

1 SB96
2 187973-4
3 By Senator Dial
4 RFD: Health and Human Services
5 First Read: 09-JAN-18

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Board of Nursing; to amend Act
12 2017-46, 2017 Regular Session, now appearing as Section
13 34-21-2, Code of Alabama 1975; to grant investigators of the
14 board who meet the minimum standards of the Alabama Peace
15 Officers' Standards and Training Commission authority to
16 exercise the powers of law enforcement officers in
17 investigating alleged violations perpetrated by licensees of
18 the Nurse Practice Act.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 34-21-2, Code of Alabama 1975, as
21 amended by Act 2017-46 of the 2017 Regular Session, is amended
22 to read as follows:

23 "§34-21-2.

24 "(a) There is created the Board of Nursing, which
25 shall be composed of 13 members to be appointed and have the
26 duties and powers enumerated in this section. The membership
27 of the board shall be inclusive and reflect the racial,

1 gender, geographic, urban/rural, and economic diversity of the
2 state. In order to insure continuity of administration, the
3 nine board members provided for by Section 3 of Act 427,
4 Regular Session 1975, shall continue to serve to the
5 completion of the term for which they are serving. The
6 Governor, within 60 days of January 1, 1984, shall appoint a
7 tenth member who shall be a licensed practical nurse for a
8 term of four years from a list of nominees furnished him or
9 her by the Alabama Federation of Licensed Practical Nurses,
10 Incorporated, or its successor organization. As the terms of
11 all board members expire, their successors shall be appointed
12 for terms of four years each. Vacancies in unexpired terms
13 shall be filled in the same manner as original appointments
14 are made. No member shall be appointed to more than two
15 consecutive terms of four years each. Eight members of the
16 board shall be licensed professional nurses, and four members
17 of the board shall be licensed practical nurses.

18 "(b) (1) The Governor shall appoint the members of
19 the board who are licensed professional nurses from a list of
20 nominees who are selected by the Board of Nursing Nomination
21 Committee and furnished to the Governor by the Alabama State
22 Nurses' Association, or its successor organization, and such
23 list, when furnished, shall contain at least twice the number
24 of nominees as there are appointments to be made or vacancies
25 to be filled. The Alabama State Nurses' Association, or its
26 successor organization, on or before December 1 of each year,
27 or at such other times as necessary, shall furnish the

1 Governor with a list of licensed professional nurses qualified
2 for appointment to the board. In the nominating and appointing
3 process, due care shall be taken to ensure the maintenance of
4 qualified representation from the fields of nursing education,
5 nursing administration, clinical nursing, and advanced
6 practice nursing.

7 "(2) The Governor shall appoint two of the members
8 of the board who are to be licensed practical nurses from a
9 list of nominees furnished him or her by the Board of
10 Directors of the Licensed Practical Nurses Association of
11 Alabama, or its successor organization, and such list, when
12 furnished, shall contain at least twice the number of nominees
13 for the vacancies to be filled. The Board of Directors of the
14 Licensed Practical Nurses Association of Alabama, or its
15 successor organization, on or before December 1 of each year
16 in which the term of office of a board member or a nominee of
17 the Board of Directors shall expire, or at such other time as
18 necessary, shall furnish the Governor with such list of
19 licensed practical nurses qualified for appointment to the
20 board.

21 "(3) The Governor shall appoint two members on the
22 board who are to be licensed practical nurses from a list of
23 nominees furnished him or her by the Board of Directors of the
24 Alabama Federation of Licensed Practical Nurses, Incorporated,
25 or its successor organization, and such list, when furnished,
26 shall contain at least twice the number of nominees for the
27 vacancies to be filled. The Board of Directors of the Alabama

1 Federation of Licensed Practical Nurses, Incorporated, or its
2 successor organization, on or before December 1 of each year
3 in which the term of office of the board member filled by the
4 nominee of such board of directors shall expire, or at such
5 other times as necessary, shall furnish the Governor with a
6 list of licensed practical nurses qualified for appointment to
7 the board.

8 "(c) The Governor may remove any member from the
9 board for neglect of duty of the board, incompetency, or
10 unprofessional or dishonorable conduct.

11 "(d) Each person appointed to the board as a
12 licensed professional nurse shall be a citizen of the United
13 States, a resident of the State of Alabama, and have all of
14 these additional qualifications:

15 "(1) Be a graduate of a state-approved educational
16 program for the preparation of practitioners of professional
17 nursing.

18 "(2) Be a currently licensed professional nurse in
19 Alabama.

20 "(3) Have a minimum of five years' successful
21 nursing experience in an administrative, teaching, clinical
22 capacity, or advanced practice.

23 "(4) Be actively engaged in professional nursing in
24 this state immediately preceding and during appointment.

25 "(e) Each person appointed to the board as a
26 licensed practical nurse shall be a citizen of the United

1 States, a resident of the State of Alabama, and have all of
2 these additional qualifications:

3 "(1) Hold a diploma from an accredited high school
4 or its equivalent.

5 "(2) Be a graduate of a state-approved vocational
6 educational program for the preparation of practitioners of
7 licensed practical nursing.

8 "(3) Be a currently licensed practical nurse in
9 Alabama.

10 "(4) Have a minimum of five years' successful
11 nursing experience.

12 "(5) Be actively engaged in licensed practical
13 nursing in this state immediately preceding and during
14 appointment.

15 "(f) There shall be one member of the board who is a
16 consumer and who is not a member of any of the health care
17 professions. The consumer member shall be appointed by the
18 Governor effective January 1, 1998, and shall serve for a term
19 of four years. His or her successor shall be appointed in a
20 like manner at the expiration of each term or upon a vacancy
21 for the remainder of an unexpired term of office. The consumer
22 member of the board shall have, presently or formerly, no
23 direct financial interest in any health care facility,
24 profession, agency, or insurer, or be or have been a health
25 care worker.

26 "(g) There shall be two advanced practice nurse
27 positions to be filled effective January 1, 1998, in the same

1 manner as all other professional nurse positions. One advanced
2 practice nurse position shall be served for an initial
3 five-year term and successors shall serve four-year terms. The
4 remaining member appointed to an advance practice nurse
5 position shall serve an initial four-year term and successors
6 shall serve four-year terms.

7 "(h) All members of the board shall enjoy immunity
8 ~~from individual civil liability~~ pursuant to Section 36-1-12
9 while acting within the scope of their duties as board
10 members.

11 "(i) The board shall have the following powers and
12 perform the following duties: It shall meet at least once a
13 year and shall, at its organizational meeting and at its
14 annual meetings thereafter, elect from its members a
15 president, a vice-president, and a secretary. It may hold such
16 other and additional meetings during any year as it deems
17 necessary for the transaction of business. A majority of the
18 board, including one officer, shall constitute a quorum at any
19 meeting.

20 "(j) The board may:

21 "(1) Adopt and, from time to time, revise such rules
22 and regulations, not inconsistent with law, as may be
23 necessary to carry out this chapter.

24 "(2) Prescribe standards and approve curricula for
25 nursing educational programs preparing persons for licensure
26 under this chapter.

1 "(3) Provide for surveys and evaluations of such
2 programs at such times as it may deem necessary.

3 "(4) Approve such nursing educational programs as
4 meet the requirements of this chapter and the board. Nothing
5 in this chapter shall be construed to diminish the power of
6 the State Board of Education or other constitutionally or
7 legislatively established state agencies to govern the schools
8 under their respective jurisdictions.

9 "(5) Deny or withdraw approval from educational
10 programs for failure to meet prescribed standards. Withdrawal
11 of approval shall be effected only after a hearing in
12 accordance with board rules and regulations.

13 "(6) Examine, license, and renew the licenses of
14 duly qualified applicants and require employers to submit
15 listings of personnel covered by this chapter to the board
16 upon request.

17 "(7) Conduct investigations, hearings, and
18 proceedings concerning alleged violations of this section or
19 of the rules and regulations of the board.

20 "(8) Have the power to issue subpoenas, compel the
21 attendance of witnesses, and administer oaths to persons
22 giving testimony at hearings.

23 "(9) Cause the prosecution of all persons violating
24 this chapter and incur such necessary expenses therefor.

25 "(10) Keep a public record of all of its
26 proceedings.

27 "(11) Keep a register of all licensees.

1 "(12) Make an annual report to the Governor.

2 "(13) Appoint and employ a qualified person, not
3 subject to the state Merit System, who shall not be a member
4 of the board, to serve as executive officer.

5 "(14) Define the duties and fix the compensation for
6 the executive officer.

7 "(15) Employ such other persons as may be necessary
8 to carry on the work of the board and provide for appropriate
9 bonding of employees. Regular employees of the board shall be
10 employed subject to the state Merit System in effect on
11 January 1, 1966, or at the time of employment.

12 "(16) Employ consultants, specialists, counsel, or
13 other specially qualified persons under contract or on a
14 part-time basis to assist it in administering this chapter and
15 without regard to the state Merit System in effect on or after
16 January 1, 1966, and pay for the services of such persons.

17 "(17) Accept gifts and grants upon terms and
18 conditions imposed by it through official resolutions.

19 "(18) Perform such other duties, not inconsistent
20 with law, as required by this chapter to foster and improve
21 nursing and the regulation thereof and the public health of
22 this state.

23 "(19) Expend funds of the board in exercising its
24 powers and duties and in administering this chapter.

25 "(20) Determine and collect reasonable fees.

26 "(21) Adopt standards for registered and practical
27 nursing practice and for continued competency of licensees.

1 "(22) Join organizations that develop and regulate
2 the national nursing licensure examinations and promote the
3 improvement of the legal standards of the practice of nursing
4 for the protection of the public health, safety, and welfare.

5 "(k) The executive officer employed by the board
6 shall be a citizen of the United States, a person of the
7 highest integrity, and possess these additional
8 qualifications: Be a licensed professional nurse in Alabama or
9 eligible for licensure, be a graduate of a professional
10 nursing program approved by the state in which the program was
11 completed, hold a master's degree, and have had a varied
12 experience in nursing, including at least five years'
13 experience in an administrative or teaching capacity.

14 "(l) The executive officer shall be bonded for the
15 faithful performance of the duties of the office in the sum of
16 not less than five thousand dollars (\$5,000), and the premium
17 of the bond shall be paid out of the funds of the board.

18 "(m) Each member of the board shall receive the same
19 per diem and travel allowance as is paid by law to state
20 employees for each day's attendance at the board meetings
21 incurred in the discharge of his or her duties as a board
22 member in addition to any daily compensation or allowance, if
23 any, as may be provided by the board, in such amount as may be
24 determined by the board. Any member of the board engaged in
25 duties under the direction of the board shall receive the per
26 diem and travel expenses and daily compensation or allowance
27 authorized by the board.

1 "(n) (1) An investigator employed by the board who
2 complies with the minimum standards of the Alabama Peace
3 Officers' Standards and Training Commission shall have the
4 authority of a law enforcement officer, including the
5 authority to inspect documents and to enforce laws involving
6 an alleged violation of this chapter.

7 In the event an investigator carries a firearm, the
8 investigator shall also carry a nonlethal weapon.

9 "(2) An investigator is not entitled to overtime
10 compensation pursuant to Sections 36-21-4 and 36-21-5 or to
11 compensation pursuant to the requirements of Section 36-21-13.

12 "(o) Nothing in this chapter shall limit the rights
13 of affected parties to appeal decisions of the board with
14 regard to rules and regulations promulgated pursuant to this
15 chapter."

16 Section 2. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Health and Human Services..... 09-JAN-18

Read for the second time and placed on the calen-
dar 1 amendment..... 01-FEB-18

Read for the third time and passed as amended 13-MAR-18

Yeas 22
Nays 2

Patrick Harris,
Secretary.