

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSET, DIRECTOR**

(Pursuant to Code of Alabama 1975, § 41-22-6, as amended).

I certify that the attached is/are a correct copy/copies of rule/s as promulgated and adopted on the 11th day of December, 2015, and filed with the agency secretary on the 18th day of December, 2015.

AGENCY NAME: State Health Planning and Development Agency
(Statewide Health Coordinating Council)

X Amendment; _____ New; _____ Repeal; (Mark appropriate space)

Rule No. 410-2-4-.03(9)(c)2.

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Nursing Home

ACTION TAKEN: State whether the rule was adopted without changes from the proposal due to written or oral comments;

No public comments were received; the rule was adopted without changes and as published for comment in the Alabama Administrative Monthly.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXXIII

ISSUE NO. 11, DATED August 31, 2015.

Statutory Rulemaking Authority: Code of Alabama, 1975 §§ 22-21-260(13), (15)

(Date Filed)
(For LRS Use Only)

REC'D & FILED

DEC 18 2015

LEGISLATIVE REF SERVICE



Alva M. Lambert, Executive Director
State Health Planning and Development Agency
(Certifying Officer or his or her Deputy)

(NOTE: In accordance with § 41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

410-2-4-.03 Nursing Homes

(1) Definition. Nursing homes may be identified as licensed facilities providing inpatient care for convalescents or other persons not acutely ill and not in need of acute general hospital care, but requiring skilled nursing care. Nursing home care is not to be confused with long-term hospital care. Some hospitals, however, may have nursing homes beds attached as an identifiable part which is reflected in their license. Such beds are included in this chapter. Hospital swing beds are not included.

(2) Analysis of Existing Facilities

(a) As of March 1996, there were 224 licensed nursing homes, excluding state owned and operated facilities, totaling 23,475 beds operating in the state of Alabama. Average occupancy for the 224 facilities was approximately 94.8 percent for Fiscal Year 1995. Currently, there exists approximately 44.5 beds per one thousand persons 65 and older (down from 48 beds per thousand in 1980).

(b) Approximately 92 percent of nursing home beds in Alabama are occupied by persons 65 and older. This aged population represents 13.5 percent of the state's total population and is projected to increase gradually during the coming years.

(3) State Owned and Operated Facilities

(a) Five mental retardation facilities have been certified as Intermediate Care Facilities/Mental Retardation (ICF/MR). They are:

1. Albert P. Brewer Developmental Center; 210 beds; Mobile, Alabama
2. Glen Ireland II Developmental Center; 119 beds; Tarrant, Alabama
3. J. S. Tarwater Developmental Center; 107 beds; Wetumpka, Alabama
4. L. B. Wallace Developmental Center; 247 beds; Decatur, Alabama
5. William D. Partlow Developmental Center; 310 beds; Tuscaloosa, Alabama

(b) Three state-owned Intermediate Care Facilities for the mentally diseased are located in Alabama. They are:

1. Alice M. Kidd Intermediate Care Facility; 216 beds; Tuscaloosa, Alabama
2. S. D. Allen Intermediate Care Facility; 138 beds; Tuscaloosa, Alabama
3. Claudette Box Nursing Facility; 142 beds; Mt. Vernon, Alabama

(4) Alternatives to Institutionalization

(a) Efforts should be made to maintain an optimum quality of life for long-term care residents in their home for as long as possible. The types and amounts of services needed for long-term care residents vary. In order to enhance opportunities for residents needing long-term care services, which would allow them to remain in their homes for as long as possible, the health care and social needs of these residents should be evaluated by an independent multidisciplinary team, composed of a registered nurse and a social worker, prior to nursing home admission. This team should also evaluate the ability of resources within the local community to meet the needs of these residents.

(b) In an effort to encourage the development and utilization of alternatives to nursing home care, the Alabama Medicaid Agency now has a program, which reimburses certain health, social, and related services provided in the community. Individuals who might otherwise require admission to a nursing home are now able to remain in their homes because of the home and community based services provided through this program. Currently, there are nearly 8,200 residents whose long-term care needs can be met through the program.

(5) Financing

(a) The Alabama Medicaid program was started in 1970, and as a result, the nursing home industry grew rapidly during the 70s. Since the 1980 adoption of a more restrictive bed need methodology, the number of beds added tapered off considerably. Also, with the containment of health care costs as a primary concern, a moratorium on additional nursing home beds was established in August of 1984, and was not lifted until June of 1989. Medicaid patients now occupy 68 percent of the available beds (as compared to 72 percent in 1980), private pay patients 27 percent, and Medicare the remainder.

(6) Availability

(a) The 224 licensed nursing homes (excluding state owned) located in Alabama, are generally geographically well distributed and are accessible to the majority of the elderly population within 30 minutes normal driving time. Every Alabama county has a least one nursing home, with the exception of Lowndes County.

(7) Continuity

(a) Discussion

1. Nursing homes should provide care appropriate to resident needs. To ensure that comprehensive services are available and to ensure residents are at a proper level of care, nursing homes should provide, or should have agreements with other health care providers to provide, a broad range of care. When providing these services, or a part of any agreement to provide these services, transfer of residents and support service should be provided as necessary.

(b) Planning Policy

The rendering of complementary long-term care services, such as home health care adult day care, senior citizen nutrition programs, hospice, etc., to long-term care recipients should be fostered and encouraged. In areas where such services are sufficiently developed, health care facilities should be encouraged to have agreements that increase the availability of such services to residents. In areas where such services are not sufficiently available, facilities should be encouraged to develop and offer such services. The Division of Licensure and Certification is encouraged to make the appropriate changes to the licensure requirements.

(8) Quality

(a) Quality care is an obligation of all nursing homes operating in Alabama. Each facility must meet standards of care as established by the federal government (Medicare and Medicaid Conditions of Participation) and the Alabama State Board of Health Rules and Regulations. The Division of Licensure and Certification of the Alabama Department of Public Health is responsible for determining compliance. Additionally, the Professional Review Organization (PRO) now includes some nursing homes in its review.

(9) Nursing Home Bed Need Methodology

(a) Purpose. The purpose of this nursing home bed need methodology is to identify, by county, the number of nursing home beds needed to assure the continued availability, accessibility, and affordability of quality nursing home care for residents of Alabama.

(b) General. Formulation of this bed need methodology was accomplished by a committee of the Statewide Health Coordinating Council (SHCC). The committee which provided its recommendations to the SHCC, was composed of providers and consumers of health care. Only the SHCC, with the Governor's final approval, can make changes to this methodology except that the SHPDA staff shall annually update bed need projections and inventories to reflect more current population and utilization statistics. Such updated information is available for a fee upon request. Adjustments are addressed in paragraph (e).

(c) Basic Methodology. Considering the availability of more community and home based services for the elderly in Alabama, there should be a minimum of 40 beds per 1,000 population 65 and older for each county.

1. The beds need formula is as follows:

$$(40 \text{ beds per thousand}) \times (\text{population 65 and older}) = \text{Projected Bed Need}$$

2. Due to budgetary limitations of the Alabama Medicaid Agency, additional nursing home beds cannot be funded by Medicaid funds. Therefore, applications for additional nursing home beds to be funded by Medicaid should not be approved. Based upon the funding shortage, projects for additional nursing home beds would not be financially feasible. Therefore, until further action by the Statewide Health Coordinating Council, there shall be no need for additional skilled nursing beds in the State of Alabama.

(d) Planning Policies

1. The county's annual occupancy for the most recent reporting year should be at least 97 percent before additional nursing home beds are approved.

2. Conversion of existing hospital beds to nursing home beds should be given priority over new construction when the conversion is significantly less costly and the existing structure can be adapted economically to meet licensure and certification requirements. The conversion shall result in a decrease in the facility's licensed acute care beds equal to or greater than the number of beds to be converted.

3. Bed need projections will be based on a three-year planning horizon.

4. Planning will be on a county-wide basis.

5. Subject to SHCC adjustments, no beds will be added in any county where that county's projected ratio exceeds 40 beds per 1,000 population 65 and older.

6. No new free-standing nursing home should be constructed having less than 50 beds.

7. ICF/MR facilities, state and privately owned, will not be included in the application of the SHCC adopted nursing home bed need methodology.

8. When any nursing home facility relinquishes its license to operate, either voluntarily or involuntarily other than by a Certificate of Need approved transfer, or by obtaining title by a foreclosure as specified in the opinion rendered by the Alabama Attorney General, November 17, 1980, the need for the facility and its resources will automatically be eliminated from the facilities portion of the State Health Plan. The new bed need requirement in the county where the facility was located will be that number which will bring the county ratio up to 40 beds per 1,000 population 65 and older.

(a) Adjustments. The bed need, as determined by the methodology, is subject to adjustments by the SHCC. The nursing home bed need may be adjusted by the SHCC if an applicant can prove that the identified needs of a targeted population are not being met by existing nursing homes in the county of the targeted population.

For a listing of Nursing Homes or the most current statistical need projections in Alabama you may contact the Data Division as follows:

MAILING ADDRESS
(U.S. Postal Service)

STREET ADDRESS
(Commercial Carrier)

PO BOX 303025

100 N. UNION STREET SUITE 870

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(334) 242-4103

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Author: Statewide Health Coordinating Council (SHCC)

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History: Effective July 25, 1996. Amended: August 30, 2005; Amended September 27, 2005;
Amended: Filed August 14, 2012; Effective: September 18, 2012; Amended: Filed December 18,
2015; Effective: February 1, 2016.