

APA-1  
6/93

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Department or Agency Alabama Department of Public Health

Rule Number 420-5-10-.01

Rule Title Definitions

       New XXX Amend        Repeal        Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facts of the rulemaking process designed solely for the purpose of and so they have as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of §41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of Certifying Officer  Date 4/13/16

FORM APA2  
11/96

**STATE BOARD OF HEALTH  
NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-5-10-.01 Definitions

INTENDED ACTION: To amend the current rules

SUBSTANCE OF PROPOSED ACTION: This amendment defines a Special Focus Facility.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held on May 11, 2016, at 9:00 a.m., at the RSA Tower Building, Suite 1540, 201 Monroe Street, Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on Friday, June 3, 2016. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Dennis Blair, Deputy Director, Bureau of Health Provider Standards, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017, Telephone number: (334) 206-5366.



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P. Brian Hale, Agency Secretary

**420-5-10-.01**

**Definitions.**

(1) **Definitions** - (a list of selected terms often used in connection with these rules):

- (a) "AAC Rule" - Alabama Administrative Code Rule.
- (b) "These Rules" - Rules 420-5-10-.01 through 420-5-10-.11, Chapter 420-5-10, Nursing Facilities, Alabama Administrative Code.
- (c) "Accredited Medical Record Technician (ART)" - A person trained in record maintenance and preservation, and accredited by the American Health Information Management Association.
- (d) "Administrator" - A person who holds a valid Alabama Nursing Home Administrator's license who is delegated the responsibility and authority for the interpretation, implementation, and proper application of policies and programs established by the governing authority. The Administrator is delegated responsibility for the establishment of safe and effective administrative management, control and operation of the services provided.
- (e) "Advisory Board" - See Section 22-21-27 of Appendix A.
- (f) "Applicant" - The person, partnership, corporation, association, city, county, or other organization legally responsible for operation of the facility.
- (g) "Assisted Living Facility" - means A facility as defined in the Rules of Alabama State Board of Health, Division of Licensure and Certification, Chapter 420-5-4.
- (h) "Board or State Board of Health" - The Alabama State Board of Health.
- (i) "Combination Facility" - A facility which provides more than one level of care and is licensed under one license, e.g., general hospital and skilled nursing facility, skilled nursing facility and assisted living facility.
- (j) "Communicable" - Conditions that are capable of being transmitted from one person to another. For reporting purposes, nursing facilities shall refer to the Notifiable Disease Case Report, Alabama Department of Public Health, Form ADPH-EPI-22/Rev. 1-88 (exception AIDS).
- (k) "Dentist" - A person currently licensed to practice dentistry in Alabama under the provisions of current state statutes.
- (l) "Director of Food Services/Dietary Manager" - ~~Is one~~ A person who is a full-time employee, and if not a qualified dietitian, is one who: (1) is a graduate of a dietary manager's training program, approved by the Dietary Manager's Association, or (2) is a graduate of a dietetic technician program approved by the American Dietetic Association, or (3) is a

graduate from a college or university who has received a B.S. degree in the field of dietetics, food and nutrition or food service management which included course work in diet therapy and quantity food production.

(m) "Duly Licensed and/or Registered" - The person to whom the term is applied is duly licensed and/or registered by the proper authority to follow his or her profession within the State of Alabama, and when applied to an institution, shall mean that the institution is duly licensed by the State Board of Health.

(n) "Governing Authority" - Owner(s), hospital association, county hospital board, board of directors, board of trustees, or any other comparable designation of an individual or group of individuals who have the purpose of owning, acquiring, constructing, equipping, operating, and/or maintaining a nursing facility and exercising control over the affairs of said nursing facility.

(o) "Hospital" - ~~means a~~ A facility as defined in the Rules of Alabama State Board of Health, Division of Licensure and Certification, Chapter 420-5-7.

(p) "Independent Clinical Laboratory" - ~~means a~~ A facility as defined in the Rules of Alabama State Board of Health, Division of Licensure and Certification, Chapter 420-5-8.

(q) "License" - The document issued by the State Board of Health and signed by the State Health Officer. The license shall constitute the authority to receive residents and perform the services included within the scope of the applicable rules. The license shall be posted in a conspicuous place on the premises.

(r) "Licensed Practical Nurse" - A person currently licensed in the State of Alabama in accordance with the *Code of Alabama*.

(s) "Licensee" - The individual owner, partnership, corporation, association, city, county or other organization to whom the license is issued and upon whom rests the responsibility for compliance with these rules.

(t) "Long Term Care" - Prolonged care of residents in licensed institutions and/or organized departments within a licensed institution where the average length of resident stay is 25 days or longer.

(u) "May" indicates permission.

(v) "Medical Laboratory Technician" - A person who meets at least one of the following requirements:

(i) Successful completion of two years of academic study (a minimum of 60 semester hours or equivalent) in an accredited college or university with an associate degree in Medical Technology, or four years of academic study with a bachelor degree in Medical

Technology; or

(ii) Graduation from high school and, subsequent to graduation, has had two years of documented experience as a technician trainee in a clinical laboratory of a hospital, a health department, a university, or a medical research institution or in a clinical laboratory providing equivalent training accepted by the State Board of Health as defined under "Independent Clinical Laboratory" (420-5-10-.01 (1)(p); or

(iii) Graduation from high school and successful completion of an official military laboratory procedures course of at least twelve calendar months of study and has had at least one year of experience as a technician trainee in a clinical laboratory of a hospital, a health department, a university, or a medical research institution or in a clinical laboratory providing equivalent training accepted by the State Board of Health.

(iv) Achieve a satisfactory grade on a proficiency examination for technologists approved by the United States Secretary of Health and Human Services.

(w) "Medical Staff" - Licensed physicians, osteopaths and dentists who are privileged by agreement with the licensee to attend to residents within the institution.

(x) "Medication" - All substances having medicinal properties intended for external and/or internal use for the treatment, prevention, diagnosing or curing of any disease, illness, malady, etc., in humans. The term "medication" as defined in the Pharmacological Basis of Therapeutics and shall encompass all other synonymous terms such as drugs, biologicals, chemicals, potions, remedies, or poisons.

(y) "Medicine or Drug Room" - A specific area, not subject to licensure by the Alabama State Board of Pharmacy, in a licensed nursing facility, used for the purpose of storing and/or preparing medications for administration and equipment necessary to ~~administering~~ administer medications to the residents of that facility.

(z) "Nurse Aide" - means Any individual providing nursing related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide such services without pay.

(aa) "Nursing Facility" - A business entity that is engaged in providing housing, meals and care to sick or disabled individuals who require, on a daily basis or more frequently, medical care, nursing care, or rehabilitation services. This definition shall not include any business, operation, or facility that is exempt from licensure pursuant to Alabama law, nor shall it include any business, operation, or facility that is (1) licensed by the Alabama State Board of Health as another kind of facility, and (2) functioning within the scope of applicable law and administrative rules.

(bb) "Owner" - The person, partnership, corporation, association, city, county, or other entity who through asset ownership, lease or sublease is entitled to responsibility for and control of operation of the facility.

- (cc) "Resident Activities Consultant" - A person who:
- (i) Is registered or meets requirements for registration as a professional level Therapeutic Recreation Specialist by the National Recreation and Park Association; or
  - (ii) Is a qualified occupational therapist or occupational therapy assistant; or
  - (iii) Has two years of experience in a social or recreations program within the past five years, one year of which was full time in a resident activities program in a health care setting.
- (dd) "Resident Activities Coordinator" - A person who is registered or meets the requirements for a resident activities consultant or a person who serves under the supervision of a qualified resident activities consultant or has the equivalent of two years of full-time experience, under the supervision of a qualified resident activities consultant.
- (ee) "Pharmacist" - A person currently licensed to practice pharmacy in Alabama under the provisions contained in current state statutes and rules of the Alabama State Board of Pharmacy.
- (ff) "Pharmacist Consultant" - A person currently licensed and registered by the Alabama State Board of Pharmacy to provide consultative services as defined by current state statutes and rules of the Alabama State Board of Pharmacy.
- (gg) "Pharmacy" - A place licensed by the Alabama State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals, and poisons are sold, offered for sale, compounded or dispensed, and shall include all places whose title may imply the sale, offering for sale, compounding or dispensing of prescription drugs, medicines, chemicals, or poisons or the storage of such items.
- (hh) "Physician" - A person currently licensed to practice medicine and/or surgery in Alabama under the provisions contained in current state statutes.
- (ii) "Qualified Dietetic Consultant" - A person who is eligible for registration by the Commission on Dietetic Registration (CDR), has at least one year of full-time experience in the dietetic service of a health care institution in a supervisory capacity, or has satisfactorily completed the test for registration administered by CDR and meets the annual requirements in continuing education required by CDR.
- (jj) "Qualified Dietitian" - ~~Is one who is~~ A person currently licensed in the State of Alabama in accordance with the provisions contained in current state statutes as governed by the Alabama Board of Examiners for Dietetic/Nutrition Practice.
- (kk) "Registered Nurse" - A person registered and currently licensed in the State of Alabama in accordance with the provisions contained in current state statutes.

(ll) "Registered Records Administrator (RRA)" - A person skilled in record maintenance and preservation, and who is registered by the American Medical Record Association.

(mm) "Rehabilitation" - An organized or well-defined program of therapeutics designed to help residents overcome physical, social, vocational or economic limitations as a result of a disability. Rehabilitation includes helping residents to reach the highest functional level of physical, psychological and socio-economic adjustment compatible with their disability.

(nn) "Resident" - A person admitted to a nursing facility by and upon the order of a physician.

(oo) "Shall" indicates mandatory requirements.

(pp) "Skilled Nursing Facility" - A facility providing skilled nursing and other related services which meets the Alabama State Board of Health's Rules for Nursing Facilities.

(qq) "Social Service Consultant" - An individual who meets the requirements of and is certified by the State of Alabama Board of Social Work Examiners.

(rr) "Social Service Designee" - A person employed by a facility with less than 120 beds on a full-time basis to meet the Social Service needs of residents. These persons must have a minimum of a G.E.D. or High School Diploma and have experience in dealing with the public.

(ss) "Social Worker" - A person who has either a Baccalaureate of Social Work or Masters of Social Work degree and is licensed in accordance with the *Code of Alabama*.

(tt) "Therapist" - A professionally trained and/or duly licensed and/or registered person, when required by state statutes, (such as physical therapist, occupational therapist, speech therapist, respiratory therapist, audiologist, etc.) who is skilled in the application of treatment techniques and procedures to residents under the general direction of a physician.

(uu) "Training and Abuse Registry"

(i) Abuse or Neglect or Misappropriation of Resident Property. The Department of Public Health shall establish and maintain such registry. The registry shall provide for the inclusion of specific documented findings by the Alabama Department of Public Health of resident neglect or abuse or misappropriation of resident property by any individual used by a nursing facility, as well as any brief statement of the individual disputing the findings. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a

statement. Individuals must be notified in writing prior to the inclusion of findings in the registry and allowed the opportunity for a hearing in the event the individual disputes the findings.

(ii) Nurse Aide Training. The names and addresses of all nurse aides who attended an approved training program and who have successfully passed the approved competency evaluation will be included on the registry. The only exception of the requirement for attendance at an approved training program is those nurses' aides who are hired by a nursing facility prior to July 1, 1989, and who successfully pass the approved competency evaluation prior to January 1, 1990.

(vv) "Health Care Professional" - A physician, physician assistant, nurse practitioner, physical, speech or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; licensed or certified social worker, or dietitian.

(ww) "Special Focus Facility" (SFF) – A federally certified nursing facility that has been identified as one with a noteworthy history of poor performance and is involuntarily enrolled in a special program with increased oversight and enhanced enforcement activity designed to stimulate improvements in quality of care and quality of life. Once selected as an SFF, the Alabama Department of Public Health conducts twice the number of standard surveys and applies progressive enforcement until the nursing home either (a) graduates from the SFF program or (b) their provider agreement with Medicare/Medicaid is terminated.

**Author:** Rick Harris, Walter T. Geary, Jr., M.D.

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

**History:** Original rules filed July 19, 1996; effective August 23, 1996. **Amended:** Filed November 19, 1999; effective December 24, 1999. **Amended:** Filed September 18, 2003; effective October 23, 2003. **Amended:** Filed June 23, 2004; effective July 28, 2004.

**Amended:** Filed April 20, 2005, effective May 25, 2005.