

1 HB75
2 214744-6
3 By Representative Lee
4 RFD: Boards, Agencies and Commissions
5 First Read: 11-JAN-22

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Relating to the Board of Pharmacy; to amend Section
9 34-23-34 of the Code of Alabama 1975, to further authorize the
10 board to provide for the method of delivery of charges
11 relating to disciplinary action on a person or entity
12 regulated by the board; and to amend Section 34-23-90 of the
13 Code of Alabama 1975, relating to the election of members of
14 the board by licensed pharmacists; to provide for the election
15 of board members to be conducted by a third party; and to
16 delete provisions for a canvassing committee to tabulate the
17 ballots and further provide for the tabulation of the ballots.
18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 1. Sections 34-23-34 and 34-23-90
20 of the Code of Alabama 1975, are amended to read as follows:

21 "§34-23-34.

22 ~~"No action to revoke or suspend the license of any~~
23 ~~pharmacist or the permit to operate any pharmacy in this state~~
24 ~~shall be taken until the licensee or holder of such permit has~~
25 ~~been furnished a statement in writing of the charges against~~
26 ~~him or her together with a notice of the time and place of~~
27 ~~hearing. The statement of charges and notice shall be served~~

1 upon such a person at least 30 days before the date fixed for
2 the hearing, either personally or by registered or certified
3 mail sent to his or her last known post-office address. No
4 disciplinary action relating to the license, registration,
5 certificate, or permit of any person or entity regulated by
6 the board may be taken unless a statement of charges and
7 notice of hearing has been served on the person or entity at
8 least 30 days before the date fixed for the hearing. The
9 board, at its sole discretion, may serve the statement of
10 charges by personal service or by registered or certified mail
11 or delivery by any recognized delivery or courier service to
12 the address of the person or entity in the records of the
13 board. The burden of proof shall be on the board.

14 "§34-23-90.

15 "(a) The Alabama State Board of Pharmacy is vested
16 with the authority to carry out the purposes of and enforce
17 this chapter. The board shall consist of five members who are
18 ~~citizens~~ residents of this state. The members of the board
19 shall be licensed pharmacists who have been licensed in this
20 state for a minimum of five years and who are actively engaged
21 in the practice of pharmacy or pharmacy administration, or
22 both.

23 "(b) Three members shall be appointed by the
24 Governor. Of the three appointed members, one member shall be
25 engaged in the practice of pharmacy or pharmacy
26 administration, or both, in a hospital, one in an independent
27 pharmacy, and one in a chain pharmacy. Of the three members

1 appointed by the Governor, one of the members shall be of the
2 predominant minority race in the state. For purposes of this
3 subsection, the predominant minority race shall be determined
4 by the most recent decennial United States census. On or
5 before August 1, 1996, and each five years thereafter, or
6 whenever a vacancy occurs in the designated position for
7 hospital pharmacists, the Alabama Society of Health System
8 Pharmacists, or its successor organization, shall submit a
9 list of three nominees to the Governor. On or before August 1,
10 1994, and each five years thereafter, or whenever a vacancy
11 occurs in the designated position for a chain pharmacist, the
12 Alabama Pharmacy Association, or its successor organization,
13 shall submit a list of three nominees to the Governor. On or
14 before August 1, 1997, and each five years thereafter, or
15 whenever a vacancy occurs in the designated position for the
16 independent pharmacist, the independent pharmacist members of
17 the Alabama Pharmacy Association, or its successor
18 organization, shall submit a list of three nominees to the
19 Governor. From the names submitted to the Governor, the
20 Governor shall appoint a replacement on or before December 31
21 of the same year the nominations are received, for the member
22 or members whose term or terms are expiring. Background
23 information shall be provided for each nominee for an
24 appointed position.

25 "(c) (1) On or before December 1, 1995, and each five
26 years thereafter, and on or before December 1, 1998, and each
27 five years thereafter, or whenever a vacancy occurs in a

1 nondesignated position, the Board of Trustees of the Alabama
2 Pharmacy Association, or its successor organization, shall
3 select a committee of five pharmacists who are members of the
4 association to serve as a nominating committee. No ~~one on~~
5 member of the nominating committee shall be a candidate. The
6 committee shall receive names of pharmacists actively engaged
7 in pharmacy practice or administration, or both, from
8 companies and individuals, and shall narrow the list of
9 nominees to two names to be placed on a ballot to be voted on
10 by all Alabama pharmacists.

11 "(2) The election procedure for a nondesignated slot
12 shall be as follows: Each candidate shall provide a
13 biographical sketch of not more than 150 words, which shall
14 include his or her most recent practice experience. The board
15 shall select a third party to conduct the election and
16 tabulate the ballot results. The board shall mail election
17 ballots and a biographical sketch of the candidates shall be
18 delivered by the third party to Alabama licensed pharmacists
19 by September 1. ~~Completed ballots returned to the board~~
20 ~~postmarked by October 1 shall be tabulated.~~ The ballot
21 delivery shall be conducted in a secure manner to safeguard
22 organizational data and to ensure the integrity of the voting
23 process. Completed election ballots must be received by the
24 third party no later than October 1 to be tabulated. A
25 pharmacist receiving a majority of the ballots received shall
26 be considered the winner. If a runoff election is necessary,
27 the runoff ballots shall be ~~mailed~~ delivered to licensed

1 pharmacists by November 1 ~~and returned postmarked by December~~
2 ~~±~~ by the same method of ballot delivery as provided above.
3 Completed runoff election ballots must be received by the
4 third party no later than December 1 to be tabulated.

5 "(3) A canvassing committee consisting of a
6 ~~representative from the Alabama Pharmacy Association, or its~~
7 ~~successor organization, Alabama Society of Health System~~
8 ~~Pharmacists, or its successor organization, Auburn University~~
9 ~~School of Pharmacy, and Samford University School of Pharmacy~~
10 ~~shall tabulate the ballots.~~ The ballots for each election
11 shall be tabulated by the third party and the results shall be
12 certified and audited by the third party. The results of the
13 tabulation and audit shall be made available to any candidate
14 and to the nominating body upon request.

15 "(d) Any vacancies occurring on the board other than
16 by expiration of term shall be filled by election or
17 appointment only for the unexpired term and shall be filled by
18 the same procedure that the replaced member was elected or
19 appointed. Each member of the board shall serve a term of five
20 years beginning on January 1 following appointment and
21 terminating on December 31 of his or her fifth year as a
22 member of the board.

23 "(e) No pharmacist shall serve two full terms
24 consecutively.

25 "(f) The Governor, upon recommendation of the board,
26 may remove a member of the board upon proven charges of
27 inefficiency, incompetency, immorality, or professional

1 misconduct. The replacement member shall be elected or
2 appointed by the same procedure that the removed member was
3 elected or appointed. Appointees to the board shall within 30
4 days after their appointment or election take an oath or make
5 affirmation before a properly qualified officer that ~~they~~ he
6 or she will faithfully and impartially perform the duties of
7 ~~their~~ his or her office. This oath or affirmation shall be
8 filed with the Secretary of State. At its last regular meeting
9 in each calendar year, the board shall ~~organize by electing~~
10 elect for a term of one year, effective the following January
11 1, a president, a vice-president, and a treasurer who shall be
12 members of the board. No member shall serve more than two
13 years in the same office on the board during a five-year term.
14 The board shall also elect a secretary who shall not serve as
15 a member of the board and the board shall have the authority
16 to fix the amount of the secretary's remuneration. If a board
17 member is selected as secretary, the board member shall resign
18 from the board and a replacement on the board shall be
19 selected by the same procedure by which the resigned member
20 was originally elected or appointed. The secretary shall not
21 be employed during the service by any registrant of the board.

22 "(g) For the purpose of this section, a chain
23 pharmacy ~~shall be~~ is defined as any retail pharmacy employing
24 in Alabama a minimum of 40 full-time equivalent pharmacists. A
25 chain pharmacist is defined as a pharmacist employed on a
26 full-time basis by a chain pharmacy for a minimum of three
27 years.

1 "(h) It is the intent of the Legislature that the
2 composition of the board reflect the demographics of the
3 pharmacy profession. For vacancies occurring after March 18,
4 2005, the nominating organizations and the appointing
5 authorities shall select those persons whose appointments
6 ensure that the membership of the board is inclusive and
7 reflects the racial, gender, geographic, urban/rural, and
8 economic diversity of this state."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 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..... 11-JAN-22

Read for the second time and placed
on the calendar..... 02-FEB-22

Read for the third time and passed
as amended..... 08-FEB-22

Yeas 101, Nays 0, Abstains 1

Jeff Woodard
Clerk