effective November 22, 1954. Codified: October 1, 1982.

420-5-3.02 The License.

(1) Issuance of License.

- (a) Applications for a license to operate cerebral palsy treatment centers must be made in writing upon a form provided by the State Board of Health and shall contain such information as the Licensing Agency may require.
- (b) The application for a license shall be accompanied by a standard fee of \$200 plus a fee of \$5.00 per bed for each bed to be licensed (over ten beds). Increase in a cerebral palsy treatment center's bed capacity during the calendar year is assessed at the standard fee of \$200 plus \$5.00 each for the net gain in beds. No fee shall be refunded. All fees shall be paid to the State Health Department.
- (c) Every cerebral palsy treatment center shall be designated by a permanent and distinctive name, which shall not be changed without first notifying the Board in writing. Such notice shall specify the name to be discontinued as well as the new name.
- (d) Each license shall specify the maximum allowable number of beds in the cerebral palsy treatment center.
- (e) A separate license shall be required for each cerebral palsy treatment center when more than one home is operated under the same management; however, separate licenses are not required for separate buildings on the same grounds used by the same home.
- (f) The license must be conspicuously posted in the office where patients are admitted.

- (g) The license shall not be transferable or assignable, and shall be issued only for the premises named in the application.

(2) Expiration and Renewal of License.

- (a) Each license to operate a cerebral palsy treatment center shall expire on December 31 following the date of issuance and shall be subject to review and renewal by the State Board of Health.
- (b) Each application for renewal of license shall be accompanied by such fee as set forth in AAC Rule 420-5-3-.02(1)(b).
- (c) Each cerebral palsy treatment center licensed hereunder must furnish an annual report which shall be on a form prepared by the State Board of Health.

(3) Revocation of License.

- (a) A license issued to any cerebral palsy treatment center will be suspended, revoked or not renewed by the Board in any case where the Board finds that there has been a substantial failure to comply with the provisions of these Rules. Failure to comply with any of these Rules as well as the operation of any home for which a license has not been obtained prior to the time of opening, or has not been restored following suspension or revocation thereof, or resistance to or interference with the Board in the enforcement of these Rules are hereby declared to be violations of these Rules constituting a misdemeanor as set forth and declared punishable in *Code of Alabama 1975*, Section 22-21-33.

(4) Right of Appeal.

- (a) Any cerebral palsy treatment center which has been denied a license or its renewal, or whose license has been suspended or revoked by the State Board of Health, has the right of appeal as set forth in *Code of Alabama 1975*, Sections 22-21-25 and 22-21-26.
- (b) A new license may be granted after proper inspection has been made and all provisions of this Act and Rules hereunder as heretofore and hereinafter provided have been complied with and recommendation has been made therefore by the proper representatives of the State Board of Health.

(5) Return of License. Each license shall be returned to the Board immediately on its suspension or revocation, or if the institution voluntarily ceases operation.

(6) Inspection.

- (a) Each cerebral palsy treatment center for which a license has been issued under these Rules shall be periodically inspected by the State Board of Health.
- (b) Information received by the State Board of Health through filed reports, inspection, or as otherwise authorized, shall not be disclosed publicly in such manner as to identify individuals or hospitals, except in proceedings involving the question of licensure.

Author: Tigner S. Zorn, L. O'Neal Green

Statutory Authority: *Code of Alabama 1975*, Section 22-21-20 et seq.

History: Original Rules Effective November 22, 1954. Codified: October 1, 1982.

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420-5-3-.03 The Standards.**(1) The State Board.**

- (a) With the advice and after approval by the Advisory Board, the State Board of Health shall have the power to make and enforce, and may modify, amend and rescind reasonable rules governing the operation and conduct of cerebral palsy treatment centers as defined in *Code of Alabama 1975*, Section 22-21-20, et seq.
- (b) The Board shall give wide publicity to the initial rules among the cerebral palsy treatment centers likely to be affected, at least ten days prior to the date set for hearing and determination of such rules.
- (c) All hearings shall be joint hearings set by the Board of Health and the Advisory Board, at which time any interested cerebral palsy treatment center may be heard.
- (d) Amendment, Recision or New Rules.
 - 1. Subsequent to the initial hearing as set forth in AAC Rule 420-5-3.03(4)(c), thirty days notice in writing shall be given all licensed cerebral palsy treatment centers of the date of hearing and of the substance of any new rule proposed to be made.
 - 2. Any person affected by any rule, amendment or recision thereof may appeal consideration thereof as set forth in AAC Rule 420-5-3.03(4)(c).

3. Rules adopted hereunder shall become effective upon the expiration of thirty days from the date of adoption, amendment or rescission or, if an appeal has been taken, upon the final disposition of the appeal.

Author: Tigner S. Zorn

Statutory Authority: *Code of Alabama 1975*, Section 22-21-20 et seq.

History: Original Rules Effective November 22, 1954. Codified: October 1, 1982.

420-5-3.04 General Rules.

(1) Personnel.

- (a) There shall be one person in charge of the institution at all times. This person may be the owner of the business or a person employed for the purpose who is qualified to assume the management and operation of the institution.
- (b) Each institution shall have sufficient employees present at all times for the adequate care of patients or residents and maintenance of the institution. All persons in charge of, employed by, or associated with the institution must be of suitable character and temperament to function in their appointed capacities and to provide for the care and comfort of the patients or residents. Adequacy of personnel shall be determined by the State Board of Health.
 1. There shall be housekeeping, cooking, and kitchen personnel sufficient to maintain the institution in a sanitary condition at all times.
 2. Adequate personal and nursing care shall be provided when such care is necessary, either through registered nurses, practical nurses, or attendants. A registered nurse may be required when in the opinion of the State Board of Health the patients or residents require skilled nursing care.
- (c) Each person employed shall be required to furnish a health certificate showing such employee to be free from communicable disease.
- (d) The names and qualifications of all professional employees shall be on file and available for inspection by authorized representatives of the State Board of Health.
- (e) If the center conducts a school or educational program as part of the institution's program, staff members should have special qualifications in

diagnostic and remedial instruction; special qualifications in physical, occupational, and speech therapy.

- (f) The school program and qualifications of teachers should be approved by the county and/or State Department of Education.
 - (g) There should be one or more persons trained or experienced in medical social casework and social group work.
 - (h) Each institution shall have an adequate organized medical staff.
 - (i) Included on the medical staff should be such specialists as pediatricians, orthopedists, neuro-surgeons, neuro-psychiatrists and physiatrists. This medical staff should assume responsibility for continuous care and treatment of patients. (It is not considered sufficient if members of the medical staff are called only on presumed need.)
- (2) Admission Policies.**
- (a) Admissions must be made only on the basis of a complete medical work-up. This medical work-up must contain:
 - 1. A statement of the physical condition of the patient.
 - 2. A recommended treatment and/or educational program; and
 - 3. A specified trial period in the institution.
 - (b) The institution shall not give false hopes or make promises which cannot be filled.
 - (c) Admission must be limited to the patients that the institution is adequately qualified to serve with staff and equipment.
 - (d) A social investigation should be made before admission. This investigation should be recorded and include all the information consistent with good casework.
 - (e) Whenever there is found to be evidence of fraud or misrepresentation to secure money or property from residents, patients, or applicants, or there is any evidence of misappropriation or conversion of money or property of residents, patients, or applicants, the State Board of Health shall report such facts to the prosecuting attorney of the county where such institution is located, or to the Attorney General of the State for further investigation and prosecution.

(3) Medical Care and Treatment.

- (a) No medication or treatment shall be given except on the written orders of a licensed physician. All treatment and medication ordered or advised by a physician shall be in writing and shall be recorded and signed by him; also discontinuance of medication shall be signed and dated by him. Such records shall be kept as a permanent record in the institution.
- (b) Any illness, accident or death of a patient shall be reported immediately to members of the patient's family.
- (c) All children should be given necessary vaccination and inoculation for communicable diseases.
- (d) Dental examinations should be made of all children at least once a year, and necessary follow-up treatment should be carried out.
- (e) In the case of acute infection or of any communicable disease, such patients must be isolated at once. One or more rooms shall be available for such isolation, depending upon the size of the institution.
- (f) Each child must have his own toilet articles, clothing, etc.
- (g) Patients shall receive kind, considerate care and treatment at all times. No patient shall be abused or punished by any method of physical force, confinement to a room, or by withholding of food.
- (h) All poisonous substances must be plainly labeled and kept in a locked cabinet or closet.
- (i) First aid supplies shall be kept in a place readily accessible to the person or persons providing care in the institution.
- (j) A flexible therapy and educational program must be established on the basis of the need of the children, as was determined by the medical work-up in the admission procedure.
- (k) Parent participation in the institution's program should be encouraged at all times.
- (l) There should be frequent staff conferences to discuss individual children and the therapy and education program.
- (m) Continuous medical supervision must be provided by one or more physicians who are specialists or experienced in convulsive disorders. It is not considered sufficient if a physician is only on an "on call" basis.

- (n) Whenever a patient requires hospitalization, medical, nursing, or other care beyond the facilities of the institution, prompt effort shall be made to secure such care.
 - (o) A balanced diet, adjusted to the age and physical development of the children should be provided. In the event special diets are ordered by the physician, such diets shall be served as prescribed and made a matter of record.
- (4) Records.**
- (a) An adequate permanent record of each patient, either typewritten or legibly written with pen and ink, which will give a chronological account of the institution's contact with the patient and his family shall be kept. The following is minimum information.
 - 1. Name.
 - 2. Age.
 - 3. Sex.
 - 4. Name and address of nearest relative or sponsor.
 - 5. Date of admission.
 - 6. Diagnosis.
 - 7. Date of discharge or death.
 - 8. Name, address, and telephone number of patient's physician.
 - (b) The amount of weekly or monthly fee shall be set forth in writing. A definite and specific financial agreement shall be made.
 - (c) Inventory and disposition of personal property, money or valuables possessed at the time of entrance and death or discharge shall be made. A copy of this record must be given to the family or legal representative.
 - (d) There must be a complete medical and treatment record for each patient. This record must show:
 - 1. The basis for admission as determined by the medical work-up.
 - 2. All medication and treatment.

3. Any illness or accident.
4. Vaccinations and inoculations for communicable diseases.
5. Dental examinations and follow-up treatments.

(5) Building and Equipment.

- (a) All buildings which house patients or residents must be inspected in relation to sanitation by the local or state health authorities and recommended to be reasonably safe for the care of cerebral palsy patients.
- (b) The local and state authorities for fire protection must certify that the home is free from ordinary fire hazards.
- (c) The building shall be maintained in repair and cleanliness at all times.
- (d) Adequate porches or yard space for the use of patients shall be available.
- (e) The entire building must be equipped with screens and free from flies.
- (f) The State Board must be satisfied that all precautions are being taken to guard against the presence of rodents and vermin.
- (g) If at all practicable, all water shall be obtained from a public water supply. If not obtained from a public water supply, the water shall meet the approval of the State Board of Health.
- (h) An adequate sewage disposal system must be provided which shall meet the approval of the State Board of Health.
- (i) Adequate provision for the collection and disposal of garbage, ashes, and waste material must be made. Covered containers must be used for garbage and metal containers for ashes.
- (j) The home must be adequately heated at all times.
- (k) The home must be comfortably furnished. Suitable provision for individual belongings shall be made.
- (l) Sleeping rooms, except for infant nurseries, shall contain not less than 500 cubic feet of air space for each occupant and shall have at least one outside window and the window area must be one-eighth of the floor area.

- (m) Separate beds shall be furnished with clean mattresses, clean and warm bedding and rubber sheeting when necessary. Beds must be so arranged that an attendant will have easy access to each bed.
 - (n) Adequate artificial lighting shall be available in all rooms, stairways, and hallways of the building. Night lights shall be provided in all hallways, stairways, and bathrooms.
 - (o) Sanitary toilet, bath and lavatory shall be provided on each floor where residents or patients stay. There should be one toilet for each six persons, one lavatory for each six persons, one tub bath or one shower bath for each ten. Non-skid mats and safety handgrips shall be provided for protecting those who use tubs or showers. Toilet rooms shall not connect directly with any room in which food is prepared, served or stored.
 - (p) Only ambulatory persons may be housed above the first floor of a building which is not fireproof. There must be railings on all stairways.
 - (q) Telephone service must be available in the home in order to summon help in case of fire or other emergency.
 - (r) If both sexes are cared for, facilities shall be properly arranged for segregation and privacy, as needed.
 - (s) Any licensee or applicant desiring to construct new facilities or to make alterations or additions to its facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefore to the State Board of Health for preliminary inspection and recommendations with respect to compliance with the rules herein authorized.
- (6) Food Service.**
- (a) The preparation and handling of food shall conform with the Alabama State Board of Health's rules governing the manufacture, preparation, display and service of food, confections and beverage.

Author: Tigner S. Zorn

Statutory Authority: *Code of Alabama 1975*, Section 22-21-20 et seq.

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

Code of Alabama

Title 22. Health, Mental Health, and Environmental Control.

Subtitle 1. Health and Environmental Control Generally

Chapter 21 Hospitals and Other Health Care Facilities Generally.

Article 2 Licensing of Hospitals, Nursing Homes, and Other Health Care Institutions.

§ 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.

§ 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.

§ 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.

§ 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 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 22-21-32. State board not empowered to prohibit erection and operation of hospitals. Repealed by Acts 1977, 1st Ex. Sess., No. 82, p. 1509, § 19, effective June 16, 1977.

§ 22-21-33. Penalties for operation of or referring persons to unlicensed hospital.

(a) 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 regulations promulgated hereunder, without having been granted a license therefor 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 regulations promulgated hereunder without having been granted a license therefor by the State Board of Health shall be guilty of a Class A misdemeanor upon conviction of a second or any subsequent offense. 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 shall, upon request of the State Board of Health, forthwith 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 regulations promulgated hereunder, without having been granted a license therefor by the State Board of Health shall be guilty of a Class A misdemeanor. 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, or any individual, association, corporation, partnership, limited liability company, or other business entity, from operating, conducting, or managing a hospital in violation of any provisions of this article, or any regulation 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. 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. In any action to collect a fee for services brought against a resident or patient by a hospital, as defined in this article or regulations 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) 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. The Department of Public Health shall maintain, in electronic format and available on the Internet, a current directory of all licensed hospitals. The department, shall publish and mail to licensed inpatient hospitals, licensed hospices, and certified home health agencies every three months a listing of licensed hospitals. A determination of actual knowledge that a facility or business was unlicensed shall be supported by evidence that the unlicensed hospital had not been listed in either the printed or electronic directory during the 12 months immediately prior to the time the referral was made or treatment 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 list published by the department, either electronically or in print format, as a licensed inpatient hospital during the 12 months immediately prior to the time the referral was made or the treatment was provided. 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. 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 et seq. 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.

§ 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.

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