ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

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ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-1
AUTHORITY AND TITLE

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135-X-1-.01 Source of Authority, Title, Short Title

135-X-1-.01 Source of Authority, Title, Short Title.

(1) The following rules and regulations are hereby made, declared, and promulgated by the Board of Examiners of Assisted Living Administrators of the State of Alabama under the authority of and pursuant to Act 1057 of the 2001 Acts of Alabama, which is codified as Section 34-2A-1 to 34-2A-16 of the 1975, Code of Alabama.

(2) These rules and regulations shall be known as "The Rules of the Board of Examiners of Assisted Living Administrators" and may be cited as such.

(3) The Rules of the Board of Examiners of Assisted Living Administrators may be referred to or cited as: REAA. For example, this section may be cited as thus REAA Rule No.135-X-1-.01 paragraph (3).
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-2
GENERAL DEFINITIONS

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135-X-2-.01 Definitions

135-X-2-.01 Definitions. Whenever used in these rules and regulations unless expressly otherwise stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated.

(a) "Acute Care Hospital" means a health institution planned, organized, and maintained for offering to the public generally facilities and beds for use in the diagnosis and/or treatment of illness, disease, injury, deformity, abnormality or pregnancy, when the institution offers such care of service for not less than twenty-four consecutive hours in any week to two (2) or more individuals not related by blood or marriage to the owner and/or chief executive officer/administrator and in addition, the hospital may provide for the education of patients, medical and health personnel, as well as conduct research programs to promote progress and efficiency in clinical and administrative medicine.

(b) "Applicant" means one who has applied for and is fulfilling the requirements for licensure as an assisted living administrator.

(c) "Assisted Living Administrator" means any individual who is charged with the general administration of an assisted living facility or a specialty care assisted living facility, whether or not the individual has an ownership interest in the facility, and whether or not his or her functions and duties are shared with one or more individuals.

(d) "Assisted Living Facility,"(according to Act 2001-1057) means any facility, including both assisted living facilities and specialty care assisted living facilities, that is defined as such for licensing purposes pursuant to Section 22-21-20, Code of Alabama, 1975. For purpose of this act, the term "assisted living facility" shall not include family assisted living facilities as the term is defined in the rules and regulations promulgated by the Department of Public Health.

(e) "Assisted Living Facility" (according to the Rules of Alabama Department of Public Health, Chapter 420-5-4, Assisted Living Facilities) means an individual, individuals, corporation, partnership, limited partnership, or any other entity that provides or offers to provide residence and personal care to individuals who are in need of

assistance with activities of daily living. A facility shall not be deemed to meet the definition of assisted living facility unless a residence and personal care services are provided to two or more individuals not related to the owner or administrator. To be deemed related to the owner or administrator for the purposes of this definition, an individual residing at the facility and receiving personal care must be the parent, sibling, grandparent, great-grandparent, child, grandchild, niece, nephew, aunt, uncle, first cousin, or spouse of the owner or administrator, or must stand in such relationship to the owner or administrator's spouse or deceased spouse. Provided that facilities whose resident are under the care, oversight, or protection of another governmental agency shall not be deemed to be assisted living facilities and shall be subject to these rules, if both of the following conditions are satisfied:

1. A federal, state, or other governmental body, agency, or authority has a fiduciary relationship or some other legally recognized and enforceable relationship to the residents of the facility which carries an obligation to oversee the health, safety and welfare of the residents and

2. The federal, sate, or other governmental body, agency, or authority licenses, certifies, or otherwise legally authorizes the facility to provide accommodations and care for the residents.

(f) "Board" means the Board of Examiners of Assisted Living Administrators of the State of Alabama.

(g) "Emergency Permit" means a permit issued by the Board to a person temporarily performing the functions of administrator in the assisted living facility for a reasonable period of time from the date of death, unexpected resignation, incapacitation, or revocation of the licensed assisted living administrator, but not to exceed 120 days.

(h) "Examiner" means a member of the Board of Examiners of Assisted Living Administrators of the State of Alabama.

(i) "Executive Director" means the executive director of the board.

(j) "Person" means an individual and does not include the term firm, corporation, association, partnership, institution, public body, joint stock association, or any other group of individuals.

(k) "Petty Traffic Offense" means any misdemeanor arising out of the operation of a motor vehicle except: driving while under the influence of liquors, narcotics, or hallucinating drugs; leaving the scene of an accident; and manslaughter resulting from the operation of a motor vehicle.

(l) "Practice of Assisted Living Administration" means the planning, organizing, directing and control of the operation of an assisted living facility.

(m) “Provisional Assisted Living Administrator” means an individual who has been issued a provisional license by the Board.

(n) “Provisional License” means a temporary license issued to a provisional assisted living administrator by the Board.

(o) “Specialty Care Assisted Living Facility” (according to Rules of Alabama State Board of Health Alabama Department of Public Health, Chapter 420-5-20, Specialty Care Assisted Living Facilities) means a facility that meets the definition of Assisted Living Facility but which is specially licensed and staffed to permit it to care for residents with a degree of cognitive impairment that would ordinarily make them ineligible for admission or continued stay in an assisted living facility. Residents admitted to specialty care assisted living facilities must meet all eligible and continued stay requirements specified elsewhere in these rules.

Author: Theresa Jordan.

Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.

History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-3
MEETINGS

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135-X-3-.01 Meetings of the Board

135-X-3-.01 Meetings of the Board.

(1) The Board shall hold not less than four meetings each year. The Board shall meet in the conference room of the Board of Examiners' office building at 10:00 a.m. on the second Thursday of the first month of each quarter (January, April, July, and October) unless such date is a federal or state holiday, as posted on the Board of Examiners' website or as notified in the Alabama Administrative Monthly.

(2) If a special meeting is called by the chair or a simple majority of the members of the Board, then the date, time and place of the meeting shall be determined by the person or persons calling the meeting.

(3) Written notice indicating the date, time and place of each meeting shall be sent to each member of the Board not less than seven (7) days prior to said meeting by the Executive Director, Chair, Vice-Chair, or any member of the Board. Provided, however, that any member of the Board may waive his/her right to such notice and such waiver may be oral, by telephone, or by any such means of communication.
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-4
GENERAL POWERS OF THE BOARD

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135-X-4-.01 General Powers

135-X-4-.01 General Powers.

(1) The Board shall exercise all of the powers conferred on it by the laws of the State of Alabama and shall fulfill all duties on it by law.

(2) All actions taken by the Board shall be by majority vote of the quorum of the Board except where the contrary is expressed or implied by law or by these rules and regulations.

(3) The Board shall annually elect from its members a Chair and Vice Chair at the first meeting of the Board held after October 1 of each year, and shall serve until the first meeting held after October 1 of the following year.

(4) The Chair shall preside at all meetings of the Board and shall sign all official documents of the Board. In the absence of the Chair, the Vice-Chair shall preside at meetings and perform all duties usually performed by the chair.

(5) The Executive Director shall be appointed by the chair; however, as provided in paragraph (6) hereof, such appointment shall have not force or effect until such appointment shall be approved by a majority of the Board.

(6) The Executive Director shall serve until dismissed or replaced by a simple majority vote of the Board.

(7) In the event the office of Executive Director shall become vacant, the Chair may, in his/her discretion, appoint on acting Executive Director who shall serve until the next meeting of the Board at which time an appointment to the office of Executive Director will be made by chair and approved by the Board.

(8) The salary of the Executive Director shall be set and approved by a majority of the Board.

(9) In addition to the duties imposed by law, the Executive Director shall

attend all meetings of the Board; keep a full and complete record of the minutes of said meetings; notify the members of the Board of the time and place fixed for meetings of the Board; maintain the records pertaining to licensees and registrants and these Rules and Regulations; countersign all licenses and other certificates, and official certificates of approval and certification issues by the Board, unless the same are countersigned by the Vice-Chair of the Board.

(10) The Executive Director shall conduct all routine correspondence for the Board, shall issue all notices of meetings and hearings, shall have custody of all books, records, and property of the Board, and shall perform all duties pertaining to the office of Executive Director.

(11) The Executive Director shall receive all monies payable to the Board and shall pay the same to the comptroller (or treasurer or other officer) of the state as provided by law and keep such financial records as are approved by the Board and the fiscal authorities of the state.

(12) The governing body of the Assisted Living Association of Alabama, Inc. shall constitute an Advisory Council to the Board, and the Board shall be required to counsel with the advisory council in connection with the administration of the State licensing statute and these Rules and Regulations.

(13) The Board is authorized to adopt by reference, in its discretion, any rule of the State Board of Health respecting that agency's regulation of Assisted Living Facilities and Specialty Care Assisted Living Facilities.

(14) The Board shall have a seal with which to authenticate its acts.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-5
EXAMINATION INFORMATION

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135-X-5-.05 Subjects for Examination
135-X-5-.06 Grading Examinations

135-X-5-.01 Examinations.

(1) The Board shall determine the subjects of examinations for applicants for licensure as assisted living administrators, and the scope, content, and format of such examinations, which in any examination shall be the same for all candidates. Each examination shall require the examinee or applicant to demonstrate his proficiency in the rules and regulations of health and safety. But nothing herein shall prevent the Board from making minor changes or updating the examination.

(2) Examinations shall be held at least four times a year at such times and places as shall be designated by the Board.

(3) Official documents and records of the Board shall be retained; however, at the discretion of the Board may be reduced to microfilm or other appropriate methods of retention.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

135-X-5-.02 Pre-Examination Requirement and Conditions Precedent.

(1) Except as otherwise provided in paragraph (3) hereof, no person shall be admitted to or be permitted to take an examination for license as an assisted living administrator unless the person submits the following evidence satisfactory to the Board:

(a) The person is at least nineteen (19) years of age.

(b) The person is a citizen of the United States of America or that the person has duly declared their intention of becoming a citizen of the United States of America.

(c) The person is of good moral character and suitable and fit to be licensed and to practice as an assisted living administrator.

(d) The person is a high school graduate or has completed an educational program equivalent thereto.

(e) The person has completed any additional educational requirements prescribed by the Board. Additional educational requirements may include licensure by another professional licensure board by the State of Alabama devoted to health care.

(2) Examinations given under this section shall be given provisionally; and, should it later appear that the applicant does not meet the requirements or did not exercise reasonable diligence in filing his/her application, or was the cause of his/her failure to comply with the requirements for examination, then the examination and its results shall be void.

(3) In the event an examination or an examination's results are void under paragraph (2) hereof, all fees and other monies paid to the Board by the applicant or which are due and payable to the Board by the applicant, are forfeited.
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

135-X-5-.03 Application for Examination.

(1) An applicant for examination and qualification for a license as an assisted living administrator shall make application therefore in writing on the forms provided therefore by the Board, and shall furnish evidence satisfactory to the Board that he/she has met the pre-examination requirements as provided for in the State licensing statutes and Rule No. 135-X-5-.02 of these Rules and Regulations, and paid the required examination fee as determined by the Board.

(2) A candidate for examination shall submit with his/her application two letters from individuals engaged in either business, or professional work, who shall certify to the good moral character of the applicant. The two letters of character reference shall be from individuals who are not related by blood or marriage to the applicant and who have known the applicant for at least one year. The applicant shall also

submit satisfactory evidence that he/she has met the requirements as defined in 135-X-5-.02 of these Rules and Regulations.

(3) An applicant for examination who has been convicted of a felony by any court in this state, or by any court of the United States, shall not be admitted to or be permitted to take the examination provided for herein unless he/she shall first submit to and file with the Board, a certificate of good conduct granted by the Board of Parole or, in the case of a conviction in any jurisdiction wherein the laws do not provide for the issuance of a certificate of good conduct, an equivalent written statement or document.

(4) An applicant for examination who has been convicted of a misdemeanor, except a petty traffic offense, shall not be admitted to or be permitted to take the examination provided for herein unless he/she shall first submit to, and file with the Board a certificate or letter of good conduct from the proper parole, probation, court, or police authorities wherein such conviction was had, or submit an equivalent written statement or document. For the purpose of this paragraph, a petty traffic offense shall be any and every misdemeanor relating to the operation of motor vehicles except: Driving while under the influence of intoxicating liquors, narcotics, stimulating or hallucinating drugs; leaving the scene of an accident; and manslaughter resulting from the operation of a motor vehicle.

(5) To further establish suitability and fitness to qualify for a license for assisted living administrator, as required by the State licensing statute, prior to being permitted to take the examination for license as an assisted living administrator, the applicant may be required to furnish evidence satisfactory to the Board of:

(a) Proof of freedom from signs and symptoms of infectious skin lesions and diseases capable of transmission shall be shown by applicant's compliance to State Board of Health's Assisted Living Facilities and Specialty Care Assisted Living Facilities rules on contagious diseases.

(b) Absence of any mental impairment that would appear to the Board to be likely to interfere with the performance of an assisted living administrator;

(c) An understanding of the general and technical information necessary to the administration and operations of an assisted living facility or a specialty care assisted living facility (i.e. applicable health and safety regulations);

(d) Ability to assume responsibilities for the administration of an assisted living facility as evidenced by prior accredited activities and evaluation or prior services and evidence secured by the Board; and

(e) Ability to relate the physical, psychological, spiritual, emotional, and social needs of ill and/or aged individuals to the administration of an assisted living facility, including executives of the assisted living facility, and to create the

compassionate climate necessary to meet the needs of the residents therein.

(6) The basic requirements for suitability set forth herein are to be considered minimal and may not be waived.

(7) The Board may designate a time and place at which an applicant may be required to present himself/herself for inquiry as to his/her suitability as provided for herein.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 13, 2002.

135-X-5-.04 Conditional Admission to Examination: Disqualification Re-examination.

(1) An applicant for examination, who has been disqualified shall be given written notification by certified mail with returned receipt requested by the Board of his/her disqualification, and the reasons therefore, and of his/her right to a hearing as provided for under Rule No. 135-X-7-.02 hereof.

(2) An applicant for examination who has been disqualified may petition the Board in writing, within thirty (30) days of notification or disqualification for a hearing and a review of his/her application.

(3) Where an applicant for examination has been disqualified, he/she may submit a new application for qualification for examination, provided however, that he/she shall be required to meet the requirements for licensing as shall be in force at the time of such re-application.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

135-X-5-.05 Subjects for Examination.

(1) Every applicant, after having met the requirements for qualification for examination as set forth in Rule No. 135-X-5-.02 of these Rules and Regulations, must successfully pass a written or oral examination as required by the State licensing statute and these regulations.

(2) An applicant for examination charged with the general administration of a specialty care assisted living facility must successfully pass Test II, a two part written or oral examination. Part A of this examination shall focus on the examinee's ability to demonstrate his/her proficiency in the rules and regulations of Assisted Living Facilities (Chapter 420-5-4). Part B of this examination shall focus on the examinee's ability to

demonstrate his/her proficiency in the rules and regulations of Specialty Care Assisted Living Facilities (Chapter 420-5-20).
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

135-X-5-.06 Grading Examinations.

(1) Every candidate for an assisted living administrator's license shall be required to pass the examination for such license with a grade as determined by the Board. The Board has determined that the State examination will be used for the written or oral examination administered to all applicants, and the candidate must obtain a score of at least 75% on the State examination. All applicants who apply through reciprocity will also be required to take the State written or oral examination, and the candidate must obtain a score of at least 75% on the State examination.

(2) The Board shall determine a method of grading each section, if applicable, of the examination separately and shall apply such method uniformly to all candidates that are examined.
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-6
CONTINUING EDUCATION

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135-X-6-.01 Continuing Education

135-X-6-.01 Continuing Education.

(1) A program of study designed to meet the requirements and qualifications for licensure renewal of an assisted living administrator under and pursuant to the State licensing statute, and these Rules and Regulations shall:

(a) Contain a minimum of twelve (12) equivalent hours of continuing education per year for licensees issued a Category I Assisted Living Administrator license.

(b) Contain an additional six (6) equivalent hours of continuing education per year for licensees issued a Category II Assisted Living Administrator license. These six (6) additional hours shall be on educational programs approved by the Board that pertain to cognitive impairment and/or dementia care.

(c) Include subject areas as determined by the Board.

(2) Continuing education hours above and beyond the required equivalent hours shall not carry over to the next renewal period.

(3) Upon completion of an approved program of study, the sponsor or sponsors of the program shall issue certificates of attendance or other evidence of attendance satisfactory to the Board.

(4) Nothing contained in this Rule shall preclude the Board from providing for any program of study which excludes subjects which shall be in derogation of, or in conflict with the teaching and practice of any recognized religious faith, provided however, any applicant seeking to be entitled to be admitted to such program of study hereunder shall submit evidence satisfactory to the Board that he/she is in fact an adherent to such recognized religious faith.

(5) If the Board finds that programs of training and instruction conducted

within the State are not sufficient in number or content to enable assisted living administrators to meet requirements established by law and these Rules and Regulations, it may institute and conduct or arrange with others to conduct one or more such programs, and shall make provisions for their accessibility to residents of this state. The Board may approve programs conducted within and without this state as sufficient to meet education requirements established by law and these Rules and Regulations.

(6) Any course of study offered by an educational institution, association, professional society, or organization for the purpose of providing continuing education for assisted living administrators shall be submitted to the Board's education committee for approval on forms provided by the Board. The education committee shall be composed of three individuals: the Executive Director of the Board, one Assisted Living Administrator Board member designated annually, and one member of the Advisory Council designated annually by the Advisory Council, which shall be the governing body of the Assisted Living Association of Alabama, Inc.

Author: Theresa Jordan.

Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.

History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-7
LICENSE INFORMATION

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135-X-7-.03 Prohibited Acts: Penalties
135-X-7-.04 Restoration of License

135-X-7-.01 Licenses.

(1) The license issued by the Board under this Chapter shall be either a Category I Assisted Living Administrator license, licensing the individual to administer an assisted living facility only, or a Category II Assisted Living Administrator license, licensing the individual to administer an assisted living facility or a specialty care assisted living facility or a combination facility.

(2) Every individual who holds a valid current license as an assisted living administrator issued by the Board under this Chapter shall immediately upon issuance have the right and privilege of acting and serving as an assisted living administrator and using the abbreviation "A.L.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. All license renewals will be issued and are due on the last day of the month in which the license expires.

(3) Thirty (30) days prior to the renewal date of the license, the Board shall issue a letter and application for renewal of license to the licensee. Upon making an application for a renewal of license, the individual shall pay an annual fee as determined by the Board, 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 continuing education of an assisted living administrator as provided in Rule No. 135-X-6-.01, paragraph (1) of these Rules and Regulations. The required continuing education hours must be completed by the renewal date of the license.

(4) Upon receipt of the application for renewal of license, the renewal fee, and

the evidence required with respect to continuing education, the Board shall issue a letter and renewal card to the assisted living administrator.

(5) 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.

(6) A licensee who complies with the continuing education requirements but who does not renew within ninety (90) days following its due date shall be deemed delinquent and may renew within the ninety (90) day period by paying a late renewal fee established by the Board. A license that is not renewed within the ninety (90) day period shall be deemed expired, and is subject to reapplication as provided in Rule No. 135-X-7-.01, paragraph (5) of these Rules and Regulations.

(7) A licensee who holds a current license and who is not practicing as an assisted living 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 assisted living administration. 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 twice the annual hours' requirement of approved continuing education credits, (twenty-four (24) credits for Category I Assisted Living Administrator license and thirty-six (36) credits for Category II Assisted Living Administrator license, twelve (12) of which shall be on cognitive impairment and/or dementia care), within one year prior of making application for license reactivation, and shall pay a reactivation fee established by the Board. A licensee may not have his/her license in inactive status for more than five years. After five years in inactive status, the license automatically expires.

(8) Only an individual who has qualified as a licensed and registered assisted living administrator who holds a current license shall have the right and privilege of using the title "Assisted Living Administrator", and have the right and privilege of using the abbreviation "A.L.A." after their name. No other person shall use or shall be designated by such title or such abbreviation or any other works, letters, signs, cards, or device tending to or intended to indicate that such person is a licensed assisted living administrator.

(9) A person who has a license in good standing, and continuously maintains such license, as a licensed nursing home administrator, or who is an administrator/chief executive officer of an acute care hospital, shall be exempt from the licensure requirement herein, if such person, at the time of application, has responsibility for administration of an assisted living facility subject to the following conditions:

(a) If the person wishes to be issued an assisted living administrator license,

he/she shall pay an administrative fee as determined by the Board and document initially and annually thereafter the good standing of the nursing home administrator license or their continued employment as an administrator/chief executive officer of an acute care hospital.

(b) Any assisted living administrator license issued to a person who has a license in good standing, and continuously maintains such license, as a licensed nursing home administrator or who is an administrator/chief executive officer of an acute care hospital and has responsibility for administration of an assisted living facility shall become void if the requisite nursing home administrator license becomes void or if the person no longer is the administrator/chief executive officer of a hospital.

(c) Any assisted living administrator license issued according to paragraph (9) of this Chapter shall become "inactive" as described in paragraph (7) of this Chapter if the licensee no longer has responsibility for administration of an assisted living facility. After twelve (12) months in "inactive" status, the assisted living administrator license shall expire and become void.

(d) If such person as described in paragraph (9) does not wish to be issued an assisted living administrator license, he/she shall initially and annually provide the Board documentation of the good standing of their nursing home administrator license or their continued employment as an administrator/chief executive officer of an acute care hospital.

(e) If such person according to paragraph (9)(d) of this Chapter is unable to provide documentation of the good standing of the nursing home administrator license or employment as an administrator/chief executive officer of an acute care hospital, and continues to have responsibility for administration of an assisted living facility, he/she shall be subject to the application for examination and licensure in Rule No. 135-X-5 of these Rules and Regulations; provided that such person shall not continue to manage an assisted living facility or specialty care assisted living facility unless he/she receives a license issued by this Board, or provides written evidence of good standing as a licensed nursing home administrator by the Board of Examiners of Nursing Home Administrators, or provides proof of employment as an administrator/chief executive officer of an acute care hospital.

(10) 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/her employer or business connection, the date of application, educational and experience qualification, 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.

(11) 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. The State Department of Public Health and other state agencies with a direct need shall be provided copies at no cost.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

135-X-7-.-02 Refusal, Suspension, Revocation of License, and Disciplinary Proceedings.

(1) The license or the emergency permit of any person practicing or offering to practice assisted living administration 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:

(a) Upon proof that such person has willfully or repeatedly violated any of the provisions of these rules and regulations, or the laws enacted in accordance therewith;

(b) Upon proof that such person has willfully or repeatedly acted in a manner deemed to be detrimental to the lives, health, safety, or welfare of the residents of any assisted living facility or healthcare facility in this state or any other jurisdiction;

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

(d) Upon proof that that such person is guilty of fraud or deceit in the practice of assisted living administration, or in his or her admission to such practice;

(e) 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;

(f) Upon conviction in this state or any other jurisdiction of any crime involving fraud;

(g) Upon conviction in this state or any other jurisdiction of a felony or any misdemeanor involving the physical, sexual, mental, or verbal abuse of an individual;

(h) Has violated any of the provisions of the law pertaining to the licensing of assisted living administrators or the rules and regulations of the Board pertaining thereto;

(i) Has willfully violated any of the provisions of the law, code, rules or regulations of the licensing or supervising authority or agency of the State or political subdivision thereof having jurisdiction of the operation and licensing of assisted living facilities;

(j) Has been convicted of a crime, except a petty traffic offense as defined in

Rule No. 135-X-2-.01, paragraph (i) of these Rules and Regulations;

(k) Is incompetent to engage in the practice of assisted living administration or to act as an assisted living administrator;

(l) Is addicted or dependent upon the use of alcohol, morphine, opium, cocaine, or other drugs which impair such person's ability to function as an assisted living administrator;

(m) Has paid, given or caused to be paid or given, or offered to pay or to give any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of assisted living residents as regards any third party reimbursement such as, but not limited to: State/Federal Medicaid waivers, Veterans Administration benefits, or long term care insurance;

(n) Has been guilty of fraudulent, misleading, or deceptive advertising;

(o) Has failed to exercise true regard for the safety, health and life of the resident;

(p) Has willfully permitted unauthorized disclosure of information relating to a resident or his/her records;

(q) Has discriminated in respect to residents, employees, or staff on account of race, religion, or national origin;

(r) Has given false or untrue information to the Board or its officers or agents in his/her application for renewal, or has given false or untrue information to the Board or its officers or agents regarding matters before the Board, or its officers or agents or has refused to give information when lawfully required to do so by the Board or its officers or agents;

(2) At such hearing, the person who is subject to suspension, reprimand, revocation, or other disciplinary action by the Board may be advised by counsel at his/her own choosing and expense, who shall file a Notice of Appearance with the Board in writing at least fifteen (15) days prior to date of hearing.

(3) 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 an assisted living administrator or having been issued a license as a provisional assisted living facility administrator; and upon such hearings shall determine the charges upon their merits. If the board determines that disciplinary measures 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.

(4) All proceedings under this section shall be heard by the Board with at least

a quorum of its members present, and decisions to discipline any licensee shall require a vote of two thirds of the professional members present (consumer board members not voting); provided, that the Board may designate three or more of its non-consumer membership 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.

(5) 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/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 said hearing is to take place shall have the authority, on application of the Board, to enforce obedience to said subpoenas and orders of the board concerning such testimony.
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

135-X-7-.03 Prohibited Acts: Penalties.

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

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

(b) To practice as an assisted living administrator under cover of any license illegally or fraudulently obtained or unlawfully issued;

(c) Practice as an assisted living administrator or use in connection with his or her name any designation tending to imply that he or she is an assisted living administrator unless duly licensed to so practice under the provisions of these Rules and Regulations;

(d) Practice as an assisted living administrator or use in connection with his or her name any designation tending to imply that he or she is an assisted living administrator during the time his or her license issued under the provisions of these Rules and Regulations shall be expired, suspended, revoked; or

(e) Otherwise violate any of the provisions of these Rules and Regulations or the State licensing act.

(2) Such violation of the State licensing act or these Rules and Regulations shall be a Class C misdemeanor punishable as provided by law.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

135-X-7-.04 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.
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-8
COMPLAINTS

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135-X-8-.01 Complaints and Inquiry Procedures

135-X-8-.01 Complaints and Inquiry Procedures.

(1) Complaints or charges against any person having been issued a license as an assisted living administrator or having been issued a license as a provisional assisted living facility shall be in writing on forms provided by the board, and shall be submitted to the Board.

(2) The Board, or any person or persons appointed by it for the said purpose, shall thoroughly investigate said charges, and if such investigation is not made by the Board, report its findings to the Board. The Board, upon making or receiving the findings, may dismiss the charges, inquire further, or take disciplinary action pursuant to paragraph (3) of this rule.

(3) If the Board determines that disciplinary action should be taken, it may refuse, suspend, or revoke the applicant's or licensee's license, or reprimand or otherwise discipline the applicant or licensee.

(4) Whenever the Board takes any action under paragraph (3) hereof against any licensee or applicant, such applicant or such licensee shall be informed of said action by written notice.

(5) Within thirty (30) days, computed as described in Rule No. 135-X-9-.01 paragraph (3) of the date of the Board's notice issued pursuant to paragraph (4) hereof, the applicant or licensee receiving such notice may request in writing a hearing or re-hearing before the Board.

(6) Upon receipt of a request under paragraph (5) hereof, the Board will do one of the following:

(a) The Board may grant the request for a hearing and suspend its action until conclusion of said hearings;

(b) The Board may grant the request for a hearing without a suspension of its action.

(c) The Board may deny the request for a hearing.

(7) The hearing shall be held on the date, time and place determined by the Board.

(8) Persons to whom hearings are granted shall be given at least ten (10) days notice of the date, time and place of such hearing.

(9) Persons to whom hearings are granted may appear in person or by attorney or both, and may present evidence, affidavits, arguments, and briefs.

(10) Hearings shall be held before at least a quorum of the board as defined by statute for meetings of the Board unless the Board and the person to whom the hearing is granted mutually agree to a hearing before less than a quorum or an agent of the Board.

(11) Persons who are denied hearings under paragraph (6) (c) hereof will be informed of such denial by the Board in writing, and persons to whom hearings are granted shall be informed in writing of the outcome of said hearings.

(12) Persons aggrieved by a final decision or order of the Board suspending, revoking, or refusing to issue a license is entitle to a review of the decision or order by taking an appeal to the circuit court of the county in which the assisted living administrator or applicant resides. In such cases, the appeal shall be taken by filing notice thereof with the circuit court within thirty (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 shall be available as in other cases.

(13) The Board shall report to the Department of Public Health all final disciplinary actions taken under this section.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-9
NON-DISCIPLINARY REFUSAL OF LICENSE

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135-X-9-.01 Explanation and Action on Refusal of Licensure

135-X-9-.01 Explanation and Action on Refusal of Licensure.

(1) This rule shall apply to the refusal by the Board to license any applicant who has failed to fulfill the requirements for license, and the provisions of this rule may be concurrent with the provisions of Rule No. 135-X-7-.02 of these Rules and Regulations.

(2) Whenever the Board refuses to license an applicant, said applicant shall be informed by written notice of such refusal.

(3) An applicant who is refused license may, within thirty (30) days of the date of the notice issued pursuant to paragraph (2) hereof, request in writing an administrative hearing before the Board. The first of said thirty (30) days shall be the day after the date of the notice; and, in computing said thirty (30) days, all days after the date of the notice including Sundays and holidays shall be included. Such request shall be deemed to be made on the date of its postmark if it is mailed.

(4) The Board shall determine the day, time, and place of the hearing and shall give applicant ten (10) days notice of such date, time and place.

(5) At the hearing the applicant may appear in person, or by attorney or both, and may offer evidence, affidavits, arguments, and may submit briefs in support of his/her application.

(6) All hearings shall be held before a quorum of the Board as defined by statute for meetings of the Board unless the applicant and the Board shall mutually agree to a hearing before less than a quorum or an agent of the Board.

(7) Regardless of the outcome of the hearing, the Board will inform the applicant of its decision.

(8) The Board will accept request for administrative hearings, which are made

more than thirty (30) days after the date of the Board's notice, if such requests are accompanied by an affidavit explaining why the request is made later than thirty (30) days. The Board will grant such requests if its finds that the explanation justified the delay.

Author: Theresa Jordan.

Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.

History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-10
ISSUANCE OF EMERGENCY PERMITS

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135-X-10-.01 Emergency Permits

135-X-10-.01 Emergency Permits.

(1) In the event an assisted living administrator dies, unexpectedly resigns, becomes incapacitated, or has his/her license revoked, the person or persons then responsible for the management of the assisted living facility shall notify the Board within fifteen (15) days and the agency issuing the assisted living license and shall be allowed a reasonable period of time, not to exceed 120 days from the date of death, unexpected resignation, incapacitation, or revocation of license of the assisted living administrator, in which to replace said administrator. Such assisted living facility must apply to the Board for an emergency permit for the person who will actually administer the assisted living until a licensed assisted living administrator can be employed. Such application shall state the acting administrator's qualifications, the circumstances creating the need for an emergency permit, and the period of time for which the emergency permit is needed, and said application shall be verified by the acting administrator and the owner of, or manager of the assisted living facility**.** The acting administrator must be able and willing to comply with State Board of Health rules governing assisted living facilities and must meet the following minimum qualifications:

(a) Meet the pre-examination requirements according to Rule No. 135-X-5-.02 paragraph (1)(a) through (1)(d); and

(b) Eligible to be licensed by reciprocity; or

(c) Has worked in an assisted living facility or for a management company that operates assisted living facilities in a supervisory capacity for a minimum of two years prior to their appointment as acting administrator.

(2) Emergency permits will be issued by the Board if the Board approves of the applicant's qualifications, and determines that the assisted living facility requires the services of a temporarily licensed administrator.

(3) Emergency permits shall be issued for a stated period not to exceed 120

days and will permit the holder to practice only at the assisted living facility for which the emergency permit and license is issued.
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-11
REQUIRED PERSONAL AND BUSINESS INFORMATION

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135-X-11-.01 Residence Address, Telephone, and Business Changes

135-X-11-.01 Residence Address, Telephone and Business Changes.

(1) All applications, request, notices, correspondence, and any other matter, which is directed to the Board, shall be sent to the Executive Director of the Board; and the Executive Director shall accept these for the Board.

(2) Each assisted living administrator shall keep on file with the Board his or her name, home address, and telephone number and the name, address, and telephone number of any assisted living facility which he or she is administering and, if he or she is administering no assisted living facility, a statement to this effect.

(3) Whenever any of the information required by paragraph (2) hereof changes, the assisted living administrator shall immediately notify the Board.

(4) The Board will address all notices, orders, correspondence, and any other matters to each assisted living administrator at his/her address as it appears in the records of the Board.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-12
RECIPROCAL LICENSURE

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135-X-12-.01 Reciprocity

135-X-12-.01 Reciprocity. The Board, in its discretion, and otherwise subject to the provisions of the law, and these Rules and Regulations of the Board prescribing the qualifications for an assisted living administrator license, may issue a license to an assisted living administrator who has been issued a license by the proper authorities of any state or issued a certificate of qualification by any national organization, upon complying with the provisions of licensure, upon payment of the required fee, upon successfully passing a written or oral examination as required by these Rules and Regulations, and upon submission of evidence satisfactory to the Board all of the following:

(a) That such other state or national organization maintained a system and standards of qualification and examinations for assisted living administrator license or certificate which were substantially equivalent to those required in this state at the time such other license or certificate was issued by such other state or national organization; and

(b) That such other state gives similar recognition and endorsement to assisted living administrator licenses of this state.

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-13
FEES

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135-X-13-.01 Fees

135-X-13-.01 Fees. The fee requirements shall be set and annually adopted by the Board. The fee requirements shall be published after the last Board meeting held prior to October 1 of each year. Fees shall be charged for each of the following items:

(1) An examination fee

(2) An application fee

(3) An original license fee

(4) An emergency permit fee

(5) A renewal fee

(6) A late renewal penalty

(7) A reciprocity questionnaire fee

(8) An administrative fee

(9) An inactive reactivation fee

(10) Copying of records fee

(11) A return check fee

Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.

ALABAMA BOARD OF EXAMINERS OF ASSISTED LIVING ADMINISTRATORS

CHAPTER 135-X-14
EFFECTIVE DATE OF RULES AND REGULATIONS

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135-X-14-.01 Effective Date

135-X-14-.01 Effective Date. These Rules and Regulations shall become effective on December 13, 2002
Author: Theresa Jordan.
Statutory Authority: Code of Ala. 1975, Section 34-2A-1-16.
History: New Rule Filed September 16, 2002.