

APA-1
11/96

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Department or Agency Alabama Department of Public Health

Rule Number 420-5-7

Rule Title Hospitals

New 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? n/a

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 Jamie B. [Signature] Date May 21, 2012



FORM APA2

11/96

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

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-5-7, Hospitals

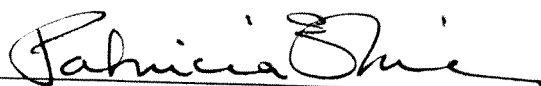
INTENDED ACTION: To Repeal and Replace

SUBSTANCE OF PROPOSED ACTION: To implement a more useful and current rule set for hospital regulation in the Alabama.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held at The Alabama Department of Public Health, RSA Tower, Suite 1586, 201 Monroe Street, Montgomery, AL 36104 at 10:00 a.m. on June 19, 2012.

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 July 5, 2012. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Ray Sherer, Division of Provider Services, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017.
Telephone number: (334) 206-5175.


Patricia E. Ivie, Agency Secretary

**RULES
OF
ALABAMA STATE BOARD OF HEALTH
ALABAMA DEPARTMENT OF PUBLIC HEALTH**

CHAPTER 420-5-7

HOSPITALS



**EFFECTIVE DECEMBER 23, 1994
AMENDED MARCH 6, 1996
AMENDED MARCH 27, 1997
AMENDED AUGUST 4, 1997
AMENDED JANUARY 21, 2000
AMENDED MARCH 7, 2001
AMENDED JULY 23, 2002
AMENDED JULY 28, 2004
AMENDED JANUARY 21, 2005
AMENDED OCTOBER 27, 2008**

**STATE OF ALABAMA
DEPARTMENT OF PUBLIC HEALTH
MONTGOMERY, ALABAMA**

ALABAMA STATE BOARD OF HEALTH
ALABAMA DEPARTMENT OF PUBLIC HEALTH

CHAPTER 420-5-7

HOSPITALS

TABLE OF CONTENTS

420-5-7-.01	General	1
420-5-7-.02	The License	4
420-5-7-.03	Classification of Hospitals.....	8
420-5-7-.04	Personnel	11
420-5-7-.05	Physical Environment.....	12
420-5-7-.06	Governing Body	14
420-5-7-.07	Quality Assurance	14
420-5-7-.08	Medical Staff	14
420-5-7-.09	Nursing Service	14
420-5-7-.10	Medical Record Services.....	14
420-5-7-.11	Pharmaceutical Services.....	15
420-5-7-.12	Radiologic Services.....	15
420-5-7-.13	Laboratory Services.....	15
420-5-7-.14	Food and Dietetic Services.....	15
420-5-7-.15	Utilization Review.....	16
420-5-7-.16	Infection Control	16
420-5-7-.17	Surgical Services	16
420-5-7-.18	Anesthesia Services.....	16
420-5-7-.19	Nuclear Medicine Services.....	16
420-5-7-.20	Outpatient Services.....	17
420-5-7-.21	Emergency Services	17
420-5-7-.22	Rehabilitation Services.....	17
420-5-7-.23	Respiratory Care Services	17
420-5-7-.24	Special Provisions Applying to Psychiatric Hospitals	17
420-5-7-.25	Special Medical Records Requirements for Psychiatric Hospitals	18
420-5-7-.26	Special Staff Requirements for Psychiatric Hospitals.....	18
420-5-7-.27	Special Requirements for Hospital Provider of Long-Term Care Service (Swing Beds).....	18
420-5-7-.28	Obstetrics and Newborn	18
420-5-7-.29	Patient Transport	19

420-5-7-.01 General.

- (1) **Legal Authority for Adoption of Rules.** Under and by virtue of authority vested in it by the Legislature of Alabama, Act 530, Regular Session, 1949, as amended by Act 122, Special Session, 1962 (*Code of Alabama, 1975*, Sections 22-21-20, et seq.), the State Board of Health does hereby adopt and promulgate the following rules governing all General Hospitals, Critical Access Hospitals, Specialized Hospitals, Sanitoria, and other related institutions in Alabama, except those operated under the supervision of the Department of Mental Health, and those hospitals otherwise exempt by law from licensure.
- (2) **Definitions** (a list of selected terms often used in connection with these Rules).
 - (a) AAC Rule means Alabama Administrative Code Rule.
 - (b) Advisory Board. See Section 22-21-27 of Appendix A.
 - (c) "Authorized Bed Capacity" means the number of beds a hospital has available for inpatient care. A hospital may by application designate its authorized bed capacity, not to exceed its licensed bed capacity. The term "Authorized Bed Capacity" shall exclude beds intended for ancillary usage such as labor beds, recovery room beds/stretchers and bassinets for newborn infants.
 - (d) Board or State Board of Health means the Alabama State Board of Health.
 - (e) Chief Executive Officer means a person who is delegated the responsibility for the interpretation, implementation, and proper application of policies and programs established by the governing authority, and is delegated responsibility for the establishment of safe and effective administrative management, control and operation of the services provided. This responsibility is accompanied by corresponding authority. (The term Administrator means the same as Chief Executive Officer.)
 - (f) Dentist means a person currently licensed to practice dentistry in Alabama under the provisions of current state statutes.
 - (g) "Duly Licensed or Registered", when applied to a person, means that the person to whom the term is applied is duly licensed 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.
 - (h) Emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in (1) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, (2) serious impairment to any bodily function, or (3) serious dysfunction of any bodily part.
 - a. Psychiatric Emergency. The statute provides a definition of an emergency medical condition; it does not provide a separate definition of a psychiatric emergency. For psychiatric condition to be considered an emergency, it must meet the general requirements of an emergency as defined above and in Section 1867(e)(1).

- b. Pregnant woman who is having contractions means an inadequate amount of time to effect a safe transfer to another hospital before delivery, or that the transfer may pose a threat to the health or safety of the woman or the unborn child. If the pregnant woman has an emergency medical condition, the hospital must either deliver the baby, including the placenta, or effect an appropriate transfer.
- (i) Clinical Laboratory Improvement Amendments of 1988 (CLIA) means the regulation that applies to laboratories that examine human specimens for the diagnosis, prevention, treatment of any disease or impairment of or the assessment of the health of human beings. Refer to Federal Registry, Volume 57, No. 40, February 28, 1992, 42 CFR part 493.
- (j) Graduate Nurse means a person who has completed professional nurses educational training but who has never been officially registered under the provisions contained in current state statutes.
- (k) Governing Authority means owner(s) hospital association, county hospital board, board of governors, board of trustees or any other comparable designation of a body duly organized and constituted for the purpose of owning, acquiring, constructing, equipping, operating, and/or maintaining a hospital, and exercising control over the affairs of said hospital.
- (l) 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 or more individuals not related by blood or marriage to the owner and/or chief executive officer/administrator. 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. Hospitals shall be classified as set forth in AAC Rule 420-5-07-.03.
- (m) License means the document issued by the State Board of Health and signed by the State Health Officer. The license shall constitute the authority to receive patients and perform the services included within the scope of the applicable rules. The license shall be posted in a conspicuous place on the premises.
- (n) "Licensed Bed Capacity" means the number of beds for which the facility has a certificate of need, and has been issued a certificate of licensure by the Alabama Department of Public Health. The term "Licensed Bed Capacity" shall exclude beds intended for ancillary usage such as labor beds, recovery room beds/stretchers and bassinets for newborn infants.
- (o) Licensed Practical Nurse means a person currently licensed in the State of Alabama in accordance with *Code of Alabama, 1975, Section 34-21-22.*
- (p) Licensee means 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.

- (q) Long Term Care means prolonged care of patients in licensed institutions and/or organized departments within a licensed institution where the average length of patient stay is greater than 25 days or longer.
- (r) May indicates permission.
- (s) Medical Staff means physicians and dentists who are privileged by agreement with licensee to attend patients within the institution.
- (t) Nursing Personnel means registered nurses, graduate nurses, licensed practical nurses, nurse aides, orderlies, attendants and nursing assistants.
- (u) Patient means a person admitted to the hospital by and upon the recommendation of a physician and who is to receive the medical and nursing care recommended by the physician.
- (v) Pharmacist means a person currently licensed to practice in Alabama under the provisions contained in current state statutes.
- (w) Physician means a person currently licensed to practice medicine and/or surgery in Alabama under the provisions contained in current state statutes.
- (x) Registered Nurse means a person currently registered in the State of Alabama in accordance with the provisions contained in current state statutes.
- (y) Rehabilitation means an organized or well-defined program of therapeutics designed to help patients overcome physical, social, vocational or economic limitations as a result of a disability. Rehabilitation includes helping patients to reach the highest functional level of physical, psychological and socioeconomic adjustment compatible with their disability. The term rehabilitation encompasses physical restoration services as an integral part of medical or hospital care. Rehabilitation services may be provided in various degrees in any hospital, nursing home, assisted living facility, cerebral palsy treatment center, or maternity facility, as well as in a rehabilitation center.
- (z) Rehabilitation Center means a facility operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical, psychological, social and vocational services under competent professional supervision. It may or may not have beds. If beds are provided, the institution shall be licensed by the Alabama State Board of Health.
- (aa) Shall indicates mandatory requirements.
- (bb) Social Worker means a person who has completed successfully a basic program of specialized professional training at an accredited graduate school of social work. The basic program of specialized professional training shall include courses which equip the individual with knowledge and skills essential for working constructively with individuals and families in relation to their social and emotional problems.
- (cc) Therapist means a professionally trained and/or duly licensed, or registered person, when required by state statutes, (such as physical therapist, occupational therapist, speech therapist, etc.) who is skilled in the application of treatment techniques and procedures to patients under the general direction of a physician.

- (dd) These Rules means Rules 420-5-7-.01 through 420-5-7-.28, Chapter 420-5-7, Hospitals, Alabama Administrative Code.

(3) Procedures Governing Adoption, Amendment, and Revision of Rules.

- (a) Authority. See Section 22-21-28 of the Appendix.
- (b) Publicity of Proposed Rules. See Section 22-21-28 of the Appendix.
- (c) Joint Hearings. See Section 22-21-28 of the Appendix.
- (d) Notice of Hearing. See Section 22-21-28 of the Appendix.
- (e) Right of Appeal. See Section 22-21-28 of the Appendix.
- (f) Effective Date of Rules. See Section 22-21-28 of the Appendix.

(4) Special Provision.

- (a) Report. See Section 22-21-31 of the Appendix.

(5) Inspection.

- (a) Inspections Required. See Section 22-21-29 of the Appendix.
- (b) Information Shall be Confidential. See Section 22-21-30 of the Appendix.

Author: Jimmy D. Prince

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

History: Original rules filed: November 18, 1994; effective December 23, 1994. **Amended:** Filed January 31, 1996; effective March 6, 1996. **Amended:** Filed December 17, 1999; effective January 21, 2000.

420-5-7-.02 The License.

- (1) **Types of License.** All licenses are issued for the calendar year and shall expire December 31 unless renewed by the owner for the succeeding year.
 - (a) **Regular License.** A regular license may be issued by the State Board of Health after the Board has determined that the hospital is in substantial compliance with the Rules herein adopted.
 - (b) **Temporary License.** At its discretion, the State Board of Health may issue a license which indicates a temporary condition of noncompliance with these rules. A temporary license may be issued when the board is satisfied that preparations are being made to qualify for a regular license or as provided below, and that notwithstanding the deficiencies, appropriate measures have been taken to minimize any threat to the health and safety of patients and personnel. A temporary license may be granted for a calendar year not to exceed one year. A temporary license may be issued under the following conditions:
 - 1. A hospital may be issued a temporary license prior to opening if in compliance with the provisions of these rules relative to the physical plant, staffing, and

operation. The license issued under this subsection shall be valid until the issuance of a regular license. A temporary license may be re-issued under this subsection when it has been demonstrated to the Board that specific efforts are being made to comply with these rules.

2. Hospital facilities which are in existence on the effective date of the rules may be issued a temporary license under one or more of the following conditions:
 - (i) Where failure to qualify for a regular license is due to requirements of higher standards in this revision.
 - (ii) Where the governing authority is making specific plans to construct a new facility, establish a hospital in a structure which meets the rules or is actually in the process of meeting these rules.
 - (iii) Where a formal appeal of an administrative decision is pending action by the State Board of Health.
 - (iv) A hospital which has been issued a regular license may be issued a temporary license in lieu thereof when an official inspection shows that the maintenance and operation of the facility are such that the institution does not substantially meet the requirements for a regular license.
- (c) Probational License. At its discretion, the State Board of Health may issue a probational license under one or more of the following conditions, and then only when the Board is satisfied that notwithstanding the deficiencies, appropriate measures have been taken to minimize any threat to the health and safety of patients and personnel.
1. When the Board has reason to believe the operation is questionable.
 2. When the Board has reason to believe the facility is not making specific plans to comply with these rules, or the hospital's ability to comply is questionable.
 3. A probational license may be granted for a period not to exceed one year.

(2) Application.

- (a) Application. See Section 22-21-23 of the Appendix.
- (b) Fee. See Section 22-21-24 of the Appendix.
- (c) Name of Facility. Every facility shall be designated by a permanent and distinctive name, which shall be used in applying for a license and shall not be changed without first notifying the Board in writing. Such notice shall specify the name to be discontinued as well as the new name. The words clinic, hospital, sanatorium, sanitarium, or any other such word which will reflect a different type of institution shall not appear in the title of facilities established after November 8, 1957.
- (d) Number of Beds. Each application for license shall specify the bed capacity of the facility.

(3) Licensing.

- (a) **Issuance of a Licensure Certificate.** The licensure certificate shall be issued by the Alabama Department of Public Health. It shall set forth the name and location of the facility, the type of facility, the licensed bed capacity and the authorized bed capacity.
 1. A facility must specify on an application for licensure its licensed bed capacity and its designated authorized bed capacity. The designated authorized bed capacity shall not exceed the licensed bed capacity.
 2. A facility must have available for inpatient care at all times the total number of beds designated in its authorized bed capacity.
 3. A facility desiring to change its authorized bed capacity shall submit an application to the Alabama Department of Public Health accompanied by the appropriate application fee based on its licensed bed capacity.
 4. The facility's licensure certificate from the Alabama Department of Public Health shall set forth its licensed bed capacity and its authorized bed capacity.
- (b) **Separate Licenses.** A separate license shall be required for each facility when more than one facility is operated under the same management; however, separate licenses are not required for separate buildings on the same grounds used by the same facility.
- (c) **Basis of Denial of License**
 1. The State Board of Health shall consider as a basis upon which to deny a license to any corporation, partnership, or individual making application to own or operate any hospital whether the corporation, partnership or individual:
 - (i) Falsifies or has falsified any information or record required by the application for license.
 - (ii) Has changed its corporate name, charter, entity, or its partnership name or composition to avoid the imposition of liens or court action.
 - (iii) Has been convicted of a felony, in the State of Alabama or any other state, for physical, mental or financial abuse of patients within the past five years.
 - (iv) Has had its license to operate a health care facility revoked within the last five years by administrative or court action in the State of Alabama having been afforded full due process rights.
 - (v) Has been convicted of fraud in this or any state, or in any federal jurisdiction within the past five years.
 2. The State Board of Health reserves the right to make inquiries of any other person or agency to determine whether the above reasons for denial exist.

(4) Right of Appeal.

- (a) In cases of errors or differences of opinions as to interpretations and/or applicability of these rules, the licensee may request orally or in writing a review of such points of difference. Opportunity for prompt review shall be afforded by the Alabama Department of Public Health and where applicable, letter of clarification sent to the licensee.
- (b) The State Board of Health will provide an opportunity for a fair hearing to every applicant or licensee in accordance with the Alabama Administrative Procedures Act.
 - 1. The licensee may present such evidence as he may deem necessary and pertinent to his request.
 - 2. Upon conclusion of the hearing, the Licensure Advisory Board shall present its findings, conclusions and recommendations to the State Board of Health for final action.

(5) Research Projects. Any licensee who is, or contemplates being, engaged in a bona fide research program which may be in conflict with one or more specific provisions of these rules may make application for waiver for the specific provisions in conflict. Application for waiver shall be made in writing to the Licensure Advisory Board who shall, upon completion of its investigation, send its findings, conclusions, and recommendations to the State Board of Health for final action.

(6) Review of Decisions. See Section 22-21-20 of the Appendix.

(7) Reissuance of License. See Section 22-21-25 of the Appendix.

(8) Compliance Exceptions. At its discretion, the State Board of Health may grant an exception to, or modify the application of, one or more provisions of these rules or referenced codes, for a period and under conditions, if any, determined by the Board. The exceptions or modifications shall be based on hardship, impracticability, or economic infeasibility in complying with the rules. The facility's request shall be in writing, shall state the specific provisions for which the exception or modification is requested, and reasons for each requested exception or modification.

(9) Compliance with Federal, State and Local laws. The hospital must be in compliance with applicable Federal laws related to the health and safety of patients.

- (a) **Licensing of Staff.** Staff of the facility is currently licensed or registered in accordance with applicable laws.
- (b) **Compliance with Other Laws.** The facility is in compliance with laws relating to fire and safety, sanitation, communicable and reportable diseases, Certificate of Need, and other relevant health and safety requirements. If a hospital utilizes the services of a clinical laboratory located outside the State of Alabama, the hospital shall ensure that in connection with any work performed for the hospital, the laboratory complies with the

requirements for the reporting of notifiable diseases to the Alabama Department of Public Health, as set forth in Title 22, Chapter 11A of the *Code of Alabama, 1975*, and in Chapter 420-4-1 of the Rules of the State Board of Health.

Author: Jimmy D. Prince

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

History: Original rules filed November 18, 1994; effective December 23, 1994. **Amended:** Filed June 30, 1997; effective August 4, 1997. **Amended:** Filed December 17, 1999; effective January 21, 2000.

420-5-7-.03 Classification of Hospitals.

(1) General.

(a) **Classification According to Services.** For the purpose of these Rules, each hospital shall be classified as a General Hospital, Critical Access Hospital or Specialized Hospital, according to the services offered by the particular institution.

(b) **Combination Classification.** A hospital may be classified in combination such as General Hospital and Nursing Home. Specialized hospitals may contain special combinations such as rehabilitation, psychiatric, etc. Departments within a hospital such as medical, surgical, obstetrical, physical medicine, etc., shall not be considered a combination classification. With a combination classification, the hospital shall comply with the appropriate rules, regulations and standards of the State Board of Health for each classification.

(c) **Confinement of Services.** A hospital shall confine its services to those designated in the classification, except emergency cases when the life or welfare of the patient is imperiled. The attending physician shall state on the patient record that emergency conditions existed.

(2) General Hospital.

(a) **Number of Beds.** A General Hospital shall provide at least 25 beds for the care and treatment of patients, except hospitals licensed prior to the effective date of these Rules, which shall provide at least 15 beds.

(b) **Basic Requirements.** To be classified as a General Hospital, an institution shall provide care for medical and surgical patients, and may include pediatric, obstetrical, and newborn patients. A General Hospital may provide long-term care such as chronic, tuberculosis, mental, drug and alcohol-related, etc. A General Hospital may provide an outpatient department or services, a department of physical medicine, a social service department, and other such departments relating to health care staffed by professional and technical personnel. A General Hospital shall specifically have:

1. A formally organized governing authority with duly appointed chief executive officer/administrator (See AAC Rule 420-5-7-.06).
2. A formally organized medical staff (See AAC Rule 420-5-7-.08).
3. An adequate staff of professional and technical personnel (See AAC Rule 420-5-7-.08).
4. Laboratory facilities (See AAC Rule 420-5-7-.13).
5. X-Ray facilities (See AAC Rule 420-5-7-.12).

6. Surgical facilities (See AAC Rule 420-5-7-.17).
7. If obstetrical patients are admitted, obstetrical facilities (See AAC Rule 420-5-7-.28).
8. An isolation and/or psychiatric unit (See AAC Rule 420-5-7-.16 and 420-5-7-.05).
9. A medical records department (See AAC Rule 420-5-7-.10).
10. A pharmacy, or drug room (See AAC Rule 420-5-7-.11).
11. A dietary department (See AAC Rule 420-5-7-.14).
12. A maintenance and housekeeping department (See AAC Rule 420-5-7-.05).
13. **A dedicated emergency department.** A dedicated emergency department shall include the following: 1) accessibility: shall be operated 24 hours a day/7 days per week; 2) a registered nurse shall be available at all times to the emergency department; 3) an emergency department shall be able to screen patients and if an emergency medical condition is found to exist, provide medical care within the hospital's capacity; and 4) the hospital shall arrange for the provision of emergency medical care beyond the hospital's capacity. The requirement for a dedicated emergency department shall not apply to hospitals operating solely as a Long Term Care Hospital, Rehabilitation Hospital or Psychiatric Hospital.

(3) Critical Access Hospital.

(a) **Basic Requirements.** A licensed hospital may become a Critical Access Hospital provided it is first certified by the Alabama Department of Public Health, Office of Rural Health, as a necessary provider of health services in the area. It may provide inpatient care for an average annual length of stay not to exceed 96 hours. It must comply with Alabama's Rural Health Plan and all requirements of these rules applicable to general hospitals.

(b) **Number of Beds.** A Critical Access Hospital shall have a maximum authorized bed capacity of 45 beds or its licensed bed capacity, whichever is smaller, subject to any additional restrictions imposed by the State Rural Health Plan, Alabama Certificate of Need requirements, and applicable federal laws and regulations.

(c) A hospital may apply to the Alabama Department of Public Health for designation as a Critical Access Hospital by submitting the necessary forms accompanied by the appropriate fee based on its licensed bed capacity. The certificate of licensure issued by the Alabama Department of Public Health shall contain a notation that the facility has been designated as a Critical Access Hospital.

(d) If the hospital's designation as a Critical Access Hospital is denied, revoked, or rescinded, it shall remain a general hospital. A hospital may voluntarily surrender its status as a Critical Access Hospital at any time by submitting an application to the Alabama Department of Public Health accompanied by the appropriate licensure fee based on its licensed bed capacity. A hospital that has, for any reason, reverted from the status of Critical Access Hospital to the status of general hospital shall no longer be restricted in its length of stay for inpatient care, and may apply for any authorized bed capacity not to exceed its licensed bed capacity.

(4) Specialized Hospital.

(a) Number of Beds. A Specialized Hospital may have any number of beds.

(b) Basic Requirements. To be classified as a Specialized Hospital, an institution shall provide hospital services in an exclusive specialty such as tuberculosis, orthopedics, pediatrics, maternity, chronic disease, and mental, and shall have a medical staff and other professional and/or technical personnel especially qualified in the particular specialty for which the hospital is operated. The specific requirements for some of the more common Specialized Hospitals are as follows:

1. Tuberculosis Hospital. A Tuberculosis Hospital shall be located in a separate building or as a distinctive separate part of a General Hospital. When located in a separate building, it shall meet the requirements of a General Hospital except as noted below:

(i) A Tuberculosis Hospital shall have a formal, written agreement with a General Hospital that offers obstetrical care if obstetrical services are not properly provided within the institution.

(ii) A Tuberculosis Hospital shall provide a library, chapel, patient recreation room, and medical director's office and examination room.

(iii) At least one major operating room shall be provided by each Tuberculosis Hospital. The surgical department shall be in accordance with AAC Rule 420-5-7-.05.

At its discretion, the State Board of Health may make exception to this requirement when the Board is satisfied that the hospital is not offering surgical services and satisfactory arrangements have been made for transfer of surgical patients to appropriate institutions. Such exception shall be made with the advice and recommendations of the Licensure Advisory Board.

(iv) Provisions for sterilization of supplies and equipment shall be provided in all Tuberculosis Hospitals.

(v) An emergency room or emergency facilities are not required.

(vi) Laboratory facilities and services shall be provided in accordance with the Clinical Laboratory Improvement Amendments of 1988.

2. Mental Hospital. A Mental Hospital shall be located in a separate building or as a distinctive separate part of a General Hospital. When located in a separate building, it shall meet the requirements of a General Hospital except as noted below. A Mental Hospital may provide care for patients suffering from drug and alcohol addiction.

(i) Laboratory Services. The Mental Hospital shall have Laboratory Services in accordance with the Clinical Laboratory Improvement Amendments of 1988.

(ii) Radiological Services. As a minimum, radiological facilities shall be provided in accordance with AAC Rule 420-5-7-.12.

(iii) Surgical Facilities. Mental Hospitals may provide surgical facilities (See AAC Rule 420-5-7-.24). Mental Hospitals not providing surgical facilities shall have a written agreement with a local General Hospital for the transfer of surgical patients and the provision of necessary facilities on a 24-hour basis.

- (iv) A Mental Hospital shall have a formal, written agreement with a General Hospital for the transfer of patients who need other services not provided by the Mental Hospital.
- (v) Occupational and recreational therapy, with qualified personnel and sufficient space, shall be provided and available to patients in order to provide for a daily program of purposeful activity and suitable diversions. This program shall be under the supervision of a psychiatrist.
- (vi) Adequate facilities shall be provided to offer protection to the patients and staff against any physical injury resulting from a patient becoming violent.
- (vii) Each employee shall be supplied with a key or keys for unlocking all exit doors normally kept locked.
- (viii) Mental Hospitals may have seclusion or security rooms which are not equipped with a means of signaling attendants.
- (ix) A Mental Hospital shall provide an adequate patients' dining room, library and chapel.

Author: Rick Harris

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

History: Original rules filed: November 18, 1994; effective December 23, 1994. **Amended:** Filed December 17, 1999; effective January 21, 2000. **Amended:** Filed January 31, 2001; effective March 7, 2001. **Amended:** Filed December 17, 2004; effective January 21, 2005. **Amended:** Filed September 22, 2008; effective October 27, 2008

420-5-7-.04 Personnel.

(1) General.

- (a) **Personnel Records.** Each hospital shall maintain a personnel record for each employee. As a minimum, the record shall include: Application for employment which contains information regarding education, training experience, and if applicable, registration and/or licensure information of the applicant.
- (b) In addition to requirements at 420-5-7-.16, each hospital shall:
 1. Establish vaccination requirements for employees that are consistent with current recommendations from the Federal Centers for Disease Control and Prevention (CDC) and the Federal Occupational Safety and Health Administration (OSHA) (as a minimum will require annual influenza vaccinations).
 2. Personnel absent from duty because of any communicable disease shall not return to duty until examined by a physician for freedom from any condition that might endanger the health of patients or employees. Documentation of freedom from communicable diseases shall be available in facility records.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.05 Physical Environment.

The hospital must be constructed, arranged, and maintained to ensure the safety of the patient, and to provide facilities for diagnosis and treatment and for special hospital services appropriate to the needs of the community.

- (1) The condition of the physical plant and the overall hospital environment must be developed and maintained in such a manner that the safety and well being of patients are assured.
 - (a) Building. There must be emergency power and lighting in at least the operating, recovery, intensive care, and emergency rooms, and stairwell. In all other areas not serviced by the emergency power source, battery lamps and flashlights must be available.
- (2) **Life Safety From Fire.**
 - (a) A hospital shall be classified as Health Care Occupancy and shall comply with the codes and standards adopted by the State Board of Health.
 - (b) The hospital must have procedures for the proper routine of storage and prompt disposal of trash.
 - (c) The hospital must have written fire control plans that contain provisions for prompt reporting of fires; extinguishing fires; protection of patients, personnel and guests; evacuation; and cooperation with fire fighting authorities.
 - (d) The hospital must maintain written evidence of regular inspection and approval by State or local fire control agencies.
- (3) **Facilities.** The hospital must maintain adequate facilities for its services.
 - (a) Diagnostic and therapeutics facilities must be located for the safety of patients.
 - (b) Facilities, supplies, and equipment must be maintained to ensure an acceptable level of safety and quality.
 - (c) The extent and complexity of facilities must be determined by the services offered.
 - (d) There must be proper ventilation, light, and temperature controls in pharmaceutical, food preparation, and other appropriate areas.
- (4) **Submission of Plans and Specifications.**
 - (a) When construction is contemplated, either for new buildings, conversions, additions, or major alterations to existing buildings coming within the scope of these rules, plans and specifications shall be submitted by review and approval to the Alabama Department of Public Health, in accordance with Alabama Administrative Code Rule 420-5-22, "Submission of Plans and Specifications for Health Care Facilities."
 - (b) Minor alterations and remodeling which do not affect the structural integrity of the building, which do not change functional operation, which do not affect fire safety, and

which do not add beds over those for which the facility is licensed, need not be submitted for approval.

- (5) **Inspections.** The State Board of Health and its authorized representative shall have access to the site for inspection.
- (6) **Remodeling.**
 - (a) The remodeled area of existing facilities shall be upgraded to comply with the current requirements for new construction.
 - (b) Any remodeling to existing facilities shall not diminish the level of safety which existed prior to the start of the work.
- (7) **Laundry.**
 - (a) **Direction and Supervision.** Responsibility for laundry services shall be delegated to a competent hospital employee.
 - (b) **Commercial Laundry.** A hospital may use commercial laundries, provided they comply with regulations governing hospital laundries.
 - (c) **Laundering of Infant Apparel.** The laundering of diapers, infant bed clothes and infant apparel shall be done separately from other hospital laundry or shall be autoclaved before using.
 - (d) **Laundering of Linens from Isolation.** The linens used by patients in isolation because of having or suspected of having a communicable disease shall be transported to the laundry in such a manner as to prevent the spread of infection.
 - (e) **Transporting Linens.** Precautions shall be taken in storing and transporting soiled and clean linens in order to prevent contamination of clean linen.

Author: Victor Hunt

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

History: Original rules filed: November 18, 1994; effective December 23, 1994. **Amended:** Filed February 21, 1997; effective March 27, 1997. **Amended:** Filed December 17, 1999; effective January 21, 2000. **Amended:** Filed June 18, 2002; effective July 23, 2002. **Amended:** Filed June 23, 2004; effective July 28, 2004.

420-5-7-.06 Governing Body. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.12 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof and adopted as a rule of the State Board of Health to be effective on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.07 Quality Assurance. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.21 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof and adopted as a rule of the State Board of Health to be effective on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.08 Medical Staff. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.22 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof and adopted as a rule of the State Board of Health to be effective on November 16, 1994. Copies of the adopted reference can be obtained from the United State Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18; effective December 23, 1994.

420-5-7-.09 Nursing Service. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.23 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof and adopted as a rule of the State Board of Health to be effective on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.10 Medical Record Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.24 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof and adopted as a rule of the State Board of Health to be effective on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

- (1) **Proposed Plan for Disposition of Medical Records.** When a hospital ceases to operate, either voluntarily or by revocation of its license, the governing body (licensee) at or prior to such action shall develop a proposed plan for the disposition of its medical records. Such plan shall

be submitted for review and approval to the Division of Licensure and Certification and shall contain provision for the proper storage, safeguarding and confidentiality, transfer and/or disposal of patient medical records and x-ray files.

Author: L. O'Neal Green, Jimmy D. Prince

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

History: Original rules filed: November 18, 1994; effective December 23, 1994. **Amended:** Filed January 31, 1996; effective March 6, 1996.

420-5-7-.11 Pharmaceutical Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.25 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof and adopted as a rule of the State Board of Health to be effective on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.12 Radiologic Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.26 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof and adopted as a rule of the State Board of Health to be effective on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.13 Laboratory Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.27 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.14 Food and Dietetic Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.28 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.15 Utilization Review. The document entitled 42 *Code of Federal Regulations*, (42 CFR) “Public Health” part 482.30 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O’Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.16 Infection Control. The document entitled 42 *Code of Federal Regulations*, (42 CFR) “Public Health” part 482.48 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O’Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.17 Surgical Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) “Public Health” part 482.51 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O’Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.18 Anesthesia Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) “Public Health” part 482.52 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O’Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.19 Nuclear Medicine Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) “Public Health” part 482.53 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O’Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.20 Outpatient Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.54 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.21 Emergency Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.55 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.22 Rehabilitation Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.56 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.23 Respiratory Care Services. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.57 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.24 Special Provisions Applying to Psychiatric Hospitals. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.60 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.25 Special Medical Records Requirements for Psychiatric Hospitals. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.61 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule and if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.26 Special Staff Requirements for Psychiatric Hospitals. The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.62 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.27 Special Requirements for Hospital Provider of Long-Term Care Service (Swing Beds). The document entitled 42 *Code of Federal Regulations*, (42 CFR) "Public Health" part 482.66 as revised as of October 1, 1992, is hereby incorporated by reference and made a part of this rule as if set out in full and all provisions thereof on November 16, 1994. Copies of the adopted reference can be obtained from the United States Government Printing Office, Washington, D.C. 20402-9328.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.28 Obstetrics and Newborn.

(1) **General.**

- (a) **Direction and Supervision.** Obstetrics and newborn services shall be under the direction and supervision of a registered nurse.
- (b) **Maternity patients and newborn infants** shall not be placed in a room with other types of patients.
- (c) **Identification of Infants.** A safe means of identifying the infant shall be employed before the infant is removed from the delivery room. In addition, there shall be adequate means employed to identify the mother with her infant.
- (d) **Temperature of Nurseries.** Each nursery shall be properly heated at a temperature of not less than 70 degrees Fahrenheit and shall be adequately ventilated.
- (e) **Oxygen Administration.** All hospitals providing care for newborn infants shall provide an oxygen analyzer to assure that no infant receives a concentration of oxygen in excess of recommended concentration.

- (f) **Sterile Storage.** Each hospital shall provide within the obstetric suite suitable space for keeping sterile equipment and supplies in a clean, convenient and orderly manner.
- (g) **Prevention of Infantile Blindness.** Within two hours after birth of a child, proper measures shall be taken for the prevention of infantile blindness or ophthalmia neonatorum, such as one percent fresh solution of nitrate of silver, a twenty-five percent solution of argyrol, a five percent solution of protargol or such other solution as may be prescribed by the State Board of Health.

(2) **Emergency Deliveries Under the Anti-Dumping Statute (COBRA).**

- (a) Section 420-5-7-.28 does not apply if the hospital has an emergency room delivery and does not routinely offer obstetrics and newborn services and the mother and infant are immediately and appropriately transferred.
- (b) When a hospital has an emergency delivery and elects to admit the mother and infant, but does not routinely offer obstetrics and newborn services they must:
 - 1. Within two hours after the birth of a child, proper measures shall be taken for the prevention of infantile blindness or ophthalmia neonatorum, such as a one percent fresh solution of nitrate of silver, a twenty-five percent solution of argyrol, a five percent solution of protargol or such other solution as may be prescribed by the State Board of Health.
 - 2. Provide an oxygen analyzer to assure that no infant receives a concentration of oxygen in excess of recommended concentration.

Author: L. O'Neal Green

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

History: Original rules filed: November 18, 1994; effective December 23, 1994.

420-5-7-.29 Patient Transport. If a patient is unable to ride in an upright position or if such patient's condition is such that he or she needs observation or treatment by Emergency Medical Services personnel, or if the patient requires transportation on a stretcher, gurney or cot, the facility shall arrange or request transportation services only from providers who are ambulance service operators licensed by the Alabama State Board of Health. If such patient is being transported to or from a health care facility in another state, transportation services may be arranged with a transport provider licensed as an ambulance service operator in that state. For the purposes of this rule, an upright position means no more than 20 degrees from vertical.

Author: Rick Harris

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

History: Original rule filed: June 23, 2004; effective July 28, 2004.

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

Code of Alabama

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

Subtitle 1. Health and Environmental Control Generally

Chapter 21 Hospitals and Other Health Care Facilities Generally.

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

§ 22-21-20. Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

(1) HOSPITALS. General and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This section shall not apply to county or district health departments.

(2) PERSON. The term includes individuals, partnerships, corporations, and associations.

§ 22-21-21. Purpose of article.

The purpose of this article is to promote the public health, safety and welfare by providing for the development, establishment and enforcement of standards for the treatment and care of individuals in institutions within the purview of this article and the establishment, construction, maintenance and operation of such institutions which will promote safe and adequate treatment and care of individuals in such institutions.

§ 22-21-22. License -- Required; exceptions.

No person shall establish, conduct or maintain any hospital as defined in Section 22-21-20 without first obtaining the license provided in this article. Hospitals operated by the federal government and mental hospitals under the supervision of the board of trustees of the Alabama state hospitals shall be exempt from the provisions of this article.

§ 22-21-23. License -- Application.

Any person desiring licensing under this article shall apply to the State Board of Health therefor. The applicant shall state the name of the applicant and whether an individual, partnership, corporation or other entity, the type of institution for which a license is desired, the location thereof and the name of the person in direct supervision and charge thereof. The person

in charge of such hospital must be at least 19 years of age and of reputable and responsible character. The applicant shall submit evidence of ability to comply with the minimum standards provided in this article or by regulations issued under its authority.

§ 22-21-24. License -- Fees; expiration and renewal; accreditation.

The application for a license to operate a hospital other than an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care shall be accompanied by a standard fee of two hundred dollars (\$200), plus a fee of five dollars (\$5) per bed for each bed over 10 beds to be licensed in accordance with regulations promulgated under Section 22-21-28. Increase in a hospital's bed capacity during the calendar year is assessed at the standard fee of two hundred dollars (\$200) plus five dollars (\$5) each for the net gain in beds. The initial licensure fee and subsequent annual licensure renewal fee for an assisted living facility and for a specialty care assisted living facility rising to the level of intermediate care shall be two hundred dollars (\$200) plus fifteen dollars (\$15) for each bed. A license renewal application for any hospital, as defined by this article, which is not received by the expiration date in a properly completed form and accompanied by the appropriate renewal fee shall be subject to a late penalty equal to two hundred fifty dollars (\$250) or 100 percent of the renewal fee, whichever is greater. No fee shall be refunded. All fees received by the State Board of Health under the provision of this article shall be paid into the State Treasury to the credit of the State Board of Health and shall be used for carrying out the provisions of this article. A license granted under this article shall expire on December 31 of the year in which it was granted. A license certificate shall be on a form prescribed by the department, and shall be posted in a conspicuous place on the licensed premises. Licenses shall not be transferable or assignable and shall be granted only for the premises named in the application. Licenses may be renewed from year to year upon application, investigation, and payment of the required license fee, as in the case of procurement of the original license. All fees collected under this article are hereby appropriated for expenditure by the State Health Department. All hospitals which are accredited by the joint commission on accreditation of hospitals shall be deemed by the State Health Department to be licensable without further inspection or survey by the personnel of the State Department of Health. Further accreditation by the joint commission on accreditation of hospitals shall in no way relieve that hospital of the responsibility of applying for licensure and remitting the appropriate licensure fee as specified in this article.

§ 22-21-25. License -- Issuance; suspension or revocation; new applications after revocation.

(a) The State Board of Health may grant licenses for the operation of hospitals which are found to comply with the provisions of this article and any regulations lawfully promulgated by the State Board of Health.

(b) The State Board of Health may suspend or revoke a license granted under this article on any of the following grounds:

(1) Violation of any of the provisions of this article or the rules and regulations issued pursuant thereto.

(2) Permitting, aiding or abetting the commission of any illegal act in the institution.

(3) Conduct or practices deemed by the State Board of Health to be detrimental to the welfare of the patients of the institution.

(c) Before any license granted under this article is suspended or revoked, written notice shall be given the licensee, stating the grounds of the complaint, and the date, time, and place set for the hearing of the complaint, which date of hearing shall be not less than 30 days from the date of the notice. The notice shall be sent by registered or certified mail to the licensee at the address where the institution concerned is located. The licensee shall be entitled to be represented by legal counsel at the hearing.

(d) If a license is revoked as provided in this section, a new application for license shall be considered by the State Board of Health if, when, and after the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished. A new license shall then be granted after proper inspection has been made and all provisions of this article and rules and regulations promulgated under this article have been satisfied.

§ 22-21-26. License -- Judicial review of suspension or revocation.

Any party aggrieved by a final decision or order of the Board of Health suspending or revoking a license is entitled to a review of such decision or order by taking an appeal to the circuit court of the county in which the hospital is located or is to be located.

§ 22-21-27. Advisory board.

(a) There shall be an advisory board of 17 members to assist in the establishment of rules, regulations, and standards necessary to carry out the provisions of this article and to serve as consultants to the State Health Officer. The board shall meet at least twice each year and at the call of the State Health Officer. The members of the board shall annually elect one of its members to serve as chairman.

(b) The advisory board shall be constituted in the following manner:

(1) Four representatives of hospitals, who shall be appointed by the Board of Trustees of the Alabama Hospital Association as follows:

- a. One administrator of a governmental hospital.
- b. One administrator of a nongovernmental nonprofit hospital.
- c. One owner or administrator of a proprietary hospital.
- d. One member of a managing board of a nonprofit hospital.

(2) Three representatives who shall be doctors of medicine appointed by the Board of Censors of the Medical Association of the State of Alabama.

(3) One representative who shall be a registered nurse appointed by the Executive Board of the Alabama State Nurses Association.

(4) One representative from the State Board of Human Resources who shall be appointed by the board.

(5) One registered pharmacist actively engaged in the practices of pharmacy in the State of Alabama, to be appointed by the Executive Committee of the Alabama Pharmacy Association.

(6) Three members who shall be appointed by the Executive Committee of the Alabama Nursing Home Association, each of whom shall be the operator of a duly qualified licensed nursing home.

(7) One member who shall be appointed by the Alabama Hospice Association.

(8) Two members who shall be appointed by the Assisted Living Association of Alabama, one of whom shall be the operator of a licensed assisted living facility or licensed specialty care assisted living facility rising to the level of intermediate care with 16 or fewer beds, and one of whom shall be the operator of an assisted living facility or licensed specialty care assisted living facility rising to the level of intermediate care with more than 16 beds.

(9) One member who shall be appointed by the Governor to represent the interests of consumers. The consumer representative shall be at least 65 years of age and shall have no financial interest in any facility licensed under this article.

Each new appointee shall serve for five years or until his or her successor is appointed, whichever is later. Any vacancy caused by a member leaving the position before the expiration of his or her term shall be filled by the organization selecting the original member. The replacement member appointed shall serve for the remainder of the unexpired term.

(c) A member of the advisory board shall not be eligible to succeed himself or herself after serving one full five-year term, but shall be eligible for reappointment if he or she has served only a portion of a five-year term or if he or she has not served immediately preceding the reappointment.

(d) Members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for expenses incurred in the performance of the duties of the office at the same rate allowed state employees pursuant to general law.

§ 22-21-28. Rules and regulations.

(a) In the manner provided in this section, the State Board of Health, with the advice and after approval by the advisory board, shall have the power to make and enforce, and may modify, amend, and rescind, reasonable rules and regulations governing the operation and conduct of hospitals as defined in Section 22-21-20. All such regulations shall set uniform minimum standards applicable alike to all hospitals of like kind and purpose in view of the type of institutional care being offered there and shall be confined to setting minimum standards of sanitation and equipment found to be necessary and prohibiting conduct and practices inimical to the public interest and the public health. The board shall not have power to promulgate any regulation in conflict with law nor power to interfere with the internal government and operation of any hospital on matters of policy. The procedure for adopting, amending, or rescinding any rules authorized by this article shall conform to the Alabama Administrative Procedure Act. At any public hearing called for the purpose of soliciting public comment on proposed rules, any interested hospital or any member of the public may be heard.

(b) Any person affected by any regulation, amendment, or rescission thereof may appeal consideration thereof to the circuit court of the county of that person's residence or in which that person does business or to the Circuit Court of Montgomery County, pursuant to the Alabama Administrative Procedure Act. And upon appeal the question of the reasonableness of

such regulation shall be a question of fact for the court to determine, and no presumption shall be indulged that the regulation adopted was and is a reasonable regulation.

(c) Regulations adopted under this section shall become effective as provided in the Alabama Administrative Procedure Act.

§ 22-21-29. Inspections.

(a) Every hospital licensed under this article shall be open to inspection to the extent authorized in this section by employees and agents of the State Board of Health, under rules as shall be promulgated by the board with the advice and consent of the advisory board. Employees and agents of the board shall also inspect unlicensed and suspected unlicensed facilities. Nothing in this section shall authorize the board to inspect quarters therein occupied by members of any religious group or nurses engaged in work in any hospital or places of refuge for members of religious orders for whom care is provided, but any inspection shall be limited and confined to the parts and portions of the hospital as are used for the care and treatment of the patients and the general facilities for their care and treatment. No hospital shall, by reason of this section, be relieved from any other types of inspections authorized by law.

(b) All inspections undertaken by the State Board of Health shall be conducted without prior notice to the facility and its staff. Notwithstanding the foregoing, an inspection of a hospital or other health care facility, prior to its licensure, may be scheduled in advance. An employee or contract employee of the state shall not disclose in advance the date or the time of an inspection of a hospital or other health care facility to any person with a financial interest in any licensed health care facility, to any employee or agent of a licensed health care facility, to any consultant or contractor who performs services for or on behalf of licensed health care facilities, or to any person related by blood or marriage to an owner, employee, agent, consultant, or contractor of a licensed health care facility. For purposes of this section, the term inspection shall include periodic and follow-up compliance inspections and surveys on behalf of the State Board of Health, complaint investigations and follow-up investigations conducted by the State Board of Health, and compliance inspections and surveys, complaint investigations, and follow-up visits conducted on behalf of the United States Department of Health and Human Services, Health Care Financing Administration, or its successors. The board may prescribe by rule exceptions to the prohibition where considerations of public health or safety make advance disclosure of inspection dates or times reasonable. Disclosure in advance of inspection dates when such disclosure is required or authorized pursuant to federal law or regulation shall not be a violation of this section. Scheduling inspections of hospitals or other health care facilities by the board at regular, periodic intervals which may be predictable shall not be a violation of this section.

(c) Any employee or contract employee of the state who discloses in advance the date or time of an inspection in violation of subsection (b) shall be guilty of a Class A misdemeanor. Any person who solicits an employee or contract employee of the state to disclose in advance the date or time of an inspection in violation of subsection (b) for the purpose of disclosing the information to others shall be guilty of a Class A misdemeanor.

§ 22-21-30. Disclosure of information.

Information received by the State Board of Health through on-site inspections conducted by the state licensing agency is subject to public disclosure and may be disclosed upon written request. Information received through means other than inspection will be treated as confidential and shall not be directed publicly except in a proceeding involving the question of licensure or

revocation of license.

§ 22-21-31. Practice of medicine, etc., not authorized; child placing.

Nothing in this article shall be construed as authorizing any person to engage in any manner in the practice of medicine or any other profession nor to authorize any person to engage in the business of child placing. Any child born in any such institution whose mother is unable to care for such child or any child who, for any reason, will be left destitute of parental support shall be reported to the Department of Human Resources or to any agency authorized or licensed by the Department of Human Resources to engage in child placing for such service as the child and the mother may require. In the rendering of service, representatives of the Department of Human Resources and agencies authorized or licensed by the Department of Human Resources shall have free access to visit the child and the mother concerned.

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

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

(a) Any individual, association, corporation, partnership, limited liability company, or other business entity who operates or causes to be operated a hospital of any kind as defined in this article or any regulations promulgated hereunder, without having been granted a license therefor by the State Board of Health shall be guilty of a Class B misdemeanor upon conviction, except that any individual, association, corporation, partnership, limited liability company, or other business entity who operates or causes to be operated a hospital of any kind as defined in this article or any regulations promulgated hereunder without having been granted a license therefor by the State Board of Health shall be guilty of a Class A misdemeanor upon conviction of a second or any subsequent offense. The State Board of Health, upon determination that a facility or business is operating as a hospital, within the meaning of this article or any rules promulgated hereunder, and that the facility or business does not have a current and valid license granted by the State Board of Health, may apply to the circuit court of the county in which the unlicensed facility or business is located for declaratory and injunctive relief. The proceedings shall be expedited. The sole evidentiary questions before the court in a proceeding shall be whether the facility or business that is the subject of the action meets the definition of a hospital, within the meaning of this article and any rules promulgated hereunder, and whether the facility or business has been granted a current and valid license to operate by the State Board of Health. If the State Board of Health prevails on these questions, then the court shall, upon request of the State Board of Health, forthwith grant declaratory and injunctive relief requiring the operator or operators to close the facility or business and requiring the operator or operators to move all residents or patients to appropriate placements. Any individual failing to obey an injunction to close a hospital shall be guilty of a Class A misdemeanor. Any individual, after having once been subject to such an injunction, who shall later operate or cause to be operated a hospital, as defined in this article or any regulations promulgated hereunder, without having been granted a license therefor by the State Board of Health shall be guilty of a Class A misdemeanor. The State Board of Health may, upon the advice of the Attorney General, maintain an action in the name of the state for an injunction to restrain any state, county, or local governmental unit, or any division, department, board, or agency thereof, or any individual, association, corporation, partnership, limited liability company, or other business entity, from operating, conducting, or managing a hospital in violation of any provisions of this article, or any regulation promulgated hereunder. Evidence that a person who is a licensed health care professional is or has been operating an unlicensed

hospital or knowingly is or has been an employee of an unlicensed hospital shall be grounds for license revocation by the applicable professional licensing board or boards. No county or municipality shall grant a business license to a hospital, as defined in this article, unless the facility holds a current license to operate granted by the State Board of Health. In any action to collect a fee for services brought against a resident or patient by a hospital, as defined in this article or regulations promulgated hereunder, it shall be a defense to the action to demonstrate that the operator of the hospital did not have a current and valid license to operate pursuant to this article at the time the services in question were rendered.

(b) A licensed inpatient hospital acting through an authorized agent of the licensed inpatient hospital shall not knowingly refer to an unlicensed hospital any person who is in need of care rendered by a licensed hospital. A licensed hospice or certified home health agency acting through an authorized agent of the licensed hospice or certified home health agency shall not knowingly provide treatment or services in an unlicensed hospital to a person who is in need of care rendered by a licensed hospital. The Department of Public Health shall maintain, in electronic format and available on the Internet, a current directory of all licensed hospitals. The department, shall publish and mail to licensed inpatient hospitals, licensed hospices, and certified home health agencies every three months a listing of licensed hospitals. A determination of actual knowledge that a facility or business was unlicensed shall be supported by evidence that the unlicensed hospital had not been listed in either the printed or electronic directory during the 12 months immediately prior to the time the referral was made or treatment provided. In any action to levy a fine or revoke a license under this section, it shall be a defense to the action to demonstrate that the unlicensed inpatient hospital appeared in the list published by the department, either electronically or in print format, as a licensed inpatient hospital during the 12 months immediately prior to the time the referral was made or the treatment was provided. Any licensed inpatient hospital acting through an authorized agent of the licensed inpatient hospital that knowingly makes a referral to an unlicensed hospital of a person in need of care rendered by a licensed hospital, or any licensed hospice or any certified home health agency acting through an authorized agent of the licensed hospice or certified home health agency that knowingly provides treatment in an unlicensed hospital to a person in need of care rendered by a licensed hospital, may be subject to a civil penalty imposed by the Board of Health not to exceed one thousand five hundred dollars (\$1,500) per instance. All civil monetary penalties collected pursuant to this section or Section 22-21-34 shall be paid to the Department of Human Resources and held in a dedicated fund for the sole purpose of making grants or disbursements to assist protected persons, as this term is defined in Section 38-9-2 et seq. with appropriate placement or relocation from an unlicensed facility into a licensed facility or relocation from a facility undergoing license termination, suspension, or revocation, pursuant to Section 22-21-25, to an appropriate setting. The Department of Human Resources is hereby authorized to make grants or disbursements from this fund to protected persons or to individuals or public or private organizations acting on behalf of a protected person.

(c)(1) For the purposes of this section, the term "licensed inpatient hospital" shall mean a licensed acute care hospital, long-term acute care hospital, rehabilitation hospital, inpatient hospice, skilled nursing facility, intermediate care facility, assisted living facility, or specialized care assisted living facility.

(2) For the purposes of this section, the term "knowingly" shall mean actual knowledge by a licensed inpatient hospital, licensed hospice, or certified home health agency acting through an authorized agent making a referral or providing services, that the unlicensed hospital to which the referral is made or services rendered is unlicensed within the meaning of this section.

§ 22-21-34. Assisted living facility, etc., rising to level of intermediate care.

Under the circumstances listed below, an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care may be subject to a civil money penalty imposed by the Board of Health not to exceed ten thousand dollars (\$10,000) per instance. The imposition of the penalty may be appealed pursuant to the Alabama Administrative Procedure Act. All money penalties imposed pursuant to this section shall be remitted to the Department of Public Health and shall be deposited in the State General Fund. The penalties shall be deposited in the General Fund and shall not be earmarked for the Department of Public Health. Failure of an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care to pay a civil money penalty within 30 days after its imposition or within 30 days after the final disposition of any appeal shall be grounds for license revocation unless arrangements for payment are made that are satisfactory to the State Board of Health. No assisted living facility or specialty care assisted living facility rising to the level of intermediate care may renew its license to operate if it has any unpaid civil money penalties which were imposed more than 30 days prior to the facility's license expiration date, except for any penalties imposed which are still subject to appeal and except for penalties for which arrangements for payment have been made that are satisfactory to the State Board of Health.

(1) A civil money penalty may be imposed for falsification of any record kept by an assisted living facility or specialty care assisted living facility rising to the level of intermediate care, including a medication administration record or any record or document submitted to the State Board of Health, by an employee or agent of the facility, where such falsification is deliberate and undertaken with intent to mislead the Board of Health, or its agents or employees, or residents, sponsors, family members, another state, county, or municipal government agency, or the public, about any matter of legal compliance, regulatory compliance, compliance with fire or life safety codes, or quality of care.

(2) A civil money penalty may be imposed as a result of a false statement made by an employee or agent of an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care to an employee or agent of the State Board of Health, if the statement is made with intent to deceive or mislead the Board of Health, its agents or employees, about any matter of legal compliance, regulatory compliance, compliance with fire or life safety codes, or quality of care. A civil money penalty shall not be imposed if the facility's employee or agent makes a false statement when he or she has no reason to believe the false statement is authorized by the administrator or operator of the facility and if it is likely that the facility's employee or agent made the statement with the intent to cause damage to the facility.

**Alabama Department of Public Health
Bureau of Health Provider Standards
Division of Provider Services
201 Monroe Street
P.O. Box 303017
Montgomery, AL 36130-3017
334-206-5175
www.adph.org/providers**