

Code of Alabama 1975
Chapter 20
Nursing Home Administrators

Section 34-20-1

Definitions.

For purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

- (1) BOARD. The Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (2) EXAMINER. A member of the Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (3) SECRETARY. The Secretary of the Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (4) NURSING HOME ADMINISTRATOR. Any individual who is charged with the general administration of a nursing home, whether or not such individual has an ownership interest in such home and whether or not his or her functions and duties are shared with one or more other individuals.
- (5) PROVISIONAL LICENSE. A temporary license issued to a provisional nursing home administrator by the Board of Examiners of Nursing Home Administrators.
- (6) PROVISIONAL NURSING HOME ADMINISTRATOR. An individual who has been issued a provisional license by the Board of Examiners of Nursing Home Administrators of the State of Alabama.
- (7) PRACTICE OF NURSING HOME ADMINISTRATION. The planning, organizing, directing, and control of the operation of a nursing home.
- (8) NURSING HOME. Any institution or facility defined as such for licensing purposes under state law.

(Acts 1969, No. 986, p. 1734, §1.)

Section 34-20-2

License required.

No nursing home in the state may operate unless it is under the supervision of an administrator who holds a currently valid nursing home administrator's license, or provisional license, issued by the Board of Examiners of Nursing Home Administrators. No person shall practice or offer to practice nursing home administration in this state or use any title, sign, card, or device to indicate that he or she is a nursing home administrator unless such person shall have been duly licensed as a nursing home administrator or as a provisional nursing home administrator. In the event a nursing home administrator dies, unexpectedly resigns, becomes incapacitated, or has his or her license revoked, the person or persons then responsible for the management of the nursing home shall immediately notify the Board of Examiners of Nursing Home Administrators and the agency issuing the nursing home license and shall be allowed a reasonable period of time, in accordance with policies adopted by the board, to be

established by the agency issuing the nursing home license, not to exceed 180 days from the date of the death, unexpected resignation, incapacitation, or revocation of the license of the nursing home administrator in which to replace the administrator. During the reasonable period of time, the board may issue an emergency permit to a person performing the functions of administrator in such nursing home without being in violation of the provisions of this chapter.

(Acts 1969, No. 986, p. 1734, §2.)

Section 34-20-4

Board of Examiners of Nursing Home Administrators - Generally.

(a) There is a Board of Examiners of Nursing Home Administrators composed of seven members, six original members as set out in this subsection, and an additional consumer member as set out in subsection (b). The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. The six original members shall be composed as follows: Three members shall be nursing home administrators duly licensed and registered under this chapter; one member shall be a physician, licensed under the laws of the State of Alabama, who is actively concerned in a practice with the care of chronically ill and infirm, aged patients; one member shall be a hospital administrator; and one member shall be a registered nurse, licensed in Alabama, who has five years' experience as a geriatric nurse and who is actively serving as a director of nursing in a geriatric facility.

(b) Within 30 days following April 6, 1993, the Governor shall appoint an additional consumer member of the board for a term that is the same as the term of the member who is a licensed registered nurse. The consumer member shall vote in all matters. No consumer member, or a spouse or immediate family member of a consumer member, shall be a licensee of the board or be employed in the nursing home profession.

(c) All members of the board shall be citizens of the United States and shall be residents of the state. Not more than one board member from any United States Congressional District may be appointed to serve at the same time, unless necessary to ensure diversity on the board or to satisfy other board member qualification requirements of this section.

(d) The three members who are licensed nursing home administrators whose terms expire after April 6, 1993, shall each serve a one-year term of office. Successor members shall serve three-year terms and no board member shall serve, in addition to the one-year term provided in this subsection, more than two consecutive full three-year terms. All members shall continue to serve until a successor is appointed by the Governor.

(e) Appointments to the board for those positions to be held by nursing home administrators shall be made by the Governor from a list of three nominees for each position to be submitted to the Governor by the Alabama Nursing Home Association. The appointment to the board of the member for the position to be held by a physician shall be made by the Governor from a list of three nominees to be submitted by the Medical Association of the State of Alabama. The appointment to the board of the member for the position to be held by a hospital administrator shall be made by the Governor from a list of three nominees to be submitted to him or her by the Alabama Hospital Association. The appointment to the board of the member for the position to be held by a licensed registered nurse shall be made by the Governor from a list of three nominees to be submitted to him or her by the Alabama State Nurses Association. In the event the nominating entities and the Governor are unable to nominate or appoint members to the board so that diversity and other requirements of this section are satisfied, the board may

submit a substitute list of three nominees to the Governor for appointment who are selected from the state at-large and otherwise qualify for appointment.

(f) The Governor may remove any board member for misconduct, incapacity, incompetence, or neglect of duty after the board member so charged has been served with a written statement of charges and has been given an opportunity to be heard. Absence from any three consecutive meetings of the board within a calendar year, without cause acceptable to the Governor and the board, shall be deemed cause for removal.

(g) Any vacancy created by the death, resignation, or removal of any board member shall be filled by the Governor for the unexpired term in the same manner as required by this chapter to make appointments.

(h) Each member of the board shall receive a per diem fee of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) to be determined by the board for the time spent in the performance of official duties. Each member shall be reimbursed for all necessary and proper travel and incidental expenses incurred in implementing this chapter as is provided to state employees by the laws of the State of Alabama and regulations of the State Personnel Director. In setting the per diem fee, the board shall give due consideration to funds which are available for that purpose.

(i) The board shall hold four or more meetings a year. A majority of the members of the board shall constitute a quorum at any meeting except as provided in Section 34-20-14. A majority vote of the members present shall be sufficient to transact the business of the board except as provided in Section 34-20-14. Meetings may be called by the chair or by a majority of the members of the board. Members shall be given seven days' written notice of all meetings.

(j) The board shall annually elect from its members a chair and a vice chair, at the first meeting of the board held after October 1 of each year, and each shall serve until the first meeting held after October 1 of the following year. In the event of the death, resignation, or removal of the chair from the board, the vice chair shall succeed as chair for the remainder of the unexpired term. In the event of the death, resignation, removal, or succession to the office of chair or a vice chair, a successor shall be elected by the board to fill the remainder of the unexpired term as vice chair. The chair, or in the absence of the chair, the vice chair, shall preside at all meetings of the board. The chair of the board may appoint a secretary to the board, with the consent of the members of the board, who shall serve at the pleasure of the board. The salary of the secretary shall be fixed by the board. The secretary shall be the executive officer to the board but shall not be a member of the board. The secretary shall have those powers and shall perform those duties as are prescribed by law and the rules and regulations of the board. A clerk and sufficient deputy clerks to adequately assist the board and secretary in the keeping of the records and in the performance of their duties may be appointed by the board subject to the Merit System.

(Acts 1969, No. 986, p. 1734, §4; Acts 1980, No. 80-467, p. 731, §1; Acts 1993, No. 93-152, p. 216, §3; Acts 1997, No. 97-157, p. 208, §3; Act 2001-246, p. 290, §3.)

Section 34-20-5

Board of Examiners of Nursing Home Administrators - Functions, powers, and duties.

(a) It shall be the function and duty of the board to:

(1) Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable and who, by

training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) Issue licenses to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(5) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards; and

(6) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(b) The board shall have the authority to:

(1) Make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the state to meet the requirements set forth in Section 1908 of the Social Security Act, federal rules and regulations promulgated thereunder and other pertinent federal authority; and

(2) Establish, provide, or approve various education programs or courses for nursing home administrators, and to prescribe rules and regulations requiring applicants for licenses as nursing home administrators to attend such programs or courses as a prerequisite to their being admitted to the examination or issued a license, and requiring licensed nursing home administrators to attend such programs or courses as a prerequisite to their being issued any license renewal.

(Acts 1969, No. 986, p. 1734, §5.)

Section 34-20-6

Board of Examiners of Nursing Home Administrators - Review of decisions.

Any party aggrieved by a final decision or order of the Board of Examiners of Nursing Home Administrators suspending, revoking, or refusing to issue 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 nursing home administrator or applicant resides. In such cases, such appeal shall be taken by filing notice thereof with the register or clerk of the circuit court within 30 days of the date of notice by the board of its decision. Appeals from any order or judgment rendered thereon by the circuit court to the Supreme Court of Alabama shall be available as in other cases.

(Acts 1969, No. 986, p. 1734, §15.)

Section 34-20-7

Board of Examiners of Nursing Home Administrators - Authorization to receive and expend funds; audit.

The Board of Examiners of Nursing Home Administrators is hereby authorized to receive and expend, in carrying out the purposes of this chapter, all sums paid by applicants and registrants as provided in this chapter, and all sums which might be appropriated for such purposes, and are also authorized to receive and expend any funds available for such purposes from the federal government. An annual financial audit shall be conducted of all receipts and expenditures, and a written report of the audit shall be given to each board member.

(Acts 1969, No. 986, p. 1734, §16; Acts 1980, No. 80-467, p. 731, §1.)

Section 34-20-8

Advisory council.

The governing body of the Alabama Nursing Home Association shall constitute an advisory council to the Board of Examiners of Nursing Home Administrators, and the Board of Examiners of Nursing Home Administrators shall be required to counsel with the advisory council in connection with the administration of the provisions of this chapter.

(Acts 1969, No. 986, p. 1734, §6.)

Section 34-20-9

Qualifications for admission to examination; fees.

(a) The board shall admit to examination for licensure as a nursing home administrator any candidate who submits evidence of good moral character and suitability prescribed by the board and who submits evidence to the board that he or she is at least 19 years of age, a citizen of the United States, or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, that he or she is a high school graduate or has completed an educational program equivalent thereto, and that he or she has completed any additional educational requirements prescribed by the board. Each candidate shall also be required, prior to admission to the examination, to pay an examination fee established by the board pursuant to its rule-making authority.

(b) The board may establish an application fee for the internship or administrator in training (AIT) program and a fee for preceptor, certification, and recertification of the administrator in training (AIT) program pursuant to its rule-making authority.

(Acts 1969, No. 986, p. 1734, §17; Acts 1989, No. 89-238, p. 335, §3; Acts 1993, No. 93-152, p. 216, §3; Act 2009-40, p. 139, §3.)

Section 34-20-10

Contents and schedule of examinations.

(a) The board shall determine the subjects of examinations for applicants for licensure, and the scope, content, and format of the examinations, which in any examination shall be the same for all candidates. The examinations shall include examination of the applicant to demonstrate his or her proficiency in the rules and regulations of health and safety. The examination may consist of written or oral questions, or both.

(b) Examinations shall be held at least four times each year, at times and places designated by the board.

(Acts 1969, No. 986, p. 1734, §8; Acts 1993, No. 93-152, p. 216, §3.)

Section 34-20-11

Issuance of license; fee for temporary emergency permit.

An applicant for a license as a nursing home administrator who has:

- (1) Successfully complied with the educational and training requirements of this chapter and of the rules and regulations of the board promulgated under this chapter; and
- (2) Has paid an application fee established by the board pursuant to its rule-making authority for all applicants; and
- (3) Qualified for and passed the examination provided for in this chapter;

shall be issued a license on a form provided for that purpose by the board, certifying that the applicant has met the requirements of the laws, rules, and regulations entitling him or her to serve, act, practice, and otherwise hold himself or herself out as a duly licensed nursing home administrator and has paid a fee established by the board pursuant to its rule-making authority for original licensure.

The board may collect a fee established by the board pursuant to its rule-making authority for the issuance of a temporary emergency permit issued pursuant to Section 34-20-2.

(Acts 1969, No. 986, p. 1734, §9; Acts 1985, No. 85-283, p. 183, §3; Acts 1989, No. 89-238, p. 335, §3; Acts 1993, No. 93-152, p. 216, §3.)

Section 34-20-12

Reciprocity.

The board may, subject to this chapter and the rules and regulations of the board prescribing the qualifications for a nursing home administrator license, issue a license to a nursing home administrator who has been issued a license by the proper authorities of any other state or issued a certificate of qualification by any national organization, upon complying with the provisions of licensure, payment of a fee established by the board pursuant to its rule-making authority, and upon submission of evidence satisfactory to the board:

- (1) That the other state or national organization maintained a system and standards of qualification and examinations for a nursing home administrator license or certificate which were substantially equivalent

to those required in this state at the time the other license or certificate was issued by the other state or national organization; and

(2) That the other state gives similar recognition and endorsement to nursing home administrator licenses of this state. The board may charge a fee for completion of a reciprocity questionnaire, pursuant to its rule-making authority.

(Acts 1969, No. 986, p. 1734, §10; Acts 1989, No. 89-238, p. 335, §3; Acts 1993, No. 93-152, p. 216, §3.)

Section 34-20-13

Renewal of licenses; expiration and reactivation; inactive status; file of applications and licenses; continuing education.

(a) Every individual who holds a valid current license as a nursing home administrator issued by the board under this chapter shall immediately upon issuance have the right and privilege of acting and serving as a nursing home administrator and of using the abbreviation "N.H.A." after their name. Thereafter, the individual shall annually be required to make application to the board for a renewal of license and to report any facts requested by the board on forms provided for that purpose.

(b) Upon making application for a renewal of license, the individual shall pay an annual license fee established as determined by the board pursuant to the rule-making authority, and, at the same time, shall submit evidence satisfactory to the board that during the year immediately preceding application for renewal he or she has complied with the requirements of the board concerning the continuation of education of nursing home administrators.

(c) Upon receipt of the application for renewal of license, the renewal fee, and the evidence with respect to continuing education, the board shall issue a license renewal to the nursing home administrator.

(d)(1) Failure to secure an annual renewal of a license, based on a failure to meet the continuing education requirements, shall result in the expiration of the license. An expired license may not be "reactivated." All persons holding an expired license shall be required to submit a new application and follow all procedures for licensure of a new applicant.

(2) A licensee who complies with the continuing education requirements but who does not renew within 90 days following its due date shall be deemed delinquent and may renew within the 90-day period by paying a late renewal fee established by the board pursuant to its rule-making authority. A license that is not renewed within the 90-day period shall be deemed expired, and is subject to reapplication as provided in subdivision (1).

(e) A licensee who holds a current license and who is not practicing as a nursing home administrator may place that license into an "inactive status" upon written application to the board. Any licensee whose license has been placed on inactive status may not engage in the practice of nursing home administration.

(f) A licensee whose license is on an inactive status who wishes to "reactivate" that license may do so by making application to the board. The applicant shall attach proof of having completed 24 hours of approved continuing education credits within one year of making application for license reactivation, and shall pay a reactivation fee established by the board pursuant to its rule-making authority. A licensee may not have his or her license in inactive status for more than five years. After five years in inactive status, the license automatically becomes expired.

(g) The board shall maintain a file of all applications for licensure that includes the following information on each applicant: Residence, name, age, the name and address of his or her employer or business connection, the date of application, educational and experience qualifications, action taken by the board, serial numbers of licenses issued to the applicant, and the date on which the board acted on or reviewed the application.

(h) The board shall maintain a list of current licensees of the board, and shall furnish the list on demand to any person who pays a fee established by the board pursuant to its rule-making authority.

(i) The board shall adopt a program for continuing education for its licensees by October 1, 1991. After that date, successful completion of the continuing education program by board licensees shall be required in order to obtain a renewal license.

(j) Continuing education shall not result in a passing or failing grade.

(Acts 1969, No. 986, p. 1734, §11; Acts 1980, No. 80-467, p. 731, §1; Acts 1989, No. 89-238, p. 335, §§3, 4; Acts 1993, No. 93-152, p. 216, §3.)

Section 34-20-14

Disciplinary proceedings; administrative fines.

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

(b) The license of any person practicing or offering to practice nursing home administration or the license of a provisional nursing home administrator may be revoked or suspended by the board, or such person may be reprimanded, censured, or otherwise disciplined in accordance with the provisions of this section upon decision and after due hearing in any of the following cases:

(1) Upon proof that such person has willfully or repeatedly violated any of the provisions of this chapter or the rules enacted in accordance therewith; or willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home in which he or she is administrator;

(2) Upon proof that such person's conduct is immoral, unprofessional, or dishonorable;

(3) Upon proof that such person is guilty of fraud or deceit in the practice of nursing home administration or in his or her admission to such practice; or

(4) Upon proof that such person has been convicted in a court of competent jurisdiction, either within or without the state, of a crime involving moral turpitude.

(c) The board shall have the jurisdiction to hear all charges brought under the provisions of this section against any person having been issued a license as a nursing home administrator or having been issued a license as a provisional nursing home administrator; and upon such hearings shall determine the charges upon their merits. If the board determines that disciplinary measure should be taken, the board may revoke his or her license, suspend him or her from practice or reprimand, censure, or otherwise discipline such person.

(d) All proceedings under this section shall be heard by the board with at least two thirds of its members present, and decisions to discipline any licensee shall require a vote of two thirds of the membership of the entire board; provided, that the board may designate three or more of its members to comprise a hearing committee for the purpose of determining whether charges brought justify a hearing by the board, and with the authority to dismiss frivolous or unfounded charges.

(e) At any hearing under this chapter, the person charged shall have the right to appear either personally or by counsel or both to produce witnesses and evidence in his or her own behalf and to cross-examine witnesses. The board or hearing committee shall have the authority to issue subpoenas, compel the attendance of witnesses, administer oaths, and take testimony concerning all matters within the jurisdiction of the board. The circuit court of the county wherein the hearing is to take place shall have authority, on application of the board, to enforce obedience to the subpoenas and orders of the board concerning such testimony.

(Acts 1969, No. 986, p. 1734, §13; Acts 1989, No. 89-238, p. 335, §3.)

Section 34-20-15

Restoration of license.

The board may, for good cause shown, upon such terms as the board may prescribe, reissue a license to any person whose license has been revoked.

(Acts 1969, No. 986, p. 1734, §14.)

Section 34-20-16

Prohibited acts; penalties.

(a) It shall be a misdemeanor for any person to:

(1) Sell or fraudulently obtain or furnish any license or aid or abet therein;

(2) To practice as a nursing home administrator under cover of any license illegally or fraudulently obtained or unlawfully issued;

(3) Practice as a nursing home administrator or use in connection with his or her name any designation tending to imply that he or she is a nursing home administrator unless duly licensed to so practice under the provisions of this chapter;

(4) Practice as a nursing home administrator or use in connection with his or her name any designation tending to imply that he or she is a nursing home administrator during the time his or her license issued under the provisions of this chapter shall be expired, suspended, or revoked; or

(5) Otherwise violate any of the provisions of this chapter.

(b) Such misdemeanor shall be punishable by a fine of not more than \$500 or by imprisonment in the county jail for not more than 90 days or by both such fine and imprisonment.

(Acts 1969, No. 986, p. 1734, §12.)