

1 SB91
2 214744-8
3 By Senator Beasley
4 RFD: Governmental Affairs
5 First Read: 13-JAN-22

1 SB91

2
3
4 ENROLLED, An Act,

5 Relating to the Board of Pharmacy; to amend Section
6 34-23-34 of the Code of Alabama 1975, to further authorize the
7 board to provide for the method of delivery of charges
8 relating to disciplinary action on a person or entity
9 regulated by the board; and to amend Section 34-23-90 of the
10 Code of Alabama 1975, relating to the election of members of
11 the board by licensed pharmacists; to provide for the election
12 of board members to be conducted by a third party; and to
13 delete provisions for a canvassing committee to tabulate the
14 ballots and further provide for the tabulation of the ballots.
15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§34-23-34.

19 ~~"No action to revoke or suspend the license of any~~
20 ~~pharmacist or the permit to operate any pharmacy in this state~~
21 ~~shall be taken until the licensee or holder of such permit has~~
22 ~~been furnished a statement in writing of the charges against~~
23 ~~him or her together with a notice of the time and place of~~
24 ~~hearing. The statement of charges and notice shall be served~~
25 ~~upon such a person at least 30 days before the date fixed for~~

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

13 "§34-23-90.

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

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

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

21 "(c) (1) On or before December 1, 1995, and each five
22 years thereafter, and on or before December 1, 1998, and each
23 five years thereafter, or whenever a vacancy occurs in a
24 nondesignated position, the Board of Trustees of the Alabama
25 Pharmacy Association, or its successor organization, shall

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

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

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

1 "(g) For the purpose of this section, a chain
2 pharmacy ~~shall be~~ is defined as any retail pharmacy employing
3 in Alabama a minimum of 40 full-time equivalent pharmacists. A
4 chain pharmacist is defined as a pharmacist employed on a
5 full-time basis by a chain pharmacy for a minimum of three
6 years.

7 "(h) It is the intent of the Legislature that the
8 composition of the board reflect the demographics of the
9 pharmacy profession. For vacancies occurring after March 18,
10 2005, the nominating organizations and the appointing
11 authorities shall select those persons whose appointments
12 ensure that the membership of the board is inclusive and
13 reflects the racial, gender, geographic, urban/rural, and
14 economic diversity of this state."

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB91
Senate 01-FEB-22
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 09-MAR-22

By: Senator Beasley