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External Memorandum

To: Mr. John Matson
From: Angie Cameron
Date: September 29, 2014
Re: Guidance on Voting Procedures in Nursing Facilities

With the upcoming general election on November 4, 2014, we are pleased to provide this Memorandum for distribution to Alabama Nursing Home Association (“ANHA”) members with respect to assisting residents with exercising their right to vote and encouraging employees and family members to exercise their right to vote.

I. Duty of Nursing Homes to Assist Residents with Exercising their Right to Vote

The federal rules entitled “Requirements for Long Term Care Facilities,” section 42 C.F.R. § 483.10(a)(1) affirmatively state that nursing homes must protect and promote a resident's right to exercise his or her rights as a citizen of the United States. The right to vote certainly is one of the most important rights a resident can exercise as a citizen of our state and nation. Therefore, a nursing home should take steps to encourage and assist alert residents to exercise this most important civic right.

II. Alabama Voter Guide 2012

Attached to this Memorandum is the Alabama Voter Guide 2014 (the “Voter Guide”) provided by the Office of the Secretary of State. **Exhibit A.** The Voter Guide provides information regarding voter registration, basic voting procedure, voter identification, voter assistance, absentee voting eligibility, completing absentee voting applications, and answers to frequently asked questions. Please note that Alabama has a new voter identification law that took effect this year. This voting information may be shared with employees, residents and family members in an effort to help each person effectively exercise his or her right to vote.

III. Voter Registration

If an individual is not registered to vote, he/she may do so at any time except during the ten days prior to an election and on election day. Therefore, individuals who wish to vote in the

General Election must register to vote no later than October 24, 2014. You may register to vote at the following places:

- When applying for or renewing a State of Alabama driver's license or identification card;
- When applying or recertifying for Aid to Dependent Children, Food Stamps, WIC, Medicaid or Rehabilitation Services;
- Public libraries;
- Armed Forces Recruiting stations;
- Board of Registrars at the county seat;
- By mail-in form available at the Probate Judge and License Commissioner's offices, colleges and universities, public schools or libraries;
- By calling the County Board of Registrars or the Elections Division of the Office of the Secretary of State (1-800-274-VOTE) and requesting a mail-in form; OR
- By downloading the mail-in form at alabamavotes.gov.

IV. **Identification Required for Voting**

Effective this year, a voter must present a valid **photo id** at the polling place. The following are valid forms of photo id:

- Valid Alabama Driver's License
- Valid Alabama Nondriver ID
- Valid Alabama Photo voter ID card
- Valid State issued ID (Alabama or any other state)
- Valid Federal issued ID
- Valid US passport
- Valid Employee ID from Federal Government, State of Alabama, County, Municipality, Board or other entity of the state of Alabama
- Valid student or employee ID from a public or private college or university in the state of Alabama (including postgraduate technical or professional schools)
- Valid student or employee ID issued by a state institution of higher learning in any other state
- Valid Military ID
- Valid Tribal ID

If residents of a nursing facility, who are elderly (65 or older) or disabled, choose to vote by absentee ballot, they are not required to produce identification when voting. There is a box on the absentee ballot certifying that the individual qualifies for this exemption.

If a resident wishes to vote at the polls and **does not have one** of the above forms of identification, he/she may be able to obtain a free nondriver or free Alabama Photo Voter ID Card. The Alabama Secretary of State will have mobile locations around the state where people may apply for and obtain the free voter id card. Once we obtain additional information on the locations and dates of these mobile units, we will inform the membership. Otherwise, to obtain a

free Photo Voter ID, the individual will need to go the Secretary of State's office in Montgomery or the Board of Registrar's office in the county of residence.

To apply for a Photo voter id, the individual must provide a photo id document or non-photo identity document that contains the full legal name and date of birth of the individual. The voter id processing agent will verify the voter's date of birth, voter registration and address through the state's voter registration system.

Examples of photo identification that can be used to obtain the Photo Voter ID card BUT CANNOT BE USED AT THE POLLS include: A student ID issued by a private or public high school; a student or employee ID card issued by a private university or postgraduate technical or professional school located outside the state of Alabama, an employee ID card NOT issued by a branch of government; a hospital or nursing home ID card; a wholesale club or other membership card.

Examples of non-photo identification include birth certificate, hospital or nursing home record; marriage record; state or federal census record; military record; Medicare or Medicaid document; Social Security Administration document; certificate of citizenship; or official school record or transcript. These documents must include the individual's full legal name and date of birth.

V. **Assisting Residents with Voting**

The following are general guidelines to follow when providing assistance to residents that decide to exercise their right to vote:

1. Any resident at the polls who wishes to have assistance with voting is entitled to receive assistance. Under the law, a voter may ask anyone (except his or her employer, an agent of the employer, or an officer or agent of the voter's union) to give that assistance. If a resident needs assistance at the polls, we recommend requesting that a poll worker assist the resident with voting.

2. Nursing home personnel, at the request of a resident, may also assist a resident in filling out an application to receive an absentee election ballot and in making certain that the resident actually receives an absentee ballot. Once the ballot is received, however, nursing home personnel should cease to have any direct role in assisting nursing home residents in the absentee ballot process.

3. If a resident needs additional assistance in casting his or her ballot, the sponsor of the resident, if the resident has a sponsor, should be contacted and, at the request of the resident, provide whatever assistance the resident may desire in exercising his or her right to cast an absentee ballot. In the event a resident does not have a sponsor, nursing facilities can have a committee, made up from the community (**BUT NOT FROM THE CAMPAIGN STAFF OF A PARTICULAR CANDIDATE**), or from the local registrar's office provide any assistance a resident desires in exercising his or her right to cast an absentee ballot.

4. Nursing home personnel should not be present when a resident casts his or her vote by absentee ballot. The applicable statute states as follows:

Any applicant [to vote by absentee ballot] may receive assistance in filling out the application as he or she desires, but each application shall be manually signed by the applicant and, if he or she signs by mark, the name of the witness to his or her signature shall be signed thereon. The application may be handed by the applicant to the absentee election manager or forwarded to him or her by United States mail. An application for an emergency absentee ballot pursuant to Section 17-11-3 may be forwarded to the absentee election manager by the applicant or his or her designee. *Alabama Code Section 17-11-4.*

VI. **How to Vote By Absentee Ballot**

A voter may cast an absentee ballot if he or she

- will be absent from the county on election day;
- is ill or has a physical disability that prevents a trip to the polling place;
- is a registered Alabama voter living outside the county, such as a member of the armed forces, a voter employed outside the United States, a college student, or a spouse or child of such a person;
- is an appointed election officer or poll watcher at a polling place other than his or her regular polling place; or
- works a required shift, 10-hours or more, that coincides with polling hours.

Many residents of nursing facilities have a physical disability that prohibits them from going to a polling place; therefore, those individuals are eligible to vote by absentee ballot.

A. Application for Absentee Ballot

To obtain an absentee ballot, the voter must submit the attached application for absentee ballot. **Exhibit B.** The absentee ballot application must be returned to the Absentee Election Manager by the voter in person or by U.S. Mail. No absentee ballot application may be mailed in the same envelope as another voter's absentee ballot application. Applications for an absentee ballot must be turned in no later than the fifth calendar day before the election or **October 30, 2014** for the General Election.

B. Absentee Ballots

The absentee ballot comes with three envelopes -- one plain (the secrecy envelope), one with an affidavit, or oath, printed on the outside, and one plain envelope, preaddressed (the outer envelope). Once the voter casts the ballot, the procedure is as follows:

- Seal the ballot in the plain envelope
- Place the plain envelope inside the accompanying affidavit envelope
- Seal the affidavit envelope and complete the affidavit that is on the outside of the envelope

- Sign the affidavit and have the signature witnessed by either a notary public or two witnesses 18 years of age or older
- Place the affidavit envelope and a COPY of voter identification inside the outer envelope
- Remember to place a copy of your I.D. (NOT THE ORIGINAL) inside the outer envelope
- NO PHOTO ID REQUIRED IF THE VOTER IS ELDERLY OR DISABLED

An absentee ballot cannot be counted unless the affidavit is notarized or has the signatures of two witnesses. The voter must return the absentee ballot either by forwarding it by U.S. Mail or personally hand delivering it to the absentee election manager.

An absentee ballot returned by mail must be postmarked no later than the day prior to the election and received by the Absentee Election Manager no later than noon on election day. If hand-delivered, the ballot must be in the office of the Absentee Election Manager by the close of business (but no later than 5 p.m.) on the day prior to the election.

VII. Encouraging Employees, Residents and Family Members to Vote

Nursing homes may encourage their residents, employees, and family members to exercise their right to vote. Voting can be encouraged by posting and sending reminders of voting dates and times, providing the Alabama Voter Guide 2014 to interested parties, and organizing and providing transportation to and from the voting polls. Transportation may be provided for employees during their scheduled shift. Additionally, Alabama nursing homes can provide information to employees, residents and family members regarding the subject matter of each election, including a sample ballot.

For more information, please contact Angie Cameron, acameron@burr.com or (205) 458-5209.

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Attachments