

1 HB190
2 164843-2
3 By Representatives Wood and Holmes (M)
4 RFD: Boards, Agencies and Commissions
5 First Read: 05-MAR-15

1 congressional district in this state except as otherwise
2 provided in Section 34-24-141. Any candidate for or member of
3 the board shall be a resident of the appropriate congressional
4 district except one candidate for the board shall be elected
5 from the state at large. One elected member of the board shall
6 be elected from the state at-large and shall be an
7 African-American. Each elected member of or candidate for the
8 board shall meet the following qualifications: A citizen and
9 resident of Alabama who has resided in this state for at least
10 five years; a graduate of a chartered chiropractic school or
11 college, which required actual attendance in the school as a
12 prerequisite to graduation; currently engaged in the clinical
13 practice of chiropractic and has been engaged in the clinical
14 practice in this state for at least the five immediately
15 preceding years; having renewed his or her license to practice
16 chiropractic by September 30 of the year in which the election
17 shall take place; of good moral character; and must not be
18 presently on probation relating to the practice of
19 chiropractic in any state including this state.

20 "(b) One member of the board shall be a consumer
21 member appointed by the Governor. Neither the consumer member,
22 nor his or her spouse, shall be a chiropractor. The consumer
23 member shall not be an immediate family member of a
24 chiropractor, nor shall he or she be employed in the
25 chiropractic field.

26 "(c) The elected members of the board shall be
27 elected as provided in this subsection. In August of any year

1 that the term of a member of the board expires, the Board of
2 Chiropractic Examiners shall mail a notice of the election of
3 the board and the method of qualifying as a candidate to each
4 active licensed chiropractor in the district where the vacancy
5 occurs at his or her permanent mailing address. The election
6 provided for in this section shall be conducted by an
7 independent agency such as a certified public accounting firm
8 unless there is only one candidate for the board and in this
9 situation, the board shall certify the results. The board
10 shall set a period for candidates to qualify and the date for
11 the ballots to be mailed. Candidates shall qualify by
12 submitting their name to the executive director of the board
13 during the qualifying period which shall be not less than 20
14 days nor more than 40 days after the notice is mailed. Not
15 less than 14 days after the deadline for qualification, each
16 licensed chiropractor shall be mailed a ballot for the
17 appropriate congressional district where the vacancy is to be
18 filled. In order to be counted, the ballots shall be ~~received~~
19 ~~by the board~~ returned by mail to the independent agency
20 postmarked not later than 14 business days after the ballots
21 ~~are mailed.~~ were mailed by the board. The results of the
22 election shall be certified by ~~no less than three members of~~
23 ~~the board~~ the independent agency. The ballots shall be
24 maintained for a period of six months by the independent
25 agency. The candidate with a simple majority of the votes cast
26 in each respective congressional district shall be elected to
27 the board position for that congressional district. In the

1 event no candidate in a district receives a majority of the
2 votes, the board shall hold a run-off election in the same
3 manner as provided in this subsection. The members of the
4 board shall take office immediately upon election and the
5 executive director of the board shall set the first meeting of
6 the board after the election of the new board.

7 "(d) Whenever a vacancy occurs on the board, whether
8 by death, resignation of a member, or other cause, the vacancy
9 shall be filled in the same manner as the original election or
10 appointment for the remainder of the term of office.

11 "(e) (1) The board may employ investigators,
12 inspectors, attorneys, and any other agents, employees, and
13 assistants as may from time to time be necessary, and may use
14 any other means necessary to bring about and maintain a rigid
15 administration and enforcement of state and federal law.

16 "(2) The board shall have the power to issue
17 subpoenas and compel the attendance of witnesses and the
18 production of all necessary papers, books, records,
19 documentary evidence and materials, or other evidence. Any
20 person failing or refusing to appear or testify regarding any
21 matter about which he or she may be lawfully questioned or to
22 produce any papers, books, records, documentary evidence or
23 materials, or other evidence in the matter to be heard, after
24 having been required by order of the board or by a subpoena of
25 the board to do so, upon application by the board to any
26 circuit judge of this state, may be ordered to comply
27 therewith; and, upon failure to comply with the order of the

1 circuit judge, the court may compel obedience by attachment as
2 for contempt as in case of disobedience of a similar order or
3 subpoena issued by the court. The president and
4 secretary-treasurer of the board shall have authority to issue
5 subpoenas, and any board member shall have authority to
6 administer oaths to witnesses, or to take their affirmation. A
7 subpoena or other process of paper may be served upon any
8 person named therein, anywhere within the State of Alabama, by
9 any officer authorized to serve subpoenas or other process or
10 paper in civil actions, in the same manner as is prescribed by
11 law for subpoenas issued out of the circuit courts of this
12 state, the fees and mileage and other costs to be paid as the
13 board directs.

14 "(f) The board shall employ an executive director
15 who shall be responsible for the administration of board
16 policy. The executive director may be licensed to practice
17 chiropractic in this state as provided in this article.

18 "(g) The board shall publish annually a directory
19 listing all permit holders and all persons licensed to
20 practice chiropractic in Alabama. Copies of the directory
21 shall be made available from the executive director at a cost
22 set from time to time by rule of the board.

23 "(h) The membership of the board shall be inclusive
24 and reflect the racial, gender, geographic, urban/rural, and
25 economic diversity of the state.

26 "(i) Each member of the board shall meet all
27 qualifications to be a candidate for his or her seat on the

1 board during his or her entire term. Any member who fails to
2 continue to meet the qualifications for his or her seat shall
3 forfeit his or her seat on the board and resign or the board
4 seat shall be declared vacant by the board.

5 "§34-24-161.

6 "(a) Each applicant, who matriculated into a
7 chiropractic college after January 1, 1973, must pass parts
8 one and two of the examination administered by the National
9 Board of Chiropractic Examiners or other national examination
10 as approved by the board. In addition, each applicant must
11 pass an examination administered by the board on this article
12 and the rules of the board.

13 "(b) The State Board of Chiropractic Examiners shall
14 prescribe rules and regulations regarding which national
15 examination shall be administered, the conduct of and times
16 and places of examinations, and requirements for successful
17 completion of examinations. A license shall be issued for each
18 applicant who successfully completes the examination.

19 "(c) Irrespective of the requirements in subsections
20 (a) and (b), the board may license an applicant if the
21 applicant is licensed in another state that, in the opinion of
22 the board, has standards of practice or licensure equal to or
23 stricter than the requirements imposed by this article. If the
24 applicant graduated from chiropractic college after January 1,
25 2010, he or she must have a bachelor's degree from an
26 accredited college or university. Absent a bachelor's degree,
27 the requirement may be met by an academic graduate degree from

1 a regionally accredited college or university and proof that
2 the applicant has taken a nationally recognized standardized
3 test commensurate with that applicant's graduate degree.

4 "(d) Upon completion of all requirements for
5 licensure an applicant shall be issued a license. The fee for
6 issuance of a license shall ~~not be more than fifty dollars~~
7 ~~(\$50), the exact amount to be established by rule of the~~
8 board. Each license shall be dated and numbered in the order
9 of issuance and shall be signed by the executive director and
10 the president of the board.

11 "(e) Replacement licenses:

12 "(1) Any licensee whose license is lost or destroyed
13 may be issued a replacement license upon making application to
14 the board. The application must be accompanied by an affidavit
15 setting out the facts concerning the loss or destruction.

16 "(2) Name change. Any licensee whose name is changed
17 by marriage or court order may surrender his or her license
18 and apply for a replacement license.

19 "(3) The fee for any replacement license shall be
20 ~~not more than fifty dollars (\$50), the exact amount to be~~
21 established by rule of the board.

22 "(f) Each licensed chiropractor who is actively
23 engaged in practice or who holds himself or herself out as a
24 chiropractor shall place or cause to be placed in a
25 conspicuous place at the entrance of his or her office or
26 place in which he or she practices a sign in intelligible
27 lettering not less than one inch in height containing the name

1 of the chiropractor and in lettering no smaller than half the
2 size of the name of the chiropractor, the words "CHIROPRACTOR"
3 or "CHIROPRACTIC." The intent of this requirement is that the
4 office of the licensee be clearly identified by name and
5 profession.

6 "(g) Any licensee or permittee upon request shall be
7 issued a duplicate license upon payment of a fee to be
8 established by rule of the board.

9 "\$34-24-165.

10 "(a) Every license to practice chiropractic or
11 permit to own a chiropractic practice shall be subject to
12 renewal on September 30 of the year for which it is issued
13 with a grace period from October 1 to December 31 of each
14 year. Every person having a valid license or permit may on or
15 before September 30 renew the license or permit for the
16 ensuing year by the payment to the State Board of Chiropractic
17 Examiners of a fee of not more than ~~three hundred dollars~~
18 ~~(\$300) four hundred fifty dollars (\$450)~~ four hundred dollars
19 (\$400), the exact amount to be fixed by rule of the board,
20 adopted in accordance with the Alabama Administrative
21 Procedure Act, subject to the condition that no increase or
22 decrease in any one year shall exceed twenty-five dollars
23 (\$25). The license renewal shall be accompanied by
24 satisfactory evidence that the person has completed during the
25 preceding year a minimum of 18 hours of professional
26 educational work approved by the board. The permit renewal
27 shall be accompanied by satisfactory evidence that the primary

1 permit holder has completed ~~during the preceding year a~~
2 ~~minimum of two hours in Alabama Law and board rules~~ the number
3 of approved continuing education hours in the manner set forth
4 and required by rule of the board. The board, for good and
5 reasonable cause shown, may waive the education requirement.
6 The secretary-treasurer or the executive director of the board
7 shall notify each licensee or permit holder at least 30 days
8 prior to September 30 of each year of the due date for
9 renewal. In addition to the renewal fee, a late renewal
10 penalty shall be assessed any licensee or permit holder who
11 fails to pay the renewal fee by September 30 of each year
12 based on the following schedule:

13 " (1) For renewal during the month of October, ~~fifty~~
14 ~~dollars (\$50)~~ one hundred dollars (\$100).

15 " (2) For renewal during the month of November, ~~one~~
16 ~~hundred dollars (\$100)~~ two hundred dollars (\$200).

17 " (3) For renewal during the month of December, ~~two~~
18 ~~hundred and fifty dollars (\$250)~~ three hundred dollars (\$300).

19 "A chiropractor may continue to practice or a permit
20 holder may continue to own a chiropractic practice until
21 December 31 of the year for which a license or permit is
22 issued subject to subsection (b).

23 " (b) ~~Failure, by December 31 of each year, to renew~~
24 ~~a license or permit and pay the renewal fee, late renewal~~
25 ~~penalty if applicable, and submit proof of completion of the~~
26 ~~minimum number of hours of approved professional educational~~
27 ~~work, unless waived, shall operate as a forfeiture of the~~

1 ~~right of the licensee or permit holder to practice his or her~~
2 ~~profession in this state. During this grace period for~~
3 ~~renewal, a licensee may complete any continuing education~~
4 ~~requirements for renewal that the licensee failed to complete~~
5 ~~during the prior fiscal year. A forfeited license or permit~~
6 ~~may be reinstated by the board, in its discretion, upon~~
7 ~~payment of a reinstatement fee as required by Section~~
8 ~~34-24-176, and all past fees due, including the highest late~~
9 ~~renewal penalty provided above. All funds received by the~~
10 ~~board for annual license or permit renewal fees may be used by~~
11 ~~the board for education, promotion, and welfare of the science~~
12 ~~of chiropractic. Any license issued pursuant to this chapter~~
13 ~~shall be automatically suspended if not renewed on or before~~
14 ~~January 1. Any chiropractor whose license is automatically~~
15 ~~suspended shall be reinstated if all conditions for renewal~~
16 ~~have been satisfied and upon payment of a reinstatement fee on~~
17 ~~or before January 31. Any chiropractor who seeks reinstatement~~
18 ~~due to nonrenewal after the above time shall comply with~~
19 ~~Section 34-24-176.~~

20 "(c) Any licensee who is no longer in active
21 practice may apply for retirement of his or her license by
22 submitting an affidavit to that effect on a form supplied by
23 the executive director. A licensee whose license is retired is
24 excused from the professional education requirement specified
25 in this article. The annual fee for maintenance of a retired
26 license may not be more than one-half of the amount required
27 by this article for an active license. ~~A retired licensee~~

1 shall be required to pay back fees and reinstatement fees
2 required by this article for reinstatement to active practice.
3 The board may require the retired licensee to enroll in and
4 successfully complete a refresher course approved by the board
5 at an accredited chiropractic college. The decision of the
6 board as to whether a course of study will be required and
7 whether a particular course of study will be approved shall be
8 made on an individual case basis and shall be based on all
9 relevant circumstances of that case. Any license issued
10 pursuant to this section shall be automatically suspended if
11 not renewed on or before January 1. Any chiropractor whose
12 license is automatically suspended shall be reinstated if all
13 conditions for renewal have been satisfied and upon payment of
14 a reinstatement fee on or before January 31. Any chiropractor
15 who seeks reinstatement due to nonrenewal after the above time
16 shall comply with Section 34-24-176.

17 "(d) The board may waive or reduce annual
18 registration and the payment of fees while any licensee is
19 prevented from practicing chiropractic by reason of physical
20 disability, temporary active duty with any of the Armed Forces
21 of the United States, or while any licensee is completely
22 retired from the practice of chiropractic. The waiver of fees
23 shall be effective so long as the disability, temporary active
24 duty, or complete retirement continues.

25 "(e) The State Board of Chiropractic Examiners shall
26 make rules and regulations as necessary and proper for
27 effectuating or enforcing this article.

1 "(f) In addition to other requirements established
2 by law and for the purpose of determining suitability for
3 reinstatement of a license to practice chiropractic, each
4 individual seeking reinstatement shall submit a complete set
5 of fingerprints to the State Board of Chiropractic Examiners
6 and the board shall submit the fingerprints provided by any
7 such individual to the Alabama Bureau of Investigation (ABI).
8 The fingerprints shall be forwarded by the ABI to the Federal
9 Bureau of Investigation (FBI) for a national criminal history
10 record check. Costs associated with conducting a criminal
11 history background check shall be borne by the individual
12 seeking reinstatement. The State Board of Chiropractic
13 Examiners shall keep information received pursuant to this
14 section confidential, except that such information received
15 and relied upon in denying reinstatement may be disclosed as
16 may be necessary to support the denial. In addition to other
17 requirements established by law and for the purposes of
18 determining suitability for renewal, the board, in its
19 discretion, may require an individual seeking renewal of a
20 license to practice chiropractic to submit a complete set of
21 fingerprints to the State Board of Chiropractic Examiners. The
22 board shall submit the fingerprints provided by any such
23 individual to the ABI. The fingerprints shall be forwarded by
24 the ABI to the FBI for a national criminal history record
25 check. Costs associated with conducting a criminal history
26 background check shall be borne by the individual seeking
27 renewal. The State Board of Chiropractic Examiners shall keep

1 information received pursuant this section confidential,
2 except that such information received and relied upon in
3 denying renewal may be disclosed as may be necessary to
4 support the denial. This requirement also shall apply in the
5 same manner to any person who is not licensed as a
6 chiropractor who applies for reinstatement or renewal of his
7 or her permit pursuant to Section 34-24-123(b).

8 "(g) The board shall also establish an inactive
9 license for persons who desire to be licensed in Alabama but
10 who actually practice in another state. The annual fee for
11 maintenance of an inactive license shall be one-half of the
12 amount required by this section for an active license.

13 "§34-24-166.

14 "(a) The State Board of Chiropractic Examiners may
15 refuse to grant a license or permit to any applicant who is
16 not of good moral character and reputation or has a history of
17 narcotic addiction or has previously been convicted of a
18 felony or any crime of moral turpitude or has previously been
19 diagnosed as having a psychopathic disorder.

20 "(b) The State Board of Chiropractic Examiners may
21 invoke disciplinary action as outlined in subsection (c)
22 whenever the licensee or permit holder shall be found guilty
23 of any of the following:

24 "(1) Fraud in procuring a license or permit, or any
25 fraud in obtaining money or other thing of value.

26 "(2) Immoral conduct.

27 "(3) Unprofessional conduct.

1 "(4) Habitual intoxication or addiction to the use
2 of drugs.

3 "(5) Conviction of a felony or any crime of moral
4 turpitude.

5 "(6) Conviction for violation of any narcotic or
6 controlled substance statute.

7 "(7) Unlawful invasion of the field of practice of
8 any other health practitioner when the licensee is not
9 licensed to practice such profession.

10 "(8) Division of fees or agreeing to split or divide
11 fees received for professional services with any person for
12 bringing or referring a patient.

13 "(9) Continuing to practice after suspension or
14 revocation of license.

15 "(10) A violation of any order issued by the board.

16 "(11) Engaging in the incompetent practice of
17 chiropractic.

18 "(12) Aiding the unauthorized practice of
19 chiropractic.

20 "(13) Advertising in any manner which violates the
21 rules and regulations established by the board.

22 "(14) A violation of any of the provisions of this
23 article or any rule or regulation adopted by the board.

24 "(15) Patient abandonment.

25 "(16) The suspension, revocation, or probation by
26 another state of a license to practice chiropractic or permit
27 to operate or own a chiropractic office or practice. A

1 certified copy of the record of suspension, revocation, or
2 probation shall be conclusive evidence of the suspension,
3 revocation, or probation.

4 "(17) The inability to practice chiropractic with
5 reasonable skill and safety to patients by reason of illness,
6 inebriation, excessive use of drugs, narcotics, alcohol,
7 chemicals, or any other substance, or as a result of any
8 mental or physical condition.

9 "(c) (1) The Board of Chiropractic Examiners shall
10 establish rules and regulations which shall govern the
11 practice of chiropractic and shall detail prohibited acts
12 stated in this article. The board shall have the power and it
13 shall be its duty as a consumer protection agency to impose
14 any of the sanctions set forth in subdivision (2) against any
15 licensee or permit holder upon a determination of guilt of any
16 of the above enumerated grounds.

17 "(2) When the board finds any licensee or permit
18 holder guilty of any of the grounds set forth in subsection
19 (b), the board may enter an order imposing one or more of the
20 following penalties:

21 "a. Revoke the license to practice chiropractic or
22 permit.

23 "b. Suspend the license to practice chiropractic or
24 permit.

25 "c. Enter a censure on the license or permit.

1 "d. Issue an order fixing a period and terms of
2 probation best adapted to protect the public health and safety
3 and to rehabilitate the licensee or permit holder.

4 "e. Impose an administrative fine not to exceed
5 eight thousand dollars (\$8,000) for each count or separate
6 offense.

7 "f. Impose restrictions on the scope of practice.

8 "g. Impose peer review or professional education
9 requirements.

10 "h. Assess the costs of the disciplinary
11 proceedings.

12 "i. Issue a reprimand.

13 "j. Assess the costs for the monitoring of any
14 licensee or permit holder as ordered by the board.

15 "(3) Failure to comply with any final order of the
16 board, including, but not limited to, an order of censure or
17 probation, is cause for suspension or revocation of the
18 license or permit.

19 "(d) The board may in an emergency situation, when
20 danger to the public health, safety, and welfare requires,
21 suspend any license or permit without a hearing or with an
22 abbreviated hearing in accordance with the following sections
23 of this article.

24 "(e) Any person who engages in the unlawful practice
25 of chiropractic, or who violates any provision of this
26 chapter, shall be guilty of a Class C misdemeanor.

1 "(f) (1) When the issue is whether or not a licensee
2 is physically or mentally capable of practicing chiropractic
3 with reasonable skill and safety to patients, then, upon a
4 showing of probable cause to the board that the licensee is
5 not capable of practicing chiropractic with reasonable skill
6 and safety to patients, the board may order and direct the
7 licensee in question to submit to a physical, mental, or
8 laboratory examination, or any combination thereof, to be
9 performed by a physician designated or approved by the board.
10 The expense of the examination shall be borne by the licensee
11 who is examined. The board may collect and expend funds
12 available to the board as necessary to adequately provide for
13 the operational expenses of the wellness program.

14 "(2) Every person issued a license to practice
15 chiropractic in this state or issued a permit in this state
16 upon a showing of probable cause as provided in subdivision
17 (1), shall be deemed to have given consent to submit to a
18 mental, physical, or laboratory examination, or to any
19 combination thereof, and to waive all objections to the
20 admissibility of the testimony or examination reports of the
21 examining physician on the ground that the reports constitute
22 privileged doctor-patient communications.

23 "(g) It shall be the duty and obligation of the
24 board to promote the early identification, intervention,
25 treatment, and rehabilitation of chiropractors licensed to
26 practice in the state who may be impaired by reason of
27 illness, inebriation, excessive use of drugs, narcotics,

1 alcohol, chemicals, or other substances or as a result of any
2 physical or mental condition. The board may enter into an
3 agreement for any of the following:

4 "(1) Contracting with providers for treatment
5 programs.

6 "(2) Receiving and evaluating reports of suspected
7 impairment from any source.

8 "(3) Intervening in cases of verified impairment.

9 "(4) Referring impaired chiropractors to treatment
10 programs.

11 "(5) Monitoring the treatment and rehabilitation of
12 impaired chiropractors.

13 "(6) Providing post-treatment monitoring and support
14 of rehabilitated impaired chiropractors.

15 "(h) All information, interviews, reports,
16 statements, memoranda, or other documents furnished to the
17 board are confidential and shall be used by the board only in
18 the exercise of the proper function of the board and shall not
19 be public records nor available for court subpoena or for
20 discovery proceedings.

21 "§34-24-176.

22 ~~"In any event any licensee or permit holder allows~~
23 ~~his or her license or permit to lapse and desires to return to~~
24 ~~active practice, he or she must apply to the board for a~~
25 ~~reinstatement of the license or permit and must submit to the~~
26 ~~board a reinstatement fee together with all back fees. The~~
27 ~~reinstatement fee shall be one-half the amount of the annual~~

1 license or permit fee. The applicant must satisfy the board
2 that he or she is of good moral character and otherwise
3 possesses all qualifications required by law of licensees or
4 permit holders. Licensees who graduated from chiropractic
5 college after January 1, 2010, shall possess a bachelor's
6 degree from an accredited college or university; however,
7 absent a bachelor's degree, the requirement may be met by an
8 academic graduate degree from a regionally accredited college
9 or university and proof that the applicant has taken a
10 nationally recognized standardized test commensurate with that
11 applicant's graduate degree. Those licensees who graduated
12 prior to January 1, 2010, are specifically exempt from the
13 requirements of the preceding sentence. Additionally, the
14 board may require the licensee to enroll in and pass a
15 refresher course approved by the board at an accredited
16 chiropractic college. The board's decision as to whether a
17 course of study will be required and whether a particular
18 course of study will be approved shall be made on an
19 individual case basis and shall be based on all relevant
20 circumstances of that case.

21 "Except as otherwise provided in subsection (b) or
22 (c) of Section 34-24-165, any chiropractor who desires to
23 return to the active practice of chiropractic shall submit an
24 application for reinstatement accompanied by a nonrefundable
25 reinstatement fee and a penalty. The amount of the
26 reinstatement fee and penalty shall be established by rule of
27 the board. The applicant shall possess good moral character

1 and meet the educational requirements existing at the time of
2 his or her initial licensing. The board, as a condition of
3 reinstatement, may require the completion of a designated
4 number of continuing education hours, the successful
5 completion of refresher courses at a board approved accredited
6 chiropractic college, or the passing of a law exam, or all of
7 the above if required by the board.

8 "§34-24-177.

9 "The board shall not renew the annual certificate of
10 registration as set forth in Section 34-24-123, 34-24-165, or
11 34-24-176 of any licensee or permit holder against whom an
12 administrative fine has been assessed by the board until the
13 fine is paid in full. In the event that the fine is
14 subsequently reduced or set aside on judicial review as
15 provided in the Alabama Administrative Procedure Act, the
16 licensee or permit holder shall be entitled to a prompt refund
17 of the amount of the fine, but shall not be entitled to
18 interest thereon. If any order issued by the board or if any
19 agreement between the board and any licensee or permit holder
20 allows for the payment of fines or costs in installments, the
21 licensee or permit holder shall be allowed to renew his or her
22 license or permit provided the payments are current."

23 Section 2. Section 34-24-172, Code of Alabama 1975,
24 is repealed.

25 Section 3. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... 05-MAR-15

Read for the second time and placed
on the calendar 2 amendments 09-APR-15

Read for the third time and passed
as amended..... 28-APR-15

Yeas 96, Nays 0, Abstains 0

Jeff Woodard
Clerk