

HB134 INTRODUCED



1 HJ2B36-1
2 By Representative Oliver
3 RFD: Boards, Agencies and Commissions
4 First Read: 21-Mar-23
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SYNOPSIS:

This bill would create the Alabama Assisted Living Board of Mitigation to resolve disputes between licensed assisted living facilities or specialty care assisted living facilities and the Alabama Department of Public Health.

This bill would provide for the membership of the board and would authorize the board to hold hearings and compel testimony.

This bill would also provide that any recommendations of the board would be nonbinding but must be taken into consideration by the department.

A BILL
TO BE ENTITLED
AN ACT

Relating to assisted living facilities; to amend Section 22-21-25, Code of Alabama 1975, to create the Alabama Assisted Living Board of Mitigation to resolve conflicts between certain assisted living facilities and the Alabama Department of Public Health; and to provide for the membership and duties of the board.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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29 Section 1.(a) The Alabama Assisted Living Board of
30 Mitigation is created to provide an alternative means of
31 resolving disputes between a licensed assisted living facility
32 or specialty care assisted living facility and the Alabama
33 Department of Public Health.

34 (b) The board is comprised of the following members:

35 (1) A physician licensed to practice in the state who
36 has at least two years experience working in a long-term care
37 facility or who is certified in geriatric medicine, appointed
38 by the Medical Association of the State of Alabama. The
39 initial term of this member shall be four years.

40 (2) An attorney licensed to practice in the state who
41 is certified by the National Elder Law Foundation, appointed
42 by the Alabama State Bar. The initial term of this member
43 shall be three years.

44 (3) Two assisted living administrators licensed by the
45 Board of Examiners of Assisted Living Administrators,
46 appointed by the board. The initial term of these members
47 shall be two years.

48 (4) Three members of the public who are at least 65
49 years of age, appointed by the Governor. The initial terms of
50 these members shall be one, three, and four years,
51 respectively.

52 (c) After initial terms have expired, all terms shall
53 be for a period of four years, with a start date on January 1
54 and an end date on December 31. Members may be reappointed for
55 one additional term. Any vacancy occurring other than by
56 expiration of term shall be filled by appointment by the



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57 respective appointing officer to serve for the remainder of
58 the unexpired term.

59 (d) The appointing authorities shall coordinate their
60 appointments to assure the board membership is inclusive and
61 reflects the racial, gender, geographic, urban, rural, and
62 economic diversity of the state.

63 (e) The board shall elect from the membership a chair,
64 a vice chair, and secretary-treasurer. The board shall meet at
65 least two times per year and hold other meetings as necessary,
66 at the call of the chair or by a majority of the members, to
67 complete the business required. A majority of members of the
68 board shall constitute a quorum.

69 (f) Members of the board shall receive a per diem of
70 two hundred dollars (\$200) for each day when conducting
71 official business but shall receive no other compensation for
72 expenses.

73 (g) (1) The board shall hear complaints from licensed
74 assisted living facilities and licensed specialty care
75 assisted living facilities relating to any order or imposition
76 of a penalty against the facility by the Alabama Department of
77 Public Health. The board shall issue recommendations to the
78 facility and department as the board determines necessary to
79 resolve the complaint. When a complaint is filed with the
80 board, the board shall immediately notify the department.

81 (2) The board may hold hearings and compel testimony
82 and documents from the complainant and from the Alabama
83 Department of Public Health and its employees relating to any
84 complaints.



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85 (h) The board shall annually report to the Senate
86 Healthcare Committee and the House Health Committee detailing
87 the number and nature of complaints and a general description
88 of how each complaint was resolved. The board may also
89 recommend legislative changes.

90 Section 2. (a) A licensed assisted living facility or
91 licensed specialty care assisted living facility may file a
92 complaint with the Alabama Assisted Living Board of Mitigation
93 relating to any order or decision relating to the regulation
94 of the facility by the Alabama Department of Public Health, or
95 relating to the imposition of any penalty, including the
96 revocation or suspension of a license, against the facility by
97 the department. The board shall immediately notify the
98 department of any complaint made to the board pursuant to this
99 section.

100 (b) The board shall work expeditiously to resolve any
101 dispute and issue its final written recommendations. The
102 parties are not bound by the board's final recommendations;
103 provided, however, the Alabama Department of Public Health
104 shall take the board's recommendations into consideration when
105 making its own determination. The board's recommendations may
106 be used as evidence in any appeal taken pursuant to Section
107 22-21-26, Code of Alabama 1975.

108 Section 3. Section 22-21-25, Code of Alabama 1975, is
109 amended to read as follows:

110 "§22-21-25

111 (a) The State Board of Health may grant licenses for
112 the operation of hospitals which are found to comply with ~~the~~



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113 ~~provisions of~~ this article and any regulations lawfully
114 ~~promulgated~~ adopted by the State Board of Health.

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

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

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

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

125 (c) (1) Before any license granted under this article is
126 suspended or revoked, written notice shall be given the
127 licensee, stating the grounds of the complaint, and the date,
128 time, and place set for the hearing of the complaint, which
129 date of hearing shall be not less than 30 days from the date
130 of the notice. The notice shall be sent by registered or
131 certified mail to the licensee at the address where the
132 institution concerned is located. The licensee shall be
133 entitled to be represented by legal counsel at the hearing.

134 (2) If the licensee is an assisted living facility or
135 specialty care assisted living facility, the department, when
136 providing notice pursuant to subdivision (1), shall notify the
137 facility that the facility may file a complaint with the
138 Alabama Assisted Living Board of Mitigation requesting the
139 board to conduct a procedure to resolve the dispute.
140 Notwithstanding subdivision (1), the department may not take



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141 any further action against the licensee for a period of 10
142 days after sending the notice and, if the department is
143 notified by the board that the licensee filed a complaint
144 against the department, the department may not take any
145 further action against the licensee until the board has issued
146 its final written recommendations, as provided in Section 2 of
147 the act adding this amendatory language.

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

156 Section 4. This act shall become effective on the first
157 day of the third month following its passage and approval by
158 the Governor, or its otherwise becoming law.