

SB156 INTRODUCED



1 11EDLZ-1

2 By Senators Elliott, Givhan, Sessions, Kelley, Hovey,

3 Chesteen, Hatcher, Jones, Weaver

4 RFD: County and Municipal Government

5 First Read: 04-Apr-23

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SYNOPSIS:

Under existing law, various occupational licensing boards are responsible for regulating different professions and the licensees determined by the boards to be qualified to practice within those professions.

This bill would establish the Occupational Licensing Boards Division within the office of the Secretary of State as a centralized entity to regulate and provide oversight to all occupational licensing boards operating in the state, with certain exceptions.

This bill would provide for the appointment of an executive director, deputy directors, and other staff for the division, including investigators, and would provide uniformity for certain provisions relating to licensing, fees, board membership, funding, and expenses.

A BILL
TO BE ENTITLED
AN ACT

To add Chapter 9B to Title 41, Code of Alabama 1975, to



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29 establish the Occupational Licensing Boards Division in the
30 office of the Secretary of State; to provide that the division
31 is responsible for the oversight and regulation of certain
32 occupational licensing boards; to provide for the appointment
33 of an executive director, deputy directors, and the employment
34 of staff, including investigators; to provide standards for
35 determining fees; to provide for the appointment of members
36 and the reimbursement of their expenses; to provide uniformity
37 in the collection of fees and the deposit of monies received
38 into the State General Fund.

39 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

40 Section 1. Chapter 9B is added to Title 41 of the Code
41 of Alabama 1975, to read as follows:

42 CHAPTER 9B. OCCUPATIONAL LICENSING BOARDS DIVISION.

43 §41-9B-1. For the purposes of this chapter, the
44 following terms shall have the following meanings:

45 (1) BOARD. An occupational licensing board, as defined
46 in Section 41-9A-1, that is subject to this chapter. The term
47 does not include any of the following:

- 48 a. The Board of Medical Examiners.
- 49 b. The Board of Nursing.
- 50 c. The Real Estate Commission.
- 51 d. The Board of Dental Examiners of Alabama.
- 52 e. The Board of Examiners on Admission to the State
53 Bar.
- 54 f. The Alabama State Board of Pharmacy.
- 55 g. The State Licensing Board for General Contractors.
- 56 h. The Alcoholic Beverage Control Board.



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57 i. The Home Builders Licensure Board.

58 j. The State Board of Licensure for Professional
59 Engineers and Land Surveyors.

60 (2) DIVISION. The occupational licensing boards
61 division within the office of the Secretary of State,
62 responsible for the oversight and regulation of occupational
63 licensing boards.

64 (3) EXECUTIVE DIRECTOR. The individual appointed by the
65 Secretary of State as executive director of the division.

66 §41-9B-2. (a) (1) There is created within the office of
67 the Secretary of State the occupational licensing boards
68 division. The Secretary of State shall appoint an executive
69 director of the division.

70 (2) Any action taken with regard to any board before
71 the effective date of this chapter shall be deemed to be
72 action taken by the executive director of the division, and
73 the executive director shall thereafter act in the stead of
74 and succeed to the powers and duties of the boards. The
75 rights, privileges, entitlements, or duties of parties to
76 contracts, leases, agreements, or other transactions entered
77 into by a board prior to the effective date of this act shall
78 continue to exist and shall not be impaired or diminished by
79 reason of the succession of the executive director to the
80 powers and duties of the board.

81 (b) The salary of the executive director shall be fixed
82 by the Secretary of State, and he or she shall hold office at
83 the pleasure of the Secretary of State.

84 (c) The Secretary of State, notwithstanding any other



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85 provisions of law to the contrary, shall employ personnel as
86 deemed necessary to carry out this chapter and to provide for
87 all services required by each of the boards and shall
88 establish within the guidelines provided by the laws and rules
89 of the State Personnel Board the qualifications of the
90 personnel. All personnel shall be subject to the Merit System
91 Act and shall receive all benefits and privileges of the state
92 Merit System law in the same manner and to the same extent as
93 other Merit System employees of this state.

94 (d) The executive director, with the approval of the
95 Secretary of State, notwithstanding any other provisions of
96 law to the contrary, shall enter into contracts as are deemed
97 necessary to carry out this chapter to provide for all
98 services required by each of the boards.

99 (e) The Secretary of State, notwithstanding any other
100 provisions of law to the contrary, may employ and shall set
101 the qualifications and salary for an executive director for
102 the division and shall appoint deputy directors, as required,
103 who shall act in the absence of the executive director and who
104 shall perform other functions of the executive director under
105 this chapter as the executive director may designate. The
106 executive director and deputy directors as appointed shall be
107 in the unclassified service and shall be excluded from the
108 classified service.

109 (f) Notwithstanding any other provisions of law to the
110 contrary, each member of the various boards shall serve
111 without compensation but shall be reimbursed for per diem and
112 travel expenses at the same rate and under the same



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113 circumstances as are payable by law to state employees for
114 each day they attend business of the board. Per diem and
115 travel expenses for members who are state officers or
116 employees shall be paid from the budget of their state
117 employer. Any board member shall also be reimbursed for any
118 conference or meeting registration fee incurred in the
119 performance of his or her duties as a board member. Requests
120 for reimbursement of expenses submitted by members of the
121 various boards are subject to approval of the president or
122 chair of the respective board and the executive director.

123 (g) All meetings and hearings of the respective boards
124 shall be held in the City of Montgomery, at the site of the
125 office of the respective board, or at another site as may be
126 requested by the chair or president of a board and approved by
127 the executive director.

128 (h) A majority of the appointed members of a board
129 shall constitute a quorum for the transaction of business by
130 that board and members of a board shall serve until the
131 expiration of the term for which they were appointed, and
132 until their successors have been appointed and qualified,
133 unless otherwise specified under this chapter.

134 (h) A schedule of all meetings and hearings of the
135 various boards shall be maintained at the office of the
136 executive director and be available for public review on the
137 website of the Secretary of State.

138 (i) The executive director may establish administrative
139 rules for the examination of applicants for licensure by the
140 various boards, notwithstanding any other provisions of law to



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141 the contrary. These administrative rules may include the
142 setting of date, time, and location of examinations, subject
143 to the approval of the respective boards. Notwithstanding any
144 other provisions of law to the contrary, examination criteria,
145 examination grading procedures, examination fees, examination
146 passing score requirements, and other matters pertaining to
147 the examination of applicants for licensure may be adopted by
148 rules of the respective boards as necessary to implement the
149 examination standards. Examination standards, including
150 examination criteria, grading procedures, and passing score
151 requirements, developed in agreement or in conjunction with a
152 national association of state boards or other related national
153 association for the administration of a nationally recognized
154 uniform examination may be adopted in lieu of state standards
155 by the respective boards.

156 (j) The executive director shall prepare and maintain a
157 roster containing the names and addresses of all current
158 licensees for each of the various boards. A copy of this
159 roster, except for home addresses of licensees, shall be
160 available to any individual upon request at a fee prescribed
161 by the executive director sufficient to cover the cost of
162 printing and distribution. The following shall be treated as
163 confidential and may not be disclosed without the approval of
164 the board to which application is made:

165 (1) Applications and other personal information,
166 including home addresses, submitted by applicants, except to
167 the applicant, staff, and the board.

168 (2) Information, favorable or unfavorable, submitted by



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169 a reference source concerning an applicant, except to the
170 staff and the board.

171 (3) Examination questions and other examination
172 materials, except to the staff and the board.

173 (4) The deliberations of the board with respect to an
174 application, an examination, a complaint, an investigation, or
175 a disciplinary proceeding, except as may be contained in
176 official board minutes.

177 (k) Funding for the office of the executive director
178 and the various boards served by the office shall be contained
179 in a common budget under the office of the Secretary of State.
180 All fees, fines, and other monies collected by the various
181 boards shall deposited in a common fund of the division to the
182 credit of the respective board.

183 §41-9B-3. (a) The executive director shall do all of
184 the following:

185 (1) Collect and maintain all records relating to the
186 boards.

187 (2) Receive all applications for licenses.

188 (3) Schedule the time and place for examinations, with
189 the consent of the respective board.

190 (4) Schedule the time and place for all hearings.

191 (5) Issue certificates upon authority of the respective
192 board.

193 (6) Except as otherwise provided by law, collect all
194 fees required by law in connection with the licensing of
195 trades and occupations under the boards and remit the same to
196 the State Treasurer for deposit into the State General Fund.



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197 Any provision of law to the contrary notwithstanding, the
198 division may retain funds received as collection fees for use
199 in defraying the actual cost of operations under this chapter.
200 Any fees in excess of the cost of operations shall be remitted
201 to the State Treasurer for deposit into the State General
202 Fund. Nothing in this section shall be construed to allow the
203 executive director to retain any funds required by the
204 Constitution of Alabama of 2022 to be paid into the State
205 Treasury. The executive director shall allocate and disburse
206 funds appropriated pursuant to rules and procedures
207 established and in accordance with the Budget Management Act.

208 (b) All orders and processes of the boards shall be
209 signed and attested by the executive director, or his or her
210 designee, in the name of the particular board, with the seal
211 of that board attached. Any notice or legal process necessary
212 to be served upon any of the boards may be served upon the
213 executive director.

214 §41-9B-4. (a) The executive director shall determine
215 the expiration, renewal, and penalty dates for each license
216 and certificate issued by the boards through the office of the
217 executive director which is subject to renewal. Before
218 becoming effective, these expiration, renewal, and penalty
219 dates shall be subject to approval by the chair of the
220 respective board.

221 (b) Each license and certificate issued by the boards
222 through the office of the executive director which are subject
223 to renewal shall be valid for up to two years and shall be
224 renewable biennially on the renewal date established by the



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225 executive director, as approved by the respective board.

226 (c) The executive director shall adopt the necessary
227 rules, pursuant to the Alabama Administrative Procedure Act,
228 to implement the biennial renewal of licenses and certificates
229 in a manner as to ensure that the number of renewals is
230 reasonably evenly distributed throughout each two-year period.

231 §41-9B-5. An individual hired for the purpose of
232 conducting investigations for the boards shall be designated
233 as an investigator and any individual so designated shall have
234 all the powers of a peace officer of this state when engaged
235 in the enforcement of this chapter or of any of the laws
236 creating or related to the boards. No individual may serve as
237 an investigator for the division unless he or she meets the
238 minimum standards established for law enforcement officers by
239 the Alabama Peace Officers' Standards and Training Commission
240 and additional standards as provided by law or as the director
241 may provide. An investigator, upon the written approval of the
242 executive director, may carry firearms.

243 §41-9B-6. The venue of any action involving a member of
244 any board shall be governed by the laws of this state
245 pertaining to venue. The executive director may not be
246 considered a member of any board in determining the venue of
247 any action, and no court shall have jurisdiction over any
248 action solely by virtue of the executive director residing or
249 maintaining a residence within its jurisdiction.

250 §41-9B-7. Each board may charge an examination fee,
251 license fee, or license renewal fee and may establish the
252 amount of the fee to be charged. Each fee so established shall



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253 be reasonable and shall be determined in a manner that the
254 total amount of fees charged by the board shall approximate
255 the total of the direct and indirect costs to the state of the
256 operations of the board. Fees may be refunded as determined by
257 the executive director.

258 41-9B-8. (a) The executive director shall establish a
259 preference policy for former and active members of the United
260 States Armed Forces.

261 (b) If an examination given by a board is required in
262 parts or by subjects and the applicant is required to make a
263 minimum grade on each of the parts or subjects, the points to
264 which the applicant is entitled shall be added to the grade
265 made on each part or subject before the average of his or her
266 grade on all of the parts or subjects is determined.

267 (c) An individual grading an examination required by a
268 board shall first grade the examination without reference to
269 veteran credit, determining thereafter from the proof
270 submitted whether an applicant is a veteran and is entitled to
271 a credit. If the applicant is entitled to a credit, one shall
272 be added to his or her grade. If after the addition the grade
273 awarded the applicant equals or exceeds the grade required to
274 pass the examination, the applicant shall be entitled to be
275 certified as having passed the examination.

276 (d) The executive director shall inform applicants
277 taking the examination of the provisions of this section, and
278 the executive director shall adopt rules as necessary to
279 implement this section.

280 (e) This section does not apply to any applicant who



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281 was dishonorably discharged.

282 §41-9B-9. Each board shall be responsible for
283 appointing board members, filling vacancies on the board, and
284 removing members from the board in the manner provided by
285 their respective laws or as otherwise provided by law.

286 §41-9B-10. After January 1, 2024, no existing agreement
287 or contract between a board and a third party may be renewed
288 unless the agreement or contract is in compliance with this
289 chapter.

290 §41-9B-11. Without affecting the eligibility to vote of
291 any other member of a board, each consumer member of a board
292 shall be eligible to vote on all matters brought before that
293 board.

294 §41-9B-12. (a) A board may refuse to grant a license to
295 an applicant, may revoke the license of, or may discipline an
296 individual licensed by that board, upon a finding by a
297 majority of the entire board that the licensee or applicant
298 has done any of the following:

299 (1) Failed to demonstrate the qualifications or
300 standards for a license contained in this section, or under
301 the laws or rules under which licensure is sought or held. An
302 applicant shall demonstrate to the satisfaction of the board
303 that he or she meets all the requirements for the issuance of
304 a license, and, if the board is not satisfied as to the
305 qualifications of the applicant, the board may deny a license
306 without a prior hearing. Upon request, the applicant shall be
307 allowed to appear before the board.

308 (2) Knowingly made misleading, deceptive, untrue, or



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309 fraudulent representations in the practice of a business or
310 occupation regulated by this chapter or on any document
311 connected therewith; practiced fraud or deceit or
312 intentionally made any false statement in obtaining a license
313 to practice the licensed business or occupation; or made a
314 false statement or deceptive registration with the board.

315 (3) Been convicted of any felony or of any crime
316 involving moral turpitude in the courts of this state or any
317 other state, territory, or country or in the courts of the
318 United States. For the purposes of this section, a felony
319 includes any offense that, if committed in this state, would
320 be deemed a felony, without regard to its designation
321 elsewhere, and a conviction includes a finding or verdict of
322 guilty or a plea of guilty, regardless of whether an appeal of
323 the conviction has been sought.

324 (4)a. Been arrested, charged, and sentenced for the
325 commission of any felony, or any crime involving moral
326 turpitude, where any of the following occurred:

327 1. A sentence for the offense was imposed pursuant to a
328 diversion program of this state or another state.

329 2. A sentence for the offense was imposed as a result
330 of a plea of nolo contendere.

331 3. An adjudication of guilt or sentence was otherwise
332 withheld or not entered on the charge.

333 b. A diversion program order entered pursuant to a
334 first offender law of this state or another state shall be
335 conclusive evidence of an arrest and sentencing for the
336 offense.



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337 (5) Had his or her license to practice a business or
338 occupation regulated by this chapter revoked, suspended, or
339 annulled by any lawful licensing authority other than the
340 board; had other disciplinary action taken against him or her
341 by any lawful licensing authority other than the board; was
342 denied a license by any lawful licensing authority other than
343 the board, pursuant to disciplinary proceedings; or was
344 refused the renewal of a license by any lawful licensing
345 authority other than the board, pursuant to disciplinary
346 proceedings.

347 (6) Engaged in any unprofessional, immoral, unethical,
348 deceptive, or deleterious conduct or practice harmful to the
349 public that materially affects the fitness of the licensee or
350 applicant to practice a business or occupation regulated by
351 this chapter or is of a nature likely to jeopardize the
352 interest of the public. The conduct or practice need not have
353 resulted in actual injury to any individual or be directly
354 related to the practice of the licensed business or occupation
355 but shows that the licensee or applicant has committed any act
356 or omission which is indicative of bad moral character or
357 untrustworthiness. The conduct or practice shall also include
358 any departure from, or the failure to conform to, the minimal
359 reasonable standards of acceptable and prevailing practice of
360 the business or occupation regulated by this chapter.

361 (7) Knowingly performed any act that in any way aids,
362 assists, procures, advises, or encourages any unlicensed
363 individual, or any licensee whose license has been suspended
364 or revoked by a board, to practice a business or occupation



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365 regulated by this chapter or to practice outside the scope of
366 any disciplinary limitation placed upon the licensee by the
367 board.

368 (8) Violated a statute, law, or any rule of this state,
369 any other state, the board superintending the business or
370 occupation regulated by this chapter, the United States, or
371 any other lawful authority without regard to whether the
372 violation is criminally punishable when the statute, law, or
373 rule relates to or in part regulates the practice of a
374 business or occupation regulated by this chapter, and when the
375 licensee or applicant knows or should know that the action
376 violates the statute, law, or rule; or violated a lawful order
377 of the board previously entered by the board in a disciplinary
378 hearing, consent decree, or license reinstatement.

379 (9) Been adjudged mentally incompetent by a court of
380 competent jurisdiction within or outside this state. Any
381 adjudication shall automatically suspend the license of the
382 individual and shall prevent the reissuance or renewal of any
383 license so suspended for so long as the adjudication of
384 incompetence is in effect.

385 (10) Displayed an inability to practice a business or
386 occupation regulated by this chapter with reasonable skill and
387 safety to the public or has become unable to practice the
388 licensed business or occupation with reasonable skill and
389 safety to the public by reason of illness or the use of
390 alcohol, drugs, narcotics, chemicals, or any other type of
391 material.

392 (11) Failed to comply with an order for child support.



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393 The applicant or licensee shall supply a notice of release to
394 the board from the child support agency within the Department
395 of Human Resources indicating that the applicant or licensee
396 has come into compliance with an order for child support so
397 that a license may be issued or granted if all other
398 conditions for licensure are met.

399 (b) The Alabama Administrative Procedure Act, Chapter
400 22 of this title, with respect to emergency action by a board
401 and summary suspension of a license are adopted and
402 incorporated by reference into this section.

403 (c) For purposes of this section, a board may obtain,
404 through subpoena by the executive director, upon reasonable
405 grounds, any and all records relating to the mental or
406 physical condition of a licensee or applicant, and the records
407 shall be admissible in any hearing before the board.

408 (d) When a board finds that any individual is
409 unqualified to be granted a license or finds that any
410 individual should be disciplined pursuant to subsection (a) or
411 the laws or rules relating to the business or occupation
412 licensed by the board, the board may take any one or more of
413 the following actions:

414 (1) Refuse to grant or renew a license to an applicant.

415 (2) Administer a public or private reprimand that may
416 not be disclosed to any individual except the licensee.

417 (3) Suspend any license for a definite period or for an
418 indefinite period in connection with any condition which may
419 be attached to the restoration of the license.

420 (4) Limit or restrict any license as the board deems



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421 necessary for the protection of the public.

422 (5) Revoke any license.

423 (6) Condition the penalty upon, or withhold formal
424 disposition pending, the applicant's or licensee's submission
425 to any care, counseling, or treatment as the board may direct.

426 (7) Impose a fine not to exceed five hundred dollars
427 (\$500) for each violation of a law or rule relating to the
428 licensed business or occupation.

429 (8) Impose fees or charges in an amount necessary to
430 reimburse the board for the administrative and legal costs
431 incurred by the board in conducting an investigative or
432 disciplinary proceeding.

433 (e) In addition to and in conjunction with the actions
434 described in subsection (d), a board may make a finding
435 adverse to the licensee or applicant but withhold imposition
436 of judgment and penalty or may impose the judgment and penalty
437 but suspend enforcement and place the licensee on probation,
438 which may be vacated upon noncompliance with any reasonable
439 terms as the board may impose.

440 (f) Initial judicial review of a final decision of a
441 board shall be had solely in the Circuit Court of Montgomery
442 County. The court may assess reasonable and necessary attorney
443 fees and expenses of litigation in any review if, upon the
444 motion of any party or the court itself, the court finds that
445 an attorney or any party aggrieved by an action of the board
446 appealed the action of the board or any part thereof when the
447 appeal lacked substantial justification or when the appeal or
448 any part thereof was interposed for delay or harassment or if



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449 the court finds that an attorney or aggrieved party
450 unnecessarily expanded the proceeding by other improper
451 conduct. As used in this subsection, lacked substantial
452 justification means substantially frivolous, substantially
453 groundless, or substantially vexatious.

454 (g) A board may reinstate a license that has been
455 revoked or issue a license that has been denied or refused,
456 following procedures as the board may prescribe by rule, and,
457 as a condition thereof, a board may impose any disciplinary or
458 corrective method provided in this section or the laws
459 relating to the licensed business or occupation.

460 (h) (1) The executive director may make, or cause to be
461 made through employees or agents of the division,
462 investigations as he or she or a respective board may deem
463 necessary or proper for the enforcement of this section and
464 the laws relating to businesses and occupations licensed by
465 that board. Any individual properly conducting an
466 investigation on behalf of a board shall have access to and
467 may examine any writing, document, or other material relating
468 to the fitness of any licensee or applicant. The executive
469 director or his or her appointed representative may issue
470 subpoenas to compel access to any writing, document, or other
471 material upon a determination that reasonable grounds exist
472 for the belief that a violation of this section or any other
473 law relating to the practice of the licensed business or
474 occupation subject to regulation or licensing by this chapter
475 or the board may have taken place.

476 (2) The results of all investigations initiated by the



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477 board shall be reported solely to the board, and the records
478 of any investigation shall be kept for the board by the
479 executive director, with the board retaining the right to have
480 access at any time to the records. No part of any records
481 shall be released, except to the board, for any purpose other
482 than a hearing before the board, nor shall the records be
483 subject to subpoena. The board may release the records to
484 another law enforcement agency or lawful licensing authority.

485 (3) If a licensee is the subject of a board inquiry,
486 all records relating to any individual who receives services
487 rendered by that licensee in his or her capacity as licensee
488 shall be admissible at any hearing held to determine whether a
489 violation of this chapter has taken place, regardless of any
490 statutory privilege. Any documentary evidence relating to an
491 individual who received those services shall be reviewed in
492 camera and may not be disclosed to the public.

493 (4) The board may exclude all individuals during its
494 deliberations on disciplinary proceedings and may discuss any
495 disciplinary matter in private with a licensee or applicant
496 and the legal counsel of that licensee or applicant.

497 (5) When a member of the public files a complaint with
498 a board or the executive director against a licensee, within
499 30 days after the conclusion of the investigation of the
500 complaint, the board or the executive director shall notify
501 the complainant of the disposition of the complaint.
502 Notification shall include whether any action was taken by the
503 board with regard to the complaint and the nature of that
504 action. In addition, the executive director and the board,



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505 upon request by the complainant, shall advise the complainant
506 as to the status of the complaint during the period of time
507 that the complaint is pending.

508 (i) An individual, firm, corporation, association,
509 authority, or other entity shall be immune from civil and
510 criminal liability for reporting or investigating the acts or
511 omissions of a licensee or applicant which violate subsection
512 (a) or any other provision of law relating to a licensee's or
513 applicant's fitness to practice a business or occupation
514 regulated by this chapter or for initiating or conducting
515 proceedings against a licensee or applicant, if the report is
516 made or action is taken in good faith, without fraud or
517 malice. Any individual who testifies or who makes a
518 recommendation to a board in the nature of peer review, in
519 good faith, without fraud or malice, before the board in any
520 proceeding involving subsection (a) or any other law relating
521 to the fitness of a licensee or applicant to practice the
522 business or occupation licensed by the board shall be immune
523 from civil and criminal liability for so testifying.

524 (j) Neither the issuance of a private reprimand nor the
525 denial of a license by reciprocity nor the denial of a request
526 for reinstatement of a revoked license nor the refusal to
527 issue a previously denied license shall be considered to be a
528 contested case within the meaning of the Alabama
529 Administrative Procedure Act, Chapter 22 of this title; notice
530 and hearing within the meaning of the chapter shall not be
531 required, but the applicant or licensee shall be allowed to
532 appear before the board if he or she so requests. A board may



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533 resolve a pending action by the issuance of a letter of
534 concern. The letter shall not be considered a disciplinary
535 action or a contested case under the Alabama Administrative
536 Procedure Act and shall not be disclosed to any individual
537 except the licensee or applicant.

538 (k) If any licensee or applicant after reasonable
539 notice fails to appear at any hearing of the board for that
540 licensee or applicant, the board may proceed to hear the
541 evidence against the licensee or applicant and take action as
542 if the licensee or applicant had been present. A notice of
543 hearing, initial or recommended decision, or final decision of
544 the board in a disciplinary proceeding shall be served
545 personally upon the licensee or applicant or served by
546 certified mail or statutory overnight delivery, return receipt
547 requested, to the last known address of record with the board.
548 If the material is served by certified mail or statutory
549 overnight delivery and is returned marked unclaimed or refused
550 or is otherwise undeliverable and if the licensee or applicant
551 cannot, after diligent effort, be located, the executive
552 director, or his or her designee, shall be deemed to be the
553 agent for service for the licensee or applicant for purposes
554 of this section, and service upon the executive director, or
555 his or her designee, shall be deemed to be service upon the
556 licensee or applicant.

557 (l) The voluntary surrender of a license or the failure
558 to renew a license by the end of an established penalty period
559 shall have the same effect as a revocation of the license,
560 subject to reinstatement at the discretion of a board. A board



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561 may restore and reissue a license to practice under the law
562 relating to that board and, as a condition thereof, may impose
563 any disciplinary sanction provided by this section or the law
564 relating to that board.

565 (m) This section shall apply equally to all licensees
566 or applicants whether individuals, partners, or members of any
567 other incorporated or unincorporated associations,
568 corporations, limited liability companies, or other
569 associations of any kind whatsoever.

570 (n) Regulation by a board of a business or occupation
571 regulated by this chapter shall not exempt that business or
572 occupation from regulation pursuant to any other applicable
573 law.

574 (o) Subsections (a), (d), and (e) are supplemental to
575 and shall not operate to prohibit any board from acting
576 pursuant to those provisions of law which may now or hereafter
577 authorize other disciplinary grounds and actions for that
578 particular board. In cases where those other provisions of law
579 authorize other disciplinary grounds and actions but
580 subsection (a), (d), or (e) limits the grounds or actions,
581 those other provisions shall apply so long as the requirements
582 of subsection (q) are met.

583 (p) (1) Notwithstanding any other provision of this
584 section or state law, when an applicant submits his or her
585 application for licensure or renewal, together with proof of
586 completion of any court-ordered treatment program, a board
587 shall issue the applicant a probationary license under the
588 terms and conditions deemed appropriate by the board.



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589 (2) Subdivision (1) does not supersede a board's
590 consideration of an applicant's other prior criminal history
591 or arrests or convictions that occur subsequent to completion
592 of a court-ordered treatment program identified in subdivision
593 (1).

594 (q) (1) Notwithstanding paragraphs (3) and (4) of
595 subsection (a) or any other provision of law, and unless a
596 felony or crime involving moral turpitude directly relates to
597 the occupation for which the license is sought or held, no
598 board shall refuse to grant a license to an applicant therefor
599 or shall revoke the license of an individual licensed by that
600 board due solely or in part to an applicant or licensee having
601 any of the following:

602 a. A conviction of any felony or any crime involving
603 moral turpitude, whether it occurred in the courts of this
604 state or any other state, territory, or country or in the
605 courts of the United States.

606 b. An arrest, charge, and sentence for the commission
607 of the offense.

608 c. A sentence for the offense pursuant to a diversion
609 program of this state or another state.

610 d. A sentence for the offense as a result of a plea of
611 nolo contendere.

612 e. An adjudication of guilt or a sentence that was
613 otherwise withheld or not entered.

614 f. Being under court supervision for a conviction of
615 any felony or any crime involving moral turpitude, whether it
616 occurred in the courts of this state or any other state,



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617 territory, or country or in the courts of the United States,
618 so long as the individual was not convicted of a sex offense,
619 as defined in Section 15-20A-5, requiring registration on the
620 state sexual offender registry.

621 (2) In determining if a felony or crime involving moral
622 turpitude directly relates to the occupation for which the
623 license is sought or held, the board shall consider all of the
624 following:

625 a. The nature and seriousness of the felony or crime
626 involving moral turpitude and the relationship of the felony
627 or crime involving moral turpitude to the occupation for which
628 the license is sought or held.

629 b. The age of the individual at the time the felony or
630 crime involving moral turpitude was committed.

631 c. The length of time elapsed since the felony or crime
632 involving moral turpitude was committed.

633 d. All circumstances relative to the felony or crime
634 involving moral turpitude including, but not limited to,
635 mitigating circumstances or social conditions surrounding the
636 commission of the felony or crime involving moral turpitude.

637 e. Evidence of rehabilitation and present fitness to
638 perform the duties of the occupation for which the license is
639 sought or held.

640 §41-9B-13. (a) Each application for a license to
641 practice a business or occupation shall include a question
642 regarding whether the applicant for the license satisfies
643 either of the following:

644 (1) Has had revoked or suspended or otherwise



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645 sanctioned any license issued to the applicant by any board or
646 agency in this state or any other state.

647 (2) Was denied issuance of or, pursuant to disciplinary
648 proceedings, refused renewal of a license by any board or
649 agency in this state or any other state.

650 (b) The question shall be answered under oath and the
651 answer shall include the name of the board or agency that
652 revoked, suspended, denied, refused renewal of, or otherwise
653 sanctioned the applicant or license.

654 §41-9B-14. A board, the executive director, or the
655 appropriate prosecuting attorney may bring an action to enjoin
656 the unlicensed practice by any individual of a business or
657 occupation required to be licensed by a board. The action to
658 restrain and enjoin the unlicensed practice shall be brought
659 in the Circuit Court of Montgomery County. It shall not be
660 necessary to allege or prove that there is no adequate remedy
661 at law to obtain an injunction under this section.

662 §41-9B-15. (a) Any other provision of law to the
663 contrary notwithstanding, after notice and hearing, a board
664 may issue a cease and desist order prohibiting the practice of
665 a business or occupation without a license.

666 (b) The violation of any cease and desist order issued
667 under subsection (a) shall subject the individual violating
668 the order to further proceedings before the board, and the
669 board may impose a fine not to exceed five hundred dollars
670 (\$500) for each transaction constituting a violation thereof.
671 Each day that an individual practices in violation of this
672 chapter shall constitute a separate violation.



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673 (c) Initial judicial review of the decision of the
674 board entered pursuant to this section shall be available
675 solely in the Circuit Court of Montgomery County.

676 (d) Nothing in this section shall be construed to
677 prohibit a board from seeking remedies otherwise available by
678 statute without first seeking a cease and desist order in
679 accordance with this section.

680 §41-9B-16. The executive director may provide to any
681 lawful licensing authority of this or any other state, upon
682 inquiry by the authority, information regarding a past or
683 pending investigation of or disciplinary sanction against any
684 applicant for licensure by that board or licensee of that
685 board notwithstanding Section 41-9B-12(h) or any other law to
686 the contrary regarding the confidentiality of that
687 information. Nothing in this section or chapter shall be
688 construed to prohibit or limit the authority of the executive
689 director to disclose to any individual or entity information
690 concerning the existence of any investigation for unlicensed
691 practice being conducted against any individual who is neither
692 licensed nor an applicant for licensure by a board.

693 §41-9B-17. The executive director may provide for
694 inactive status licenses for the various boards.

695 §41-9B-18. No licensee of a board shall be required to
696 file or record his or her license with the clerk of the
697 circuit court, and no clerk shall be required to report the
698 filing or recordation of any license.

699 §41-9B-19. Any individual licensed by a board and who
700 practices an occupation or who renders professional services,



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701 whether the individual is practicing or rendering services as
702 a proprietorship, partnership, professional corporation,
703 professional association, other corporation, limited liability
704 company, or any other business entity, shall remain subject to
705 regulation by that board, and the practice or rendering of
706 services in that business entity shall not change the law or
707 existing standards applicable to the relationship between that
708 individual rendering a professional service and the individual
709 receiving the service including, but not limited to, the rules
710 of privileged communication and the contract, tort, and other
711 legal liabilities and professional relationships between the
712 individuals.

713 §41-9B-20. Except as provided in Section 41-9B-12(o),
714 Sections 41-9B-9 through 41-9B-19 shall apply to all boards
715 and licenses thereunder, notwithstanding any other law to the
716 contrary, and each board may adopt rules to implement the
717 authority provided by the applicability of those provisions to
718 the boards.

719 §41-9B-21. Any licensed individual who is convicted
720 under the laws of this state, the United States, or any other
721 state, territory, or country of a felony as defined in Section
722 41-9B-12(a)(3) shall be required to notify the appropriate
723 licensing authority of the conviction within 10 days of the
724 conviction. Failure of a licensed individual to notify the
725 appropriate licensing authority of a conviction shall be
726 considered grounds for revocation of his or her license,
727 permit, registration, certification, or other authorization to
728 conduct a licensed occupation.



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729 §41-9B-22. A board may not suspend the license of an
730 individual licensed by that board because he or she has been
731 certified by any entity of the federal government for
732 nonpayment or default or breach of a repayment or service
733 obligation under any federal educational loan, loan repayment,
734 or service conditional scholarship program.

735 §41-9B-23. Nothing in this chapter shall be construed
736 to invalidate, override, or amend the Military Family Jobs
737 Opportunity Act, Section 31-1-6, or any licensing compact
738 entered into by this state or any board.

739 Section 2. This act shall become effective on January
740 1, 2024, following its passage and approval by the Governor,
741 or its otherwise becoming law.