

1 SB435
2 135398-3
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 20-MAR-12

2
3
4
5
6
7
8 SYNOPSIS: This bill would make numerous revisions to
9 the statute regulating the practice of psychology.
10 The bill would define terms related to the
11 practice; provide further for the privileged
12 communications between psychologists and their
13 clients; provide further for the membership of the
14 Board of Examiners in Psychology; provide further
15 for renewal and licensing fees of psychologists and
16 psychological technicians; provide further for
17 continuing education; provide further for licensing
18 mobility and temporary and emergency disaster
19 licensing; require legal citizenship or legal
20 presence in the county; increase the fines for
21 unauthorized practice of psychology; provide civil
22 remedies for enjoining violations of the licensing
23 act; provide for background check fee; provide
24 further for complaints of licensees; and provide
25 further for hearings of alleged violations.
26

1 34-26-44, 34-26-45, 34-26-46, and 34-26-47, Code of Alabama
2 1975, are amended to read as follows:

3 "§34-26-1.

4 "(a) For the purposes of this chapter, the two
5 levels of psychological practice are as follows:

6 "(1) Psychologist.

7 "(2) Psychological technician.

8 "(b) (1) A person practices as a psychologist within
9 the meaning of this chapter when he or she holds himself or
10 herself out to be a psychologist or renders to individuals or
11 to the public ~~for remuneration~~ any service involving the
12 application of recognized principles, methods, and procedures
13 of the science and profession of psychology, ~~such as~~
14 ~~interviewing or administering and interpreting tests of mental~~
15 ~~abilities, aptitudes, interests, and personality~~
16 ~~characteristics for such purposes as psychological evaluation~~
17 ~~or for such purposes as overall personality appraisal or~~
18 ~~classification, or treatment. The practice of psychologists~~
19 ~~specifically includes the use of projective assessment~~
20 ~~techniques, the diagnosis of mental disorders, and~~
21 ~~psychotherapy. as defined by this chapter.~~

22 "(2) A person represents himself or herself to be a
23 psychologist within the meaning of this chapter when he or she
24 holds himself or herself out to the public by any title or
25 description of services incorporating the words psychological,
26 psychologist, or psychology; or under such title or

1 description offers or renders services defined as the practice
2 of psychology in this act to individuals, groups of
3 individuals, or corporate entities or other organizations.

4 "(3) The term psychological services as used in this
5 chapter refers to any services under subsection (b) (1) if the
6 words psychological, psychologist, or psychology are used to
7 describe such services or used in any report, evaluation,
8 assessment, or public presentation by the person or
9 organization offering to render or rendering such services.

10 "(4) The term practice of psychology as used in this
11 chapter is defined as the observation, description,
12 evaluation, interpretation, and modification of human behavior
13 by the application of psychological principles, methods, and
14 procedures, including the use of projective assessment
15 techniques, for any of the following purposes:

16 "a. Preventing, eliminating, evaluating, assessing,
17 or predicting symptomatic, maladaptive, or undesired
18 behavior.

19 "b. Evaluating, assessing, or facilitating the
20 enhancement of individual, group, or organizational
21 effectiveness, including personal effectiveness, adaptive
22 behavior, interpersonal relationships, work and life
23 adjustment, health, and individual, group, and organizational
24 performance.

25 "c. Assisting in legal decision-making.

1 "(5) The practice of psychology includes, but is not
2 limited to, any of the following:

3 "a. Psychological testing and evaluation or
4 assessment of personal characteristics, such as intelligence;
5 personality; cognitive, physical, or emotional abilities;
6 skills; interests; aptitudes; and neuropsychological
7 functioning.

8 "b. Counseling, psychoanalysis, psychotherapy,
9 hypnosis, biofeedback, and behavior analysis and therapy.

10 "c. Diagnosis, treatment, and management of mental,
11 cognitive, and emotional disorder or disability, substance use
12 disorders, disorders of habit or conduct, as well as of the
13 psychological aspects of physical illness or condition,
14 accident, injury, or disability.

15 "d. Psychoeducational evaluation, therapy, and
16 remediation.

17 "e. Consultation with physicians, other health care
18 professionals, and patients regarding all available treatment
19 options, with respect to provision of care for a specific
20 patient or client.

21 "f. Provision of direct services to individuals or
22 groups for the purpose of enhancing individual and, thereby,
23 organizational effectiveness, using psychological principles,
24 methods, or procedures to assess and evaluate individuals on
25 personal characteristics for individual development and

1 behavioral change for making decisions about the individual,
2 such as selection.

3 "g. The supervision of any of the above activities.

4 "(6) The practice of psychology shall be construed
5 within the definition of this section without regard to
6 whether payment is received for services rendered or if the
7 practice was conducted in person or via electronic means.

8 "~~(2)~~(7) Nothing in ~~this~~ the definition of the
9 practice of psychology shall be construed as permitting the
10 use of those forms of psychotherapy which involve the
11 administration or prescription of drugs or electro-shock or in
12 any way infringing upon the practice of medicine as defined in
13 the laws of this state. A psychologist shall not attempt to
14 diagnose, prescribe for, treat, or advise a client with
15 reference to problems or complaints falling outside the
16 boundaries of psychological practice.

17 "~~(3)~~(8) Nothing in ~~this~~ the definition of the
18 practice of psychology shall be construed as preventing
19 qualified school counselors, vocational guidance counselors,
20 vocational rehabilitation counselors, speech and hearing
21 therapists, speech pathologists and audiologists, reading
22 therapists, or teachers of exceptional children from rendering
23 to the public for remuneration services for which they are
24 qualified by training and experience involving the techniques
25 of interviewing, administering, and interpreting tests of
26 mental abilities, achievement, interests, and aptitudes for

1 such purposes as evaluation or for educational or vocational
2 guidance, selection, or placement, so long as they do not hold
3 themselves out to be "psychologists", use the term
4 psychologist in their title, or describe their evaluations as
5 representing psychological or neuropsychological assessments.

6 "(9) Nothing in this definition shall be construed
7 as preventing technical and support staff from providing
8 functions associated with psychological assessments under the
9 supervision of a licensed psychologist.

10 "(c) (1) A person practices as a "psychological
11 technician" within the meaning of this chapter when he or she
12 holds himself or herself out to be a psychological technician.
13 A psychological technician may not use the title psychologist
14 or hold himself or herself out to the public or knowingly
15 allow himself or herself to be held out to the public as a
16 psychologist. A licensed psychological technician shall not
17 practice or present himself or herself outside the area of
18 competence as approved by the board based upon the examination
19 and review of the qualifications, training, and experience of
20 the individual. A psychological technician with adequate
21 training may directly provide any of the following services
22 without supervision:

23 "a. Administering and interpreting tests: A
24 psychological technician may administer and interpret tests of
25 intelligence, achievement, aptitudes, and interests, and

1 testing for educational or vocational selection, guidance, or
2 placement.

3 "b. Interviewing and screening: A psychological
4 technician may conduct initial screening interviews which may
5 lead to referrals for more extensive evaluation or treatment.
6 A psychological technician may also administer adjective
7 checklists, behavior rating scales, and other rating devices
8 which may be completed by a variety of professional and
9 non-professional observers.

10 "c. Psychoeducational interventions: Psychological
11 technicians may provide didactic psychoeducational services to
12 individuals or groups. The purpose of such groups is to
13 disseminate information and educate clients.

14 "(2) A psychological technician who meets the
15 education and training requirements of this chapter shall not
16 provide any of the following services except under the
17 qualified supervision of a licensed psychologist:

18 "a. Personality appraisal. Personality appraisal as
19 performed by the psychological technician is defined as any
20 objective assessment or evaluative technique that leads to
21 conclusions, inferences, and hypotheses regarding personality
22 functioning. Included are all statements relative to
23 personality attributes, features, traits, structure, dynamics,
24 and pathology or assets. These activities shall allow for the
25 process of deciding the nature of the psychological disorder
26 or condition.

1 "b. Clinical intervention. Includes the use of the
2 principles, methods, and procedures of the science and
3 profession of psychology for the treatment of individuals,
4 groups, and families, and behavior management and behavior
5 modification procedures with clinical populations.

6 "c. Consultation services. Services provided to
7 other agencies by psychological technicians acting in the role
8 of consultants are subject to the same rules for supervision
9 as services provided directly by the psychological technician
10 in his or her place of employment.

11 "d. Assistance with forensic assessments and
12 neuropsychological evaluations. A psychological technician may
13 assist a trained neuropsychologist in the administration of
14 neuropsychological procedures or a qualified psychologist in
15 forensic assessment. Independent forensic assessments and
16 neuropsychological evaluations are outside of the scope of
17 practice for psychological technicians.

18 "§34-26-2.

19 "~~(1) For~~ (a) Except as otherwise provided in this
20 section, for the purpose of this chapter, the confidential
21 relations and communications between licensed psychologists,
22 ~~licensed psychiatrists,~~ or licensed psychological technicians
23 and their clients are privileged and placed upon the same
24 basis as those provided by law between attorney and client,
25 and nothing in this chapter shall be construed to require any
26 such privileged communication to be disclosed.

1 "(b) In judicial proceedings, whether civil,
2 criminal, or juvenile, in legislative and administrative
3 proceedings, and in proceedings preliminary and ancillary
4 thereto, a client or patient, or his or her guardian or
5 personal representative, may refuse to disclose or may prevent
6 the disclosure of confidential information, including
7 information contained within administrative records,
8 communicated to a psychological technician or a psychologist
9 licensed within this chapter and their agents, students,
10 interns, and trainees under the supervision of a licensed
11 psychologist, and their agents for the purpose of diagnosis,
12 evaluation, or treatment of any mental or emotional condition
13 or disorder. In the absence of evidence to the contrary, the
14 psychologist is presumed authorized to claim the privilege on
15 behalf of the client or the patient.

16 "(c) The privilege of confidentiality may not be
17 claimed by the client or patient, or claimed on his or her
18 behalf by authorized persons, in the following circumstances:

19 "(1) Where abuse or harmful neglect of children, the
20 elderly, or disabled or incompetent individuals is known or
21 suspected.

22 "(2) Where the validity of a will of a former client
23 or patient is contested.

24 "(3) Where such information is necessary for the
25 psychologist to defend against a malpractice action brought by
26 the client or patient.

1 "(4) Where an immediate threat of physical violence
2 against a readily identifiable victim is disclosed to the
3 psychologist.

4 "(5) Where an immediate threat of self-harm is
5 readily disclosed to the psychologist.

6 "(6) Where the client or patient is undergoing
7 evaluation pursuant to a court order.

8 "(7) When the purpose of the proceeding is to
9 substantiate and collect on a claim for mental or emotional
10 health services rendered to the patient or any other cause of
11 action arising out of the professional relationship.

12 "(8) In the context of an investigation and hearing
13 brought by a client or patient and conducted by the board,
14 where violations of this chapter are at issue.

15 "§34-26-21.

16 "(a) There is created a State Board of Examiners in
17 Psychology to consist of seven persons who are residents of
18 this state, who shall be appointed by the Governor under
19 conditions set forth in this section. At least ~~two members~~ one
20 member shall be chosen from and shall be ~~members~~ a member of
21 the faculty, with the rank of assistant professor or above, of
22 the accredited colleges and universities of the state, shall
23 be licensed psychologists under this chapter, and shall be
24 primarily engaged in teaching, research, or administration of
25 psychology. ~~Three~~ Five members shall be licensed ~~practicing~~
26 psychologists under this chapter. One member shall be licensed

1 as a psychological technician ~~or qualified for licensure as a~~
2 ~~psychological technician~~ under this chapter. One member shall
3 be a member of the general public.

4 "(b) The board shall perform those duties and
5 exercise those powers prescribed in this chapter. No member of
6 the board shall be liable to civil action for any act
7 performed in good faith in the performance of his or her duty
8 pursuant to this chapter. ~~Original appointments to the board~~
9 ~~shall be for terms as follows: One practicing psychologist for~~
10 ~~a term of one year, one academic psychologist for a term of~~
11 ~~two years, one practicing psychologist for a term of three~~
12 ~~years, one academic psychologist for a term of four years, and~~
13 ~~one practicing psychologist for a term of five years.~~
14 Vacancies shall be filled for any unexpired term, and members
15 shall serve until their successors are appointed and have
16 qualified.

17 "(c) Board members shall not serve more than two
18 consecutive terms of office. ~~Within 30 days after October 1,~~
19 ~~1963, the Executive Committee of the Alabama Psychological~~
20 ~~Association, or of its successor organization, shall submit to~~
21 ~~the Governor a list of qualified candidates for the original~~
22 ~~five positions on the board. The list shall contain names of~~
23 ~~at least two qualified academic psychologists and two~~
24 ~~qualified practicing psychologists, from which the Governor~~
25 ~~shall select the board within 60 days.~~ Not later than October
26 1 of each year the executive ~~committee~~ council of the

1 ~~association~~ Alabama Psychological Association, or its
2 successor organization, shall submit to the Governor the names
3 of two qualified candidates for the position of the board to
4 be vacated by reason of expiration of term of office. All
5 efforts shall be made to have all nominations made with due
6 consideration to the geographic, gender, racial, and ethnic
7 diversity of the state and without regard to political
8 affiliation. From the two candidates the Governor shall
9 appoint one member not later than January 1 to serve on the
10 board for a term of five years. With the exception of the ~~two~~
11 ~~members~~ member appointed from the general public ~~pursuant to~~
12 ~~subsection (b)~~, other vacancies occurring in the board shall
13 be filled for the unexpired term by appointment of the
14 Governor from two qualified candidates for each vacancy
15 submitted within 30 days after the vacancy occurs by the
16 executive ~~committee~~ council of the association, or by its
17 successor organization. Those appointments shall be made by
18 the Governor within 30 days after the candidates' names have
19 been submitted. If the association, or its successor
20 organization, fails to furnish the Governor with the list of
21 persons eligible for appointment to the board, the Governor
22 shall appoint any qualified members of the profession of
23 psychology to the vacant position on the board.

24 ~~"(b) (1) Within 30 days following October 1, 1988,~~
25 ~~the~~ (d) The Governor shall appoint ~~two new members to the~~
26 ~~board for a five-year~~ terms term of office. ~~Each of the two~~

1 ~~new members shall be members~~ a member of the general public,
2 ~~and who is an Alabama residents~~ resident ~~who are~~ not licensed
3 by the board, and whose ~~spouses~~ spouse, if married, ~~are~~ is not
4 licensed by the board. ~~One of the two new public members, and~~
5 ~~his or her successors, shall be Black.~~ Vacancies for unexpired
6 terms of the general public member shall be filled by the
7 Governor. Successor public members shall be appointed by the
8 Governor. All efforts shall be made to have all such
9 appointments made with due consideration to the geographic,
10 gender, racial, and ethnic diversity of the state without
11 regard to political affiliation.

12 ~~"(2) Immediately upon the expiration or vacancy of~~
13 ~~the public position not held by a Black individual that public~~
14 ~~position on the board shall be abolished. Thereafter, only one~~
15 ~~public position shall remain on the board. That public~~
16 ~~position shall continue to be filled by a member of the~~
17 ~~general public who is Black.~~

18 ~~"(c) (1) On October 1, 1997, there is created a~~
19 ~~psychological technician position on the board. The Governor~~
20 ~~shall appoint a candidate to the psychological technician~~
21 ~~position on the board. The person initially appointed to fill~~
22 ~~the psychological technician position on the board shall have~~
23 ~~a master's degree in psychology and shall not be required to~~
24 ~~be a licensed psychological technician. Any subsequent~~
25 ~~appointment to the psychological technician position on the~~
26 ~~board shall be a licensed psychological technician.~~

1 "~~(2)~~(e) To fill the psychological technician
2 position on the board, the Executive Council of the Alabama
3 Psychological Association, or its successor organization,
4 ~~shall submit a list of four nominees to the executive~~
5 ~~committee of the association, or its successor organization,~~
6 ~~who~~ shall select two names ~~from the list~~ to be submitted to
7 the Governor by October 1 prior to the term expiration. From
8 the two candidates, the Governor shall appoint one not later
9 than January 1 to serve on the board for a term of five years.

10 "~~(d)~~(f) Any board members may be removed by the
11 Governor after notice and hearing for incompetence, neglect of
12 duty, malfeasance in office, or moral turpitude.

13 "~~(e)~~(g) Immediately before entering public duties of
14 the office, the members of the board shall take the
15 constitutional oath of office and shall file the oath in the
16 Office of the Governor, who upon receiving the oath shall
17 issue to each member a certificate of appointment. The board
18 shall have available for the Governor or his or her
19 representative detailed reports on proceedings and shall make
20 annual reports in the form required by the Governor.

21 "~~(f)~~(h) The board shall elect annually a chair and
22 vice-chair. Each member shall receive the same per diem and
23 travel allowance paid to state employees for each day's
24 attendance at an official meeting of the board. The board
25 shall hold at least one regular meeting each year. Additional
26 meetings may be held at the discretion of the chair or at the

1 written request of any two members of the board. The board
2 shall adopt a seal which shall be affixed to all ~~certificates~~
3 licenses issued by the board. The board shall from time to
4 time adopt rules and regulations necessary for the performance
5 of its duties. Four members of the board shall constitute a
6 quorum. The board may hire any assistants necessary to carry
7 on its activities within the limit of funds available to the
8 board. The board may accept grants from foundations,
9 individuals, and institutions to carry on its functions.

10 "§34-26-22.

11 "(a) The Board of Examiners in Psychology shall have
12 authority to administer oaths, to summon witnesses and to take
13 testimony in all matters relating to its duties. The board
14 shall be the sole agency in this state empowered to certify
15 concerning competence in the practice of psychology and the
16 sole board empowered to recommend licensure for the practice
17 of psychology. The board shall have the power to recognize
18 areas of specialization for practice and supervision, and to
19 ensure through rules and regulations and enforcement that
20 licensees limit their practice to demonstrated areas of
21 competence as documented by relevant professional education,
22 training, and experience. No individual shall be issued a
23 license for the practice of psychology who has not been
24 previously certified at the appropriate level of practice by
25 the board. The board shall certify as competent to practice
26 psychology or as competent to practice as a psychological

1 technician all persons who shall present satisfactory evidence
2 of attainments and qualifications under provisions of this
3 chapter and the rules and regulations of the board. The
4 certification shall be signed by the chair of the board under
5 the adopted seal of the board. The chair shall, under the
6 direction of the board, aid the district attorneys in the
7 enforcement of this chapter and the prosecutions of all
8 persons charged with the violation of its provisions.

9 Psychologists and psychological technicians licensed by the
10 board shall be required to submit annually to the board a
11 completed registration fee, not to exceed five hundred dollars
12 (\$500) of up to one hundred fifty dollars (\$150) to be for
13 psychologists and of up to one hundred dollars (\$100) for
14 psychological technicians as set to be determined by the
15 board, ~~after the first year~~. The list of registered licensed
16 psychologists and registered licensed psychological
17 technicians shall be made available to interested individuals
18 or organizations at a nominal charge.

19 "(b) Every psychology license issued by the board
20 shall expire on October 15th of every year and shall be
21 renewable for one year if all requirements for renewal,
22 including continuing education requirements, are satisfied and
23 the renewal fee is paid. If a license expires because of
24 failure of the licensee to complete the renewal form, pay
25 renewal fees, or meet continuing education requirements, the
26 board may renew the license within six months after the

1 expiration date if all delinquencies are remediated, subject
2 to an additional late fee to be determined by the board in its
3 rules. Failure to renew a license within six months after its
4 expiration date shall have the effect of the license being
5 considered lapsed. A lapsed license may be renewed within a
6 period of two years after the lapse upon payment of fees in
7 arrears, or thereafter, upon payment of a renewal fee, or upon
8 meeting continuing education requirements, as determined by
9 the board. Any licensed psychologist or psychological
10 technician whose license has lapsed beyond six years shall
11 reapply under the then current regulations for initial
12 licensure.

13 ~~"(b)(c) By the year 1990 the~~ The board shall
14 implement requirements through its rules and regulations that
15 licensees shall engage in annual continuing education
16 activities other than individual study to renew the license to
17 practice. Continuing education activities shall be relevant to
18 the practice of psychology or applicable within the practice
19 of psychology. The board may charge a reasonable fee to
20 register and keep records of licensees' continuing education
21 credits. ~~Failure to engage in continuing education or failure~~
22 ~~to pay fees for registration of continuing education credits~~
23 ~~will provide grounds for suspension of licensure.~~

24 ~~"(c)(d)~~ The board may promulgate and adopt rules and
25 regulations as are necessary to implement the requirements of

1 this chapter. The rules and regulations shall be adopted
2 pursuant to the state administrative procedure statutes.

3 "§34-26-40.

4 "(a) It is specifically prohibited that any
5 individual or organization shall present himself, herself, or
6 it, or be presented to the public by any title incorporating
7 the name "psychological," "psychologist," or "psychology"
8 other than so licensed by this chapter. Any psychological
9 scientist, including a school psychologist who holds a
10 certificate issued by the State Superintendent of Education,
11 employed by a recognized research laboratory, school, college,
12 university, or governmental agency or department may represent
13 himself or herself by the academic or research title conferred
14 upon him or her by the administration of the laboratory,
15 school, college or university, or any governmental agency or
16 department, but may not use the title psychological technician
17 or licensed psychologist. Nothing in this section shall be
18 construed as permitting such persons to offer their services
19 to any other persons or organizations as consultants or to
20 accept remuneration for any psychological services other than
21 that of their institutional salaries, or to provide direct
22 psychological services to individuals, unless they have been
23 licensed under this chapter. Visiting lecturers from
24 recognized laboratories, schools, colleges, universities, or
25 any governmental agencies or departments are exempt from the
26 provisions of this section and may utilize their academic or

1 research titles when presenting lectures or performing any
2 consultation as might be required in their academic or
3 research functions. Students of psychology, psychological
4 interns, and other persons preparing for the profession of
5 psychology under qualified supervision in recognized training
6 institutions or facilities may be designated by such titles as
7 "psychological intern," "psychological trainee," or others
8 clearly indicating such training status. No individual may
9 employ or use the title "licensed psychologist" or imply in
10 any way that he or she is licensed by the board unless he or
11 she is actually so licensed and registered under this chapter.

12 (b) No person working for any recognized state
13 department or agency, research laboratory, school, college, or
14 university shall be required to have any license issued
15 pursuant to this chapter to perform their job duties and
16 responsibilities related to their position or employment
17 status with these entities.

18 "§34-26-41.

19 (a) (1) Any person wishing to obtain the right to
20 practice as a psychologist or psychological technician in this
21 state, who has not heretofore been licensed to do so, shall,
22 before it shall be lawful for him or her to practice as a
23 psychologist or psychological technician in this state, make
24 application to the Board of Examiners in Psychology through
25 the chair upon such form and in such manner as prescribed by
26 the board.

1 "(2) Unless a person has first obtained a valid
2 license as aforesaid, it shall be unlawful and a violation of
3 this chapter for him or her to practice as a psychologist or
4 psychological technician.

5 "(b) A candidate for licensure as a psychologist
6 shall furnish the board with satisfactory evidence of all of
7 the following:

8 "(1) He or she is of good moral character.

9 "(2) He or she is at least 19 years of age.

10 "(3) He or she has received a doctorate degree from
11 a department of, or school of, psychology, from an educational
12 institution accredited and recognized by national and regional
13 accrediting agencies as maintaining satisfactory standards.

14 "(4) He or she is competent in psychology as shown
15 by passing such examinations, written or oral, or both, as the
16 board will prescribe, unless exempted pursuant to subsection
17 (d).

18 "(5) He or she is not engaged in unethical practice
19 as defined in the Code of Ethics of the American Psychological
20 Association.

21 "(6) He or she has not within the preceding six
22 months failed an examination given by the board.

23 "(7) He or she is a citizen of the United States or,
24 if not a citizen of the United States, a person who is legally
25 present in the United States with appropriate documentation
26 from the federal government.

1 ~~"(c) The board may issue a license to any person who~~
2 ~~is a licensed psychologist of another state, and who applies~~
3 ~~to the board, provided the licensee of another state shall~~
4 ~~furnish the board with satisfactory evidence of all of the~~
5 ~~following:~~

6 ~~"(1) He or she is of good moral character, and holds~~
7 ~~his or her license in good standing from another state.~~

8 ~~"(2) He or she is at least 19 years of age.~~

9 ~~"(3) He or she has received a doctorate degree in~~
10 ~~psychology from an educational institution accredited and~~
11 ~~recognized by national and regional accrediting agencies as~~
12 ~~maintaining satisfactory standards or, in lieu of a doctorate~~
13 ~~degree in psychology, a doctorate degree in a closely allied~~
14 ~~field, if the training received therefor is substantially~~
15 ~~similar to that required of doctorates obtained from~~
16 ~~departments of psychology.~~

17 ~~"(4) He or she is competent in psychology as shown~~
18 ~~by the passing of an examination, unless exempted pursuant to~~
19 ~~subsection (d), substantially equivalent to the examinations~~
20 ~~prescribed in subsection (a), or by the passing of a~~
21 ~~recognized national examination in psychology.~~

22 ~~"(5) He or she is not engaged in unethical practice~~
23 ~~as defined in the Code of Ethics of the American Psychological~~
24 ~~Association.~~

25 ~~"(6) He or she has practiced psychology in another~~
26 ~~state at least four consecutive years prior to application.~~

1 ~~"(7) That the other state under which he or she is~~
2 ~~licensed gives similar recognition and reciprocal licensing to~~
3 ~~licensed psychologists of this state.~~

4 ~~"(8) He or she is a citizen of the United States or,~~
5 ~~if not a citizen of the United States, A person who is legally~~
6 ~~present in the United States with appropriate documentation~~
7 ~~from the federal government.~~

8 "(c) The board shall accept the Certificate of
9 Professional Qualification (CPQ) in psychology issued by the
10 Association of State and Provincial Psychology Boards, or its
11 successor organization, or board certification by the American
12 Board of Professional Psychology (ABPP), as evidence that the
13 applicant has met the requirements for licensure except for
14 any local jurisdictional examinations.

15 "(d) The board shall issue a license to any
16 applicant with a doctoral degree in psychology who is
17 otherwise qualified pursuant to subsections (a) and (b), who
18 is licensed in at least two states and who has passed a
19 recognized national exam.

20 "(e) An individual who possesses a valid license to
21 practice psychology independently at the doctoral level by any
22 jurisdiction recognized by the Association of State and
23 Provincial Psychology Boards may practice psychology in
24 Alabama for no more than 30 days each calendar year without
25 applying for a license to practice psychology in Alabama
26 unless exempted pursuant to this chapter. This authority to

1 practice does not apply to a psychologist who has been denied
2 licensure in Alabama, is a legal resident of Alabama, or
3 intends to practice full-time or a major portion of his or her
4 time in Alabama.

5 "(f) An individual licensed to practice psychology
6 in another jurisdiction, who is providing services in response
7 to a declared disaster or state of emergency, may practice
8 psychology in this jurisdiction for no more than 60 days per
9 year without applying for a license upon proper notification
10 as required by the board in its rules.

11 "(g) A licensee may request that the board designate
12 his or her license with inactive status at any point prior to
13 the date of renewal. Granting inactive status to a licensee
14 revokes all privileges associated with this chapter until
15 reactivation is requested by the licensee. Procedures for
16 reactivating a license for practice status shall be
17 established by the board.

18 ~~(e)~~(h) A candidate for licensure as a psychological
19 technician shall furnish the board with satisfactory evidence
20 of all of the following:

21 "(1) He or she is of good moral character.

22 "(2) He or she is at least 19 years of age.

23 "(3) He or she has a master's degree in psychology
24 from a regionally accredited institution of higher education,
25 or has completed the equivalent of a master's degree from an
26 American Psychological Association accredited doctoral program

1 in psychology, as determined by the board. Educational
2 requirements are provided in Section 34-26-65.

3 "(4) Is competent as a psychological technician, as
4 shown by passing examinations, written or oral, or both, as
5 prescribed by the board.

6 "(5) Is not engaged in unethical practice as defined
7 in the most recent version of the Code of Ethics of the
8 American Psychological Association.

9 "(6) Has not within the preceding six months failed
10 an examination given by the board.

11 "(7) He or she is a citizen of the United States or,
12 if not a citizen of the United States, a person who is legally
13 present in the United States with appropriate documentation
14 from the federal government.

15 "§34-26-42.

16 "(a) If any person holds himself or herself out to
17 the public as being engaged in practice as a psychologist or
18 psychological technician, such as clinical, counseling,
19 school, or combined professional-scientific psychology, and
20 does not then possess in full force and virtue a valid license
21 to practice as a psychologist or psychological technician
22 under this chapter, he or she shall be deemed guilty of a
23 Class C B misdemeanor and, upon conviction, shall be fined not
24 less than ~~one hundred dollars (\$100)~~ five hundred dollars
25 (\$500) per occurrence nor more than ~~five hundred dollars~~
26 ~~(\$500)~~ five thousand dollars (\$5,000) per occurrence plus

1 court costs. Nothing in this chapter shall be construed to
2 limit the professional pursuits of teachers in recognized
3 public and private schools, clergymen, practitioners of
4 medicine, social workers, and guidance counselors from full
5 performance of their professional duties. However, in such
6 performance any title shall be in accord with this chapter.
7 Students of psychology, psychological interns, or other
8 persons preparing for the profession of psychology may perform
9 as a part of their training the functions specified in this
10 chapter, but only under qualified supervision. Use of
11 psychological techniques by business and industrial
12 organizations for employment placement, evaluation, promotion,
13 or job adjustment of their own officers or employees or by
14 employment agencies for the evaluation of their own clients
15 prior to recommendations for employment is also specifically
16 allowed. However, no industrial or business firm or
17 corporation may sell or offer to the public or to other firms
18 or corporations for remuneration any psychological services as
19 specified in this chapter unless the services are performed or
20 supervised by individuals duly and appropriately licensed
21 under this chapter.

22 "(b) When the board has evidence that any person has
23 engaged in any act or practice constituting a violation of any
24 provision of this chapter or any rule or order hereunder, the
25 board, in its discretion and in its own name, may bring an
26 action in the Circuit Court of Montgomery County to enjoin

1 such acts or practices and to enforce compliance with this
2 chapter or any rule or order hereunder, regardless of whether
3 criminal proceedings have been or may be instituted. Upon a
4 proper showing, a permanent or temporary injunction,
5 restraining order, or writ of mandamus shall be granted.

6 "§34-26-43.

7 "There shall be paid to the board ~~chair~~ by each
8 applicant for a permanent license to practice ~~psychology as a~~
9 ~~psychologist or a psychological technician~~ a fee ~~not to exceed~~
10 ~~two hundred dollars (\$200)~~ not to exceed five hundred dollars
11 ~~(\$500), and by each applicant for a permanent license to~~
12 ~~practice as a psychological technician a fee not to exceed one~~
13 ~~hundred forty dollars (\$140),~~ as set by the board in its
14 rules. No part of any fee shall be returnable under any
15 circumstance ~~other than failure of the board to hold~~
16 ~~examinations at the time originally announced, whereupon the~~
17 ~~entire fee may be returned at the option of the candidate. All~~
18 fees collected in this manner plus renewal fees as outlined in
19 Section 34-26-22 and all gifts or grants shall be deposited in
20 the State Treasury to the credit of the board. Vouchers in
21 payment of expenses shall be drawn on the state Comptroller
22 signed by the chair or executive officer of the board.

23 "§34-26-43.1.

24 "The Board of Examiners in Psychology shall charge
25 each candidate for licensure as a psychologist or
26 psychological technician ~~an examination~~ a fee sufficient to

1 cover the entire actual costs of the examination of the
2 applicant, as well as the cost of criminal and civil
3 background checks of the applicant.

4 "§34-26-44.

5 "Examination of applicants for a license to practice
6 as a psychologist or psychological technician shall be made by
7 the board at least once a year according to methods and in
8 such subject fields as may be deemed by the board to be the
9 most practical and expeditious to test the qualifications of
10 the applicant. The board shall require the examinations to be
11 written or oral, or both. ~~In any written examination the~~
12 ~~applicant shall be designated by a number instead of his or~~
13 ~~her name so that his or her identity shall not be disclosed to~~
14 ~~the members of the board until the examination papers have~~
15 ~~been graded. The board shall grade the written examinations~~
16 ~~returned by the candidates and shall keep them for at least~~
17 ~~one year.~~ A candidate shall be held to have passed the
18 examination ~~upon the affirmative vote of three or more members~~
19 ~~of the board~~ as defined in the rules of the board. Any
20 unsuccessful candidate may, ~~upon written request to the board,~~
21 ~~see his or her graded paper.~~

22 "§34-26-46.

23 "(a) The board shall suspend, place on probation, or
24 require remediation, or any combination thereof, for any
25 psychologist or psychological technician for a specified time,
26 to be determined at the discretion of the board, or revoke any

1 license to practice as a psychologist or psychological
2 technician or take any other action specified in the rules and
3 regulations whenever the board finds by a preponderance of the
4 evidence that the psychologist or psychological technician has
5 engaged in any of the following acts or offenses:

6 "(1) Fraud or deception in applying for or procuring
7 a license to practice as a psychologist or psychological
8 technician; or in passing the examination provided for in this
9 chapter.

10 "(2) Practice as a psychologist or psychological
11 technician under a false or assumed name or the impersonation
12 of another practitioner of a like or different name.

13 "(3) Immoral, unprofessional, or dishonorable
14 conduct as defined in the rules and regulations promulgated by
15 the board.

16 "(4) Practicing as a psychologist or psychological
17 technician in such a manner as to endanger the welfare of
18 clients or patients.

19 "(5) Conviction of felony (a copy of the record of
20 conviction, certified to by the clerk of the court entering
21 the conviction shall be conclusive evidence).

22 "(6) Conviction of any crime or offense that
23 reflects the inability of the practitioner to practice as a
24 psychologist or psychological technician with due regard for
25 the health and safety of clients or patients.

1 "(7) Harassment, intimidation, or abuse, sexual or
2 otherwise, of a client or patient.

3 "(8) Engaging in sexual intercourse or other sexual
4 contact with a client or patient.

5 "(9) Use of repeated untruthful or deceptive or
6 improbable statements concerning the licensee's qualifications
7 or the effects or results of proposed treatment, including
8 functioning outside of one's professional competence or area
9 of specialization established by education, training, and
10 experience as recognized by the board.

11 "(10) Gross malpractice or repeated malpractice or
12 gross negligence in practice as a psychologist or
13 psychological technician.

14 "(11) Aiding or abetting practice as a psychologist
15 or psychological technician by any person not licensed by the
16 board.

17 "(12) Conviction of fraud in filing Medicare or
18 Medicaid claims or in filing claims to any third party payor
19 (a copy of the record of conviction, certified to by the clerk
20 of the court entering the conviction, shall be conclusive
21 evidence).

22 "(13) Exercising undue influence in such a manner as
23 to exploit the client, patient, student, or supervisee for
24 financial or other personal advantage to the practitioner or a
25 third party.

1 "(14) The suspension or revocation by another state
2 of a license to practice as a psychologist or psychological
3 technician for cause other than failure to renew the license
4 (a certified copy of the record of suspension or revocation of
5 the state making such a suspension or revocation shall be
6 conclusive evidence thereof).

7 "(15) Refusal to appear before the board after
8 having been ordered to do so in writing by the executive
9 office or chair of the board.

10 "(16) Making any fraudulent or untrue statement to
11 the board.

12 "(17) Failing to cooperate with or to respond
13 promptly, completely, and honestly to the board.

14 "~~(17)~~(18) Violation of the code of ethics adopted in
15 the rules and regulations of the board.

16 "~~(18)~~(19) Upon the recommendation of the Ethics
17 Committee of the Alabama Psychological Association, or of its
18 successor organization, or the Ethics Committee of the
19 American Psychological Association.

20 "~~(19)~~(20) Inability to practice as a psychologist or
21 psychological technician with reasonable skill and safety to
22 patients or clients by reason of illness, inebriation, misuse
23 of drugs, narcotics, alcohol, chemicals, or any other
24 substance, or as a result of any mental or physical condition.

25 "~~(20)~~(21) Engaging in practice as a psychologist or
26 psychological technician before a license is issued.

1 "~~(21) Failure to engage in continuing education or~~
2 ~~failure to pay fees for registration of continuing education~~
3 ~~credits.~~

4 "(22) Practice of a level of psychology
5 inappropriate or beyond the scope of the particular license
6 held by the licensee.

7 "(23) Failure to comply with any of the respective
8 responsibilities of a supervisor or supervisee as provided in
9 this chapter.

10 "(b) When the issue is whether or not a psychologist
11 or psychological technician is physically or mentally capable
12 of practicing as a psychologist or psychological technician
13 with reasonable skill and safety to patients or clients, then,
14 upon a showing of probable cause to the board that the
15 psychologist or psychological technician is not capable of
16 practicing psychology with reasonable skill and safety to
17 patients, the board may petition a court of competent
18 jurisdiction to order the psychologist or psychological
19 technician in question to submit to a psychological
20 examination by a psychologist to determine psychological
21 status and/or a physical examination by a physician to
22 determine physical condition. The psychologist and/or
23 physician is to be designated by the court. The expense of the
24 examination shall be borne by the board. Where the
25 psychologist or psychological technician raises the issue of
26 mental or physical competence or appeals a decision regarding

1 his or her mental or physical competence, the psychologist or
2 psychological technician shall be permitted to obtain his or
3 her own evaluation at his or her own expense. If the
4 objectivity or adequacy of the examination is suspect, the
5 board may complete an examination by its designated
6 practitioners at its own expense. When mental or physical
7 capacity to practice is at issue, every psychologist or
8 psychological technician licensed to practice in the state
9 shall be deemed to have given consent to submit to a mental or
10 physical examination or to any combination of such
11 examinations and to waive all objections to the admissibility
12 of the examination, or to previously adjudicated evidence of
13 mental incompetence.

14 "(c) The board may assess the cost of any
15 investigation, legal service, legal proceeding, or
16 disciplinary action against any applicant or licensee found to
17 be in violation of this chapter.

18 "(d) In determining the amount of any penalty, which
19 shall not exceed one thousand dollars (\$1,000) per violation,
20 not to exceed a total of five thousand dollars (\$5,000), the
21 board shall consider the seriousness of the violation,
22 including any threat to the health, safety, or welfare of the
23 public, the unlawful gain or economic benefit gained by the
24 violation, the person's history of previous violation, and the
25 person's efforts to mitigate and comply with this chapter.

1 "(e) Judicial review of an order entered by the
2 board under this section shall be conducted in accordance with
3 the pertinent provisions for the judicial review of contested
4 cases as provided in the Alabama Administrative Procedure Act.

5 "(f) The board shall exercise its jurisdiction for
6 disciplinary oversight of licensees for any psychological
7 services, regardless of how or where those services are
8 rendered, even if those services are rendered in another
9 state, federal facility, or foreign country during the period
10 of their licensure. The board shall not accept voluntary
11 surrender of a license on the part of a licensee to avoid
12 possible disciplinary actions by the board. Secure inactive
13 status of a license shall not negate jurisdiction of the board
14 of a licensee's actions during any period of active licensure.
15 If a former licensee or a licensee with inactive status is
16 found to be in violation of the relevant state law or
17 administrative rule, a public announcement of the decision of
18 the board shall be proffered in a manner to be determined by
19 the board.

20 ~~"(d)~~(g) The Board of Examiners in Psychology may
21 refuse to grant a ~~certificate~~ license, or may recommend
22 suspension of any license for a definite period not to exceed
23 three years. The board may, upon satisfactory proof that any
24 applicant or licentiate has been guilty of any of the above
25 offenses, refuse to grant a ~~certificate~~ license to the
26 applicant or may recommend revocation of a license of the

1 licentiate upon a vote of at least four members of the board.
2 After three years from the date of a revocation, an
3 application for reinstatement may be made to the board, and it
4 may, upon favorable action by four of its members, recommend
5 reinstatement.

6 "§34-26-47.

7 "(a) The board may not recommend suspension or
8 revocation of licensure or refuse to issue or to renew any
9 ~~certificate~~ license for any cause listed in Section 34-26-46
10 unless the person accused has been given at least ~~20~~ 30 days'
11 notice in writing of the charge against him or her and of a
12 public hearing by the board. The written notice shall be
13 mailed to the person's last known address, but the
14 nonappearance of the person shall not prevent such a hearing.
15 Upon such a hearing the board may administer oath and procure
16 by its subpoenas the attendance of witness and the production
17 of relevant books and papers.

18 "(b) At least one member of the board shall be
19 present at all times during a hearing, deliberation, and
20 action thereon. The individual board member who assisted with
21 the investigation of the complaint shall not vote on the
22 disciplinary action to be taken. A hearing officer appointed
23 by the Attorney General shall act as the hearing officer for
24 the purpose of rulings on motions, evidence, and the like."

1 Section 2. This act shall become effective on the
2 first day of the ninth month following its passage and
3 approval by the Governor, or its otherwise becoming law.