

1 HB64
2 187973-2
3 By Representative Weaver
4 RFD: Health
5 First Read: 09-JAN-18
6 PFD: 01/04/2018

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8 SYNOPSIS: Under existing law, the State Board of
9 Nursing employs investigators who investigate
10 alleged violations of the Nurse Practice Act. The
11 investigators do not have the power of law
12 enforcement officers and are not required to meet
13 the minimum standards for law enforcement officers.

14 This bill would grant investigators of the
15 Board of Nursing who meet the minimum standards of
16 the Alabama Peace Officers' Standards and Training
17 Commission authority to exercise the powers of law
18 enforcement officers, except the power to make
19 arrests, in investigating alleged violations
20 perpetrated by licensees of the Nurse Practice Act.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to the Board of Nursing; to amend Act
27 2017-46, 2017 Regular Session, now appearing as Section

1 34-21-2, Code of Alabama 1975; to grant investigators of the
2 board who meet the minimum standards of the Alabama Peace
3 Officers' Standards and Training Commission authority to
4 exercise the powers of law enforcement officers, except the
5 power to make arrests, in investigating alleged violations
6 perpetrated by licensees of the Nurse Practice Act.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§34-21-2.

12 "(a) There is created the Board of Nursing, which
13 shall be composed of 13 members to be appointed and have the
14 duties and powers enumerated in this section. The membership
15 of the board shall be inclusive and reflect the racial,
16 gender, geographic, urban/rural, and economic diversity of the
17 state. In order to insure continuity of administration, the
18 nine board members provided for by Section 3 of Act 427,
19 Regular Session 1975, shall continue to serve to the
20 completion of the term for which they are serving. The
21 Governor, within 60 days of January 1, 1984, shall appoint a
22 tenth member who shall be a licensed practical nurse for a
23 term of four years from a list of nominees furnished him or
24 her by the Alabama Federation of Licensed Practical Nurses,
25 Incorporated, or its successor organization. As the terms of
26 all board members expire, their successors shall be appointed
27 for terms of four years each. Vacancies in unexpired terms

1 shall be filled in the same manner as original appointments
2 are made. No member shall be appointed to more than two
3 consecutive terms of four years each. Eight members of the
4 board shall be licensed professional nurses, and four members
5 of the board shall be licensed practical nurses.

6 "(b) (1) The Governor shall appoint the members of
7 the board who are licensed professional nurses from a list of
8 nominees who are selected by the Board of Nursing Nomination
9 Committee and furnished to the Governor by the Alabama State
10 Nurses' Association, or its successor organization, and such
11 list, when furnished, shall contain at least twice the number
12 of nominees as there are appointments to be made or vacancies
13 to be filled. The Alabama State Nurses' Association, or its
14 successor organization, on or before December 1 of each year,
15 or at such other times as necessary, shall furnish the
16 Governor with a list of licensed professional nurses qualified
17 for appointment to the board. In the nominating and appointing
18 process, due care shall be taken to ensure the maintenance of
19 qualified representation from the fields of nursing education,
20 nursing administration, clinical nursing, and advanced
21 practice nursing.

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

1 for the vacancies to be filled. The Board of Directors of the
2 Licensed Practical Nurses Association of Alabama, or its
3 successor organization, on or before December 1 of each year
4 in which the term of office of a board member or a nominee of
5 the Board of Directors shall expire, or at such other time as
6 necessary, shall furnish the Governor with such list of
7 licensed practical nurses qualified for appointment to the
8 board.

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

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

26 "(d) Each person appointed to the board as a
27 licensed professional nurse shall be a citizen of the United

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

3 "(1) Be a graduate of a state-approved educational
4 program for the preparation of practitioners of professional
5 nursing.

6 "(2) Be a currently licensed professional nurse in
7 Alabama.

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

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

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

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

19 "(2) Be a graduate of a state-approved vocational
20 educational program for the preparation of practitioners of
21 licensed practical nursing.

22 "(3) Be a currently licensed practical nurse in
23 Alabama.

24 "(4) Have a minimum of five years' successful
25 nursing experience.

1 "(5) Be actively engaged in licensed practical
2 nursing in this state immediately preceding and during
3 appointment.

4 "(f) There shall be one member of the board who is a
5 consumer and who is not a member of any of the health care
6 professions. The consumer member shall be appointed by the
7 Governor effective January 1, 1998, and shall serve for a term
8 of four years. His or her successor shall be appointed in a
9 like manner at the expiration of each term or upon a vacancy
10 for the remainder of an unexpired term of office. The consumer
11 member of the board shall have, presently or formerly, no
12 direct financial interest in any health care facility,
13 profession, agency, or insurer, or be or have been a health
14 care worker.

15 "(g) There shall be two advanced practice nurse
16 positions to be filled effective January 1, 1998, in the same
17 manner as all other professional nurse positions. One advanced
18 practice nurse position shall be served for an initial
19 five-year term and successors shall serve four-year terms. The
20 remaining member appointed to an advance practice nurse
21 position shall serve an initial four-year term and successors
22 shall serve four-year terms.

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

1 "(i) The board shall have the following powers and
2 perform the following duties: It shall meet at least once a
3 year and shall, at its organizational meeting and at its
4 annual meetings thereafter, elect from its members a
5 president, a vice-president, and a secretary. It may hold such
6 other and additional meetings during any year as it deems
7 necessary for the transaction of business. A majority of the
8 board, including one officer, shall constitute a quorum at any
9 meeting.

10 "(j) The board may:

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

14 "(2) Prescribe standards and approve curricula for
15 nursing educational programs preparing persons for licensure
16 under this chapter.

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

19 "(4) Approve such nursing educational programs as
20 meet the requirements of this chapter and the board. Nothing
21 in this chapter shall be construed to diminish the power of
22 the State Board of Education or other constitutionally or
23 legislatively established state agencies to govern the schools
24 under their respective jurisdictions.

25 "(5) Deny or withdraw approval from educational
26 programs for failure to meet prescribed standards. Withdrawal

1 of approval shall be effected only after a hearing in
2 accordance with board rules and regulations.

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

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

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

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

15 "(10) Keep a public record of all of its
16 proceedings.

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

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

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

22 "(14) Define the duties and fix the compensation for
23 the executive officer.

24 "(15) Employ such other persons as may be necessary
25 to carry on the work of the board and provide for appropriate
26 bonding of employees. Regular employees of the board shall be

1 employed subject to the state Merit System in effect on
2 January 1, 1966, or at the time of employment.

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

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

10 "(18) Perform such other duties, not inconsistent
11 with law, as required by this chapter to foster and improve
12 nursing and the regulation thereof and the public health of
13 this state.

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

16 "(20) Determine and collect reasonable fees.

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

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

23 "(k) The executive officer employed by the board
24 shall be a citizen of the United States, a person of the
25 highest integrity, and possess these additional
26 qualifications: Be a licensed professional nurse in Alabama or
27 eligible for licensure, be a graduate of a professional

1 nursing program approved by the state in which the program was
2 completed, hold a master's degree, and have had a varied
3 experience in nursing, including at least five years'
4 experience in an administrative or teaching capacity.

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

9 "(m) Each member of the board shall receive the same
10 per diem and travel allowance as is paid by law to state
11 employees for each day's attendance at the board meetings
12 incurred in the discharge of his or her duties as a board
13 member in addition to any daily compensation or allowance, if
14 any, as may be provided by the board, in such amount as may be
15 determined by the board. Any member of the board engaged in
16 duties under the direction of the board shall receive the per
17 diem and travel expenses and daily compensation or allowance
18 authorized by the board.

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

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

1 "(o) Nothing in this chapter shall limit the rights
2 of affected parties to appeal decisions of the board with
3 regard to rules and regulations promulgated pursuant to this
4 chapter."

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