

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 620 Department or Agency Alabama Board of Examiners of Nursing Home Administrators
Rule No. 620-X-5-.09
Rule Title: Temporary Management
 New Amend XXX Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

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

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? 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 Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

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

Signature of certifying officer Matriona G. Magdon

Date 1/10/12

DATE FILED
(STAMP)

**Alabama Board of Examiners of Nursing Home Administrators
4156 Carmichael Road
Montgomery, Alabama 36106**

NOTICE OF INTENDED ACTION

The Alabama Board of Examiners of Nursing Home Administrators intends to adopt amendments to its existing rules and regulations as follows:

<u>Rule No. & Title:</u>	620-X-2-.01	Definitions
	620-X-5-.09	Temporary Management
	620-X-13-.01	Fees
	620-X-14-.01	Effective Date
	Appendix A Form 4	Application for Renewal of NHA License
	Appendix A Form 15	Application for Temporary Manager

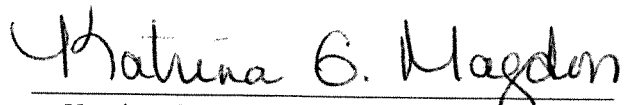
Intended Action: The Alabama Board of Examiners of Nursing Home Administrators proposes to amend the following rules: 620-X-2-.01, 620-X-13-.01, 620-X-14-.01, Appendix A – Form 4. The Alabama Board of Examiners of Nursing Home Administrators proposes to repeal the following rules: 620-X-5-.09 and Appendix A – Form 15.

Substance of Proposed Action: We are proposing to delete the definition of “Temporary Manager” and all references and forms thereof. The Board is proposing to add the social security number to the renewal form. The Board is also proposing to correct the misspelling of the word “recertification” and add clarification regarding the amount charged for a bad check return fee. The Board will also change the effective date of the rules.

Time, Place, manner of Presenting Views: Interested persons may present their views orally or in writing to the executive Secretary of the Alabama Board of Examiners of Nursing Home Administrators, 4156 Carmichael Road, Montgomery, Alabama 36106. Requests for copies of the proposed amendments should be addressed to Katrina G. Magdon, Executive Secretary (334) 271-2342 or can be viewed on the Board web site at www.alboenha.state.al.us.

Final Date for Comment and Completion of Notice: Deadline for comments is March 6, 2012.

Contact Person at Agency: Katrina G. Magdon, Executive Secretary, Alabama Board of Examiners of Nursing Home Administrators, 4156 Carmichael Road, Montgomery, Alabama, 36106, (334) 271-2342.



Katrina G. Magdon, Executive Secretary

REPEAL SECTION

620-X-5-.09 Temporary Management

General Information

- (1) The Board will approve persons to act as temporary managers based on information submitted to the Board. The approval shall be effective for a period of three years, after which the temporary manager must reapply. However, the Board may disapprove a temporary manager who has failed to remain in compliance with these requirements. The Board may disapprove a temporary manager at any time for good cause.
- (2) Each person desiring to be a temporary manager must submit an application showing:
 - (a) his/her name, address, and age;
 - (b) that he/she has been a licensed and practicing nursing home administrator in Alabama for at least three years;
 - (c) the states and dates of issuance of all his/her professional licenses, including those as a nursing home administrator and that no disciplinary action has been taken against him/her;
 - (d) that he/she has been in direct management control as administrator for at least two of the last five years, and that the facilities have had a continuous operating history free from significant deficiencies;
 - (e) that he/she agrees to not to be a temporary manager if he/she is related, with the first degree of kinship, to the nursing facility's owner, manager, administrator, or other management principle to the facility to be managed;
 - (f) that he/she agrees not to be a temporary manager if he/she has any pecuniary interest in or pre-existing fiduciary duty to the nursing facility to be managed;
 - (g) that he/she agrees to be able to respond and relocate to a facility in need of a temporary manager within 48 hours of notice by the Department of Public Health, Division of Health Care Facilities; and
 - (h) that he/she agrees not to be a temporary manager if he/she currently serves or, within the past 2 years has served as a member of the staff of the facility to be managed.
- (3) The temporary manager-applicant must show that his/her education, experience, and knowledge qualify him/her to correct deficiencies identified in a facility's operation.
- (4) The temporary manager shall be of good moral character.
- (5) A person desiring to be a temporary manager must apply, renew annually and qualify under the terms of this rule.
- (6) The temporary manager shall have the authority to act as a nursing home administrator including, but not limited to, all of the following: overseeing the correction of violations; overseeing and advising on the management, hiring, and discharge of any consultant or employee, including the administrator of the nursing facility; ensuring that expenditure of the revenues of the nursing facility is done in a reasonable, prudent manner; overseeing the continuation of the business and the care of the residents; overseeing those acts necessary to accomplish to goals of Requirements of Participation; and directing and overseeing regular accountings.

(7) The temporary manager must file weekly reports with the Department of Public Health, Division of Health Care Facilities and send a copy to the Board. Each report shall be signed by the temporary manager, and should be filed every Monday. The weekly reports should contain information showing progress made to the correct deficiencies identified in the facility's operation.

(8) The temporary manager shall observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the nursing facility, except that the temporary manager shall make reports as described in 620-X-5-.08 (11).

(9) The temporary manager shall be bonded in an amount equal to the facility's revenues for the month preceding the appointment of the temporary manager.

(10) The temporary manager shall not have the authority to:

(a) Enter into any contract with a duration beyond one year;

(b) Borrow funds from any lender or financial institution on behalf of the facility or the owner;

(c) Cause or direct the nursing facility to cancel or reduce its liability or casualty insurance coverage;

(d) Cause or direct the nursing facility to default upon any valid obligations previously undertaken by the owners or operators of the nursing facility, including but not limited to, leases, mortgages and security interests; and

(e) To incur capital expenditures in excess of \$2,000.00 without the permission of the owner of the facility.

(11) The temporary manager should immediately report to the Department of Public Health, Division of Health Care Facilities and the Board, the failure by the facility to relinquish authority to the temporary manager or the failure to pay the salary of a temporary manager.

(12) Temporary management ends when the facility meets any of the following conditions:

(a) CMS or the State determines that the facility has achieved substantial compliance and is capable of remaining in substantial compliance;

(b) CMS or the State terminates the provider agreement; or

(c) The facility which has not achieved substantial compliance reassumes management control.

Author: Pam Penland

Statutory Authority: Code of Ala. 1975, §34-20-6

History: New Rule: Filed June 14, 1996; effective July 19, 1996. Amended May 18, 1998; effective June 22, 1998. Amended: filed May 18, 1998; effective February 20, 2001. Amended: Filed September 11, 2003; effective October 16, 2003. January 16, 2001; effective February 20, 2001. Amended: Filed January 10, 2012