

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 135 Department or Agency Board of Examiners of Assisted Living Administrators  
Rule No. 135-X-7-.02 (s)  
Rule Title: Refusal, Suspension, Revocation of License, and Disciplinary Proceedings  
       New   X   Amend        Repeal        Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?           NO            
Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?           NO            
Is there another, less restrictive method of regulation available that could adequately protect the public?           NA            
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 facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?           NA            
\*\*\*\*\*  
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 Section 412223, Code of Alabama 1975.  
\*\*\*\*\*

Certification of Authorized Official  
I certify that the attached proposed rule has been proposed 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 Amy Findley, Executive Director  
Date 6.19.15

(DATE FILED)  
(STAMP)

APA-2  
07/04

**Board of Examiners of Assisted Living Administrators**  
**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Board of Examiners of Assisted Living Administrators

**RULE NO. & TITLE:** 135-X-7-.02 (s)

Refusal, Suspension, Revocation of License, and Disciplinary Proceedings

**INTENDED ACTION:** Amend the above referenced rule.

**SUBSTANCE OF PROPOSED ACTION:** The Board of Examiners of Assisted Living Administrators proposes to add the language below to the rule:

Has entered into a plea of nolo contendere, nolo contendere, no contender, no contest, or t in an case involving a lewd or lascivious act against a child or an adult, inappropriate sexual conduct with a child or an adult, or any other crime in which the punishment could include a sentence of imprisonment exceeding one year;

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** The Board of Examiners of Assisted Living Administrators will hold a public hearing to hear written and oral comments from 11:00 am until 12:00 pm on August 5, 2015. The public hearing will be held in the conference room of the BOEALA Office, 2740 Zelda Road, Suite 3B, Montgomery, Alabama.

**Notice** - If you require special accommodations (wheel chair access) and would like to attend our Board Meetings, you MUST notify the BOEALA Office by calling (334) 271.2418 at least 10 days in advance of any meeting.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** The date for completion of notice is August 4, 2015.

**CONTACT PERSON AT AGENCY:** The contact person for the Board of Examiners of Assisted Living Administrators is: Amy Findley, Executive Director, 2740 Zelda Road, Suite 3B, Montgomery, AL 36106.



Amy Findley  
Executive Director

(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.

(11) 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.

(12) 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.

(13) If an assisted living administrator's license card is stolen, lost or misplaced, a replacement license fee will be due to receive a new license card.

**Author:** Theresa Jordan.

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

**History:** New Rule Filed September 16, 2002. Amended: November 13, 2003. Amended: September 29, 2008. Amended May 22, 2009. Amended January 15, 2010. Amended July 9, 2010. Amended September 2015.

**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 violated any of the provisions of these rules and regulations, or the laws enacted in accordance therewith;
- (b) Upon proof that such person has 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 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 to or dependent upon any drug, legal or illegal (prescription or street), that impairs such licensee'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 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;
- (s) Has entered into a plea of nolo contendere, nolo contender, no contender, no contest, or t in an case involving a lewd or lascivious act against a child or an adult, inappropriate sexual conduct with a child or an adult, or any other crime in which the punishment could include a sentence of imprisonment exceeding one year;

(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 members present.

(5) At any hearing under this chapter, the person charged shall appear in person and may be represented by counsel to produce witnesses and evidence in his/her own behalf, and to cross-examine witnesses. The Board is authorized to issue subpoenas, administer oaths and take testimony concerning all matters within the jurisdiction of the

board, pursuant to the Alabama Procedures Act, Section 41-22-12 (c). 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. Amended: November 13, 2003.  
Amended: November 20, 2013. Amended September 2015

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.

135-X-7-.05 Administrator-in-Training