

1 HB148
2 135853-6
3 By Representative Wood
4 RFD: Boards, Agencies and Commissions
5 First Read: 07-FEB-12
6 PFD: 02/03/2012

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to the practice of chiropractic; to amend
9 Sections 34-24-121, 34-24-123, 34-24-140, 34-24-143,
10 34-24-160, 34-24-161, 34-24-165, 34-24-166, 34-24-168,
11 34-24-170, 34-24-172, 34-24-175, and 34-24-176, Code of
12 Alabama 1975, relating to the Board of Chiropractic Examiners;
13 to clarify compliance with board advertising rules for permit
14 holders; to provide a state at-large board member; to require
15 applicants for licensure and reinstatement to provide sets of
16 fingerprints and bear the costs of criminal background checks;
17 to require clinic permit applicants to take and pass an exam;
18 to provide for subpoena powers for the board; to provide for
19 permit holder regulation; to provide for certification for
20 specialized areas; to allow disciplinary action for unpaid
21 checks; to clarify who may seek judicial review; and to add
22 Section 34-24-162 to the Code of Alabama 1975, relating to the
23 application process for licensure based on the credentials of
24 a Doctor of Chiropractic in another state.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 34-24-121, 34-24-123, 34-24-140,
27 34-24-143, 34-24-160, 34-24-161, 34-24-165, 34-24-166,

1 34-24-168, 34-24-170, 34-24-172, 34-24-175, and 34-24-176,
2 Code of Alabama 1975, are amended to read as follows:

3 "§34-24-121.

4 "The State Board of Chiropractic Examiners shall
5 have the right to regulate the advertising of chiropractic
6 services by chiropractors or permit holders within the limits
7 prescribed by this article and the rules and regulations
8 governing the practice of chiropractic in this state.

9 "§34-24-123.

10 "(a) It shall be unlawful for any person to practice
11 chiropractic unless he or she shall have first obtained a
12 valid license as provided in this article and possesses all
13 the qualifications prescribed by the terms of this article.
14 Any person who shall practice or attempt to practice
15 chiropractic without such a license or any person who shall
16 buy or fraudulently obtain such a license or shall violate any
17 of the terms of this article, or shall use the title
18 "chiropractic," "D.C.," or any word or title to induce the
19 belief that he or she is engaged in the practice of
20 chiropractic, without first complying with the provisions of
21 this article, shall be guilty of a misdemeanor and, upon
22 conviction thereof, shall be punished by a fine of not less
23 than one hundred dollars (\$100) nor more than five hundred
24 dollars (\$500), or by imprisonment in the county jail for not
25 less than 30 days nor more than one year, either or both, at
26 the discretion of the court. All subsequent offenses shall be
27 separate and distinct offenses and punishable in like manner.

1 "(b) It shall be unlawful for any person who is not
2 otherwise licensed by the board to own, in whole or in part,
3 any chiropractic practice unless he or she shall have first
4 obtained a valid permit in the name of the chiropractic
5 practice or office. Each applicant must pass an examination
6 administered by the board on this article and the rules of the
7 board. Upon completion of all requirements and passage of the
8 examination, a permit shall be issued. Employment of a
9 chiropractor by a hospital, as defined in Section 22-21-7, or
10 a public health service provider as defined by 42 U.S.C.
11 2.54(b), shall be excluded from the requirements of this
12 subsection. The board shall establish a reasonable fee for the
13 issuance and renewal of the permit, which shall be renewable
14 annually and shall provide a grace period for any permit to be
15 renewed in the same manner as provided for licensees in
16 Section 34-24-165. The holder of a permit issued pursuant to
17 this subsection shall be subject to this article and any rules
18 or regulations issued pursuant thereto.

19 "§34-24-140.

20 "(a) There is created and established a State Board
21 of Chiropractic Examiners. The board shall be composed of nine
22 members. Eight members of the board shall be active licensed
23 chiropractors elected as provided in this section. Seven of
24 the elected members shall be elected one from each
25 congressional district in this state except as otherwise
26 provided in Section 34-24-141. ~~Each of the members elected~~
27 ~~from congressional districts shall be a resident of the~~

1 ~~congressional district from which elected.~~ Any candidate for
2 or member of the board shall be a resident of the appropriate
3 congressional district except one candidate for the board
4 shall be elected from the state at large. One elected member
5 of the board shall be elected from the state at-large and
6 shall be an African-American. Each elected member of or
7 candidate for the board shall ~~be all of~~ meet the following
8 qualifications: A citizen and resident of Alabama who has
9 resided in this state for at least five years; a graduate of a
10 chartered chiropractic school or college, which required
11 actual attendance in the school as a prerequisite to
12 graduation; currently engaged in the clinical practice of
13 chiropractic and has been engaged in the clinical practice in
14 this state for at least the five immediately preceding years;
15 having renewed his or her license to practice chiropractic by
16 September 30 of the year in which the election shall take
17 place; of good moral character; and must not be presently on
18 probation relating to the practice of chiropractic in any
19 state including this state.

20 "(b) One member of the board shall be a consumer
21 member ~~of the board~~ appointed by the Governor. Neither the
22 consumer member, nor his or her spouse, shall be a
23 chiropractor. The consumer member shall not be an immediate
24 family member of a chiropractor, nor shall he or she be
25 employed in the chiropractic field.

26 "(c) The elected members of the board shall be
27 elected as provided in this subsection. In August of any year

1 that the term of a member of the board expires, the Board of
2 Chiropractic Examiners shall mail a notice of the election of
3 the board and the method of qualifying as a candidate to each
4 active licensed chiropractor in the district where the vacancy
5 occurs at his or her permanent mailing address. The election
6 provided for in this section shall be conducted by an
7 independent agency such as a certified public accounting firm
8 unless there is only one candidate for the board and in this
9 situation, the board shall certify the results. The board
10 shall set a period for candidates to qualify and the date for
11 the ballots to be mailed. Candidates shall qualify by
12 submitting their name to the executive director of the board
13 during the qualifying period which shall be not less than 20
14 days nor more than 40 days after the notice is mailed. Not
15 less than 14 days after the deadline for qualification, each
16 licensed chiropractor shall be mailed a ballot for the
17 appropriate congressional district where the vacancy is to be
18 filled. In order to be counted, the ballots shall be received
19 by the board not later than 14 days after the ballots are
20 mailed. The results of the election shall be certified by no
21 less than three members of the board. The ballots shall be
22 maintained for a period of six months. The candidate with a
23 simple majority of the votes cast in each respective
24 congressional district shall be elected to the board position
25 for that congressional district. In the event no candidate in
26 a district receives a majority of the votes, the board shall
27 hold a run-off election in the same manner as provided in this

1 subsection. The members of the board shall take office
2 immediately upon election and the executive director of the
3 board shall set the first meeting of the board after the
4 election of the new board.

5 "(d) Whenever a vacancy occurs on the board, whether
6 by death, resignation of a member, or other cause, the vacancy
7 shall be filled in the same manner as the original election or
8 appointment for the remainder of the term of office.

9 "(e) (1) The board may employ investigators,
10 inspectors, attorneys, and any other agents, employees, and
11 assistants as may from time to time be necessary, and may use
12 any other means necessary to bring about and maintain a rigid
13 administration and enforcement of state and federal law.

14 "(2) The board shall have the power to issue
15 subpoenas and compel the attendance of witnesses and the
16 production of all necessary papers, books, records,
17 documentary evidence and materials, or other evidence. Any
18 person failing or refusing to appear or testify regarding any
19 matter about which he or she may be lawfully questioned or to
20 produce any papers, books, records, documentary evidence or
21 materials, or other evidence in the matter to be heard, after
22 having been required by order of the board or by a subpoena of
23 the board to do so, upon application by the board to any
24 circuit judge of this state, may be ordered to comply
25 therewith; and, upon failure to comply with the order of the
26 circuit judge, the court may compel obedience by attachment as
27 for contempt as in case of disobedience of a similar order or

1 subpoena issued by the court. The president and
2 secretary-treasurer of the board shall have authority to issue
3 subpoenas, and any board member shall have authority to
4 administer oaths to witnesses, or to take their affirmation. A
5 subpoena or other process of paper may be served upon any
6 person named therein, anywhere within the State of Alabama, by
7 any officer authorized to serve subpoenas or other process or
8 paper in civil actions, in the same manner as is prescribed by
9 law for subpoenas issued out of the circuit courts of this
10 state, the fees and mileage and other costs to be paid as the
11 board directs.

12 "(f) The board shall employ an executive director
13 who shall be responsible for the administration of board
14 policy. The executive director may be licensed to practice
15 chiropractic in this state as provided in this article.

16 "(g) The board shall publish annually a directory
17 listing all permit holders and all persons licensed to
18 practice chiropractic in Alabama. Copies of the directory
19 shall be made available from the executive director at a cost
20 set from time to time by rule of the board.

21 "(h) The membership of the board shall be inclusive
22 and reflect the racial, gender, geographic, urban/rural, and
23 economic diversity of the state.

24 ~~"(i) Issue a reprimand.~~

25 "§34-24-143.

26 "All examination fees, certification fees, renewal
27 fees, and other similar funds received by the board under the

1 provisions of this article shall be deposited in the State
2 Treasury to the credit of the State Board of Chiropractic
3 Examiners, and all such funds are hereby appropriated to the
4 board to defray the expenses incurred in carrying out the
5 provisions of this article. The expenses shall include
6 printing, stamps, stationery, clerical help, travel, and other
7 necessary expenditures. In all cases, any fee which is
8 received by the board shall not be refunded, and no applicant
9 shall have the right to recover any part of a fee accompanying
10 his or her application for licensure or otherwise paid to the
11 board except on the death, disability, or retirement from
12 practice of any applicant or licensee between payment of any
13 fee and the expiration of his or her current renewal or the
14 issuance of the initial license or permit or on the failure of
15 the board to conduct any scheduled examination. The books and
16 records of the board shall be subject to state audit in the
17 same manner and to the same extent as any other state agency.
18 The secretary-treasurer or the executive director shall keep a
19 true and accurate account of all funds received by the board
20 and all expenditures made by the board.

21 "§34-24-160.

22 "(a) Any person wishing the right to practice
23 chiropractic shall make application to the State Board of
24 Chiropractic Examiners in the form as the board may prescribe.

25 "(b) In addition to other requirements established
26 by law and for the purpose of determining an applicant's
27 suitability for a license to practice chiropractic, each

1 applicant shall submit a complete set of fingerprints to the
2 State Board of Chiropractic Examiners. The board shall submit
3 the fingerprints provided by each applicant for a license to
4 practice chiropractic to the Alabama Bureau of Investigation
5 (ABI). The fingerprints shall be forwarded by the ABI to the
6 Federal Bureau of Investigation (FBI) for a national criminal
7 history record check. Costs associated with conducting a
8 criminal history background check shall be borne by the
9 applicant. The State Board of Chiropractic Examiners shall
10 keep information received pursuant to this section
11 confidential, except that such information received and relied
12 upon in denying the issuance of a license to practice
13 chiropractic in this state may be disclosed as may be
14 necessary to support the denial. This requirement also shall
15 apply to any person who is not licensed as a chiropractor who
16 applies for a permit pursuant to Section 34-24-123(b).

17 "(c) Each applicant shall be of good moral
18 character, a citizen of the United States or, if not a citizen
19 of the United States, a person who is legally present in the
20 United States with appropriate documentation from the federal
21 government, ~~and.~~

22 "(d) Each applicant shall be a graduate of a
23 chartered chiropractic school or college accredited by the
24 council of chiropractic education which teaches only
25 attendance courses and requires a minimum four-year standard
26 college course. ~~An applicant for licensure prior to December~~

1 ~~31, 2009, shall also have had literary training equaling as~~
2 ~~much as a regular high school.~~

3 "(e) An applicant for licensure who enrolled in or
4 graduated from chiropractic college after January 1, 2010,
5 shall have a bachelor's degree or equivalent from an
6 accredited college or university.

7 "(f) The application shall be signed by the
8 applicant in his or her own handwriting, and shall be
9 notarized, and shall recite the history of the applicant's
10 educational qualifications, how long he or she has studied
11 chiropractic, what collateral branches, if any, he or she has
12 studied, the length of time he or she has engaged in clinical
13 practice, with proof thereof in the form of diplomas,
14 certificates, transcripts, etc.

15 "(g) Each applicant shall submit with his or her
16 application satisfactory evidence of good character and
17 reputation.

18 "(h) Each applicant for licensure shall pay to the
19 board a fee of not less than fifty dollars (\$50) and not more
20 than one hundred fifty dollars (\$150), the exact amount to be
21 fixed annually by resolution of the State Board of
22 Chiropractic Examiners. The fee shall accompany the
23 application. A fee of not less than fifty dollars (\$50) and
24 not more than one hundred fifty dollars (\$150), the exact
25 amount to be fixed by resolution of the State Board of
26 Chiropractic Examiners shall be paid for any subsequent
27 examination.

1 "§34-24-161.

2 "(a) Each applicant, who matriculated into a
3 chiropractic college after January 1, 1973, must pass parts
4 one and two of the examination administered by the National
5 Board of Chiropractic Examiners or other national examination
6 as approved by the board. In addition, each applicant must
7 pass an examination administered by the board on this article
8 and the rules of the board.

9 "(b) The State Board of Chiropractic Examiners shall
10 prescribe rules and regulations regarding which national
11 examination shall be administered, the conduct of and times
12 and places of examinations, and requirements for successful
13 completion of examinations. A license shall be issued for each
14 applicant who successfully completes the examination.

15 "(c) Irrespective of the requirements in subsections
16 (a) and (b), the board may license an applicant if the
17 applicant is licensed in another state that, in the opinion of
18 the board, has standards of practice or licensure equal to or
19 stricter than the requirements imposed by this article.

20 "(d) Upon completion of all requirements for
21 licensure an applicant shall be issued a license. The fee for
22 issuance of a license shall not be more than fifty dollars
23 (\$50), the exact amount to be established by the board. Each
24 license shall be dated and numbered in the order of issuance
25 and shall be signed by the executive director and the
26 president of the board.

27 "(e) Replacement licenses:

1 "(1) Any licensee whose license is lost or destroyed
2 may be issued a replacement license upon making application to
3 the board. The application must be accompanied by an affidavit
4 setting out the facts concerning the loss or destruction.

5 "(2) Name change. Any licensee whose name is changed
6 by marriage or court order may surrender his or her license
7 and apply for a replacement license.

8 "(3) The fee for any replacement license shall be
9 not more than fifty dollars (\$50), the exact amount to be
10 established by the board.

11 "(f) Each licensed chiropractor who is actively
12 engaged in practice or who holds himself or herself out as a
13 chiropractor shall place or cause to be placed in a
14 conspicuous place at the entrance of his or her office or
15 place in which he or she practices a sign in intelligible
16 lettering not less than one inch in height containing the name
17 of the chiropractor and in lettering no smaller than half the
18 size of the name of the chiropractor, the words "CHIROPRACTOR"
19 or "CHIROPRACTIC." The intent of this requirement is that the
20 office of the licensee be clearly identified by name and
21 profession.

22 "(g) The board shall issue a certification to any
23 licensee who meets the qualifications for any specialized area
24 of practice recognized in any part of this chapter or by board
25 rule. A one-time fee not to exceed twenty-five dollars (\$25)
26 may be levied for the issuance of a specialty certification.

27 "§34-24-165.

1 "(a) Every license to practice chiropractic or
2 permit to own a chiropractic practice shall be subject to
3 renewal on September 30 of the year for which it is issued.
4 Every person having a valid license or permit may on or before
5 September 30 renew the license or permit for the ensuing year
6 by the payment to the State Board of Chiropractic Examiners of
7 a fee of not more than three hundred dollars (\$300), the exact
8 amount to be fixed by rule of the board, adopted in accordance
9 with the Alabama Administrative Procedure Act. The license
10 renewal shall be accompanied by satisfactory evidence that the
11 person has completed during the preceding year a minimum of 18
12 hours of professional educational work approved by the board.
13 The permit renewal shall be accompanied by satisfactory
14 evidence that the primary permit holder has completed during
15 the preceding year a minimum of two hours in Alabama Law and
16 Board rules. The board, for good and reasonable cause shown,
17 may waive the education requirement. The secretary-treasurer
18 or the executive director of the board shall notify each
19 licensee or permit holder at least 30 days prior to September
20 30 of each year of the due date for renewal. In addition to
21 the renewal fee, a late renewal penalty shall be assessed any
22 licensee or permit holder who fails to pay the renewal fee by
23 September 30 of each year based on the following schedule:

24 "(1) For renewal during the month of October, fifty
25 dollars (\$50).

26 "(2) For renewal during the month of November, one
27 hundred dollars (\$100).

1 "(3) For renewal during the month of December, two
2 hundred and fifty dollars (\$250).

3 "A chiropractor may continue to practice or a permit
4 holder may continue to own a chiropractic practice until
5 December 31 of the year for which a license or permit is
6 issued subject to subsection (b).

7 "(b) Failure, by December 31 of each year, to renew
8 a license or permit and pay the renewal fee, late renewal
9 penalty if applicable, and submit proof of completion of ~~a~~ the
10 minimum number of ~~18~~ hours of approved professional
11 educational work, unless waived, shall operate as a forfeiture
12 of the right of the licensee or permit holder to practice his
13 or her profession in this state. During this grace period for
14 renewal, a licensee may complete any continuing education
15 requirements for renewal that the licensee failed to complete
16 during the prior fiscal year. A forfeited license or permit
17 may be reinstated by the board, in its discretion, upon
18 payment of a reinstatement fee as required by Section
19 34-24-176, and all past fees due, including the highest late
20 renewal penalty provided above. All funds received by the
21 board for annual license or permit renewal fees may be used by
22 the board for education, promotion, and welfare of the science
23 of chiropractic.

24 "(c) Any licensee who is no longer in active
25 practice may apply for retirement of his or her license by
26 submitting an affidavit to that effect on a form supplied by
27 the executive director. A licensee whose license is retired is

1 excused from the professional education requirement specified
2 in this article. The annual fee for maintenance of a retired
3 license may not be more than one-half of the amount required
4 by this article for an active license. ~~Licenses who have not~~
5 ~~renewed in the last five years because of the increase in the~~
6 ~~retired renewal fee may renew to "Retired" status without~~
7 ~~having to pay the full amount of back fees and late fees.~~ A
8 retired licensee ~~may not~~ shall be required to pay back fees
9 and reinstatement fees required by this article for
10 reinstatement to active practice. The board may require the
11 retired licensee to enroll in and successfully complete a
12 refresher course approved by the board at an accredited
13 chiropractic college. The decision of the board as to whether
14 a course of study will be required and whether a particular
15 course of study will be approved shall be made on an
16 individual case basis and shall be based on all relevant
17 circumstances of that case.

18 "(d) The board may waive or reduce annual
19 registration and the payment of fees while any licensee is
20 prevented from practicing chiropractic by reason of physical
21 disability, temporary active duty with any of the Armed Forces
22 of the United States, or while any licensee is completely
23 retired from the practice of chiropractic. The waiver of fees
24 shall be effective so long as the disability, temporary active
25 duty, or complete retirement continues.

1 "(e) The State Board of Chiropractic Examiners shall
2 make rules and regulations as necessary and proper for
3 effectuating or enforcing this article.

4 "(f) In addition to other requirements established
5 by law and for the purpose of determining suitability for
6 reinstatement of a license to practice chiropractic, each
7 individual seeking reinstatement shall submit a complete set
8 of fingerprints to the State Board of Chiropractic Examiners
9 and the board shall submit the fingerprints provided by any
10 such individual to the Alabama Bureau of Investigation (ABI).
11 The fingerprints shall be forwarded by the ABI to the Federal
12 Bureau of Investigation (FBI) for a national criminal history
13 record check. Costs associated with conducting a criminal
14 history background check shall be borne by the individual
15 seeking reinstatement. The State Board of Chiropractic
16 Examiners shall keep information received pursuant to this
17 section confidential, except that such information received
18 and relied upon in denying reinstatement may be disclosed as
19 may be necessary to support the denial. In addition to other
20 requirements established by law and for the purposes of
21 determining suitability for renewal, the board, in its
22 discretion, may require an individual seeking renewal of a
23 license to practice chiropractic to submit a complete set of
24 fingerprints to the State Board of Chiropractic Examiners. The
25 board shall submit the fingerprints provided by any such
26 individual to the ABI. The fingerprints shall be forwarded by
27 the ABI to the FBI for a national criminal history record

1 check. Costs associated with conducting a criminal history
2 background check shall be borne by the individual seeking
3 renewal. The State Board of Chiropractic Examiners shall keep
4 information received pursuant this section confidential,
5 except that such information received and relied upon in
6 denying renewal may be disclosed as may be necessary to
7 support the denial. This requirement also shall apply in the
8 same manner to any person who is not licensed as a
9 chiropractor who applies for reinstatement or renewal of his
10 or her permit pursuant to Section 34-24-123(b).

11 ~~"(f)~~ (g) The board shall also establish an inactive
12 license for persons who desire to be licensed in Alabama but
13 who actually practice in another state. The annual fee for
14 maintenance of an inactive license shall be one-half of the
15 amount required by this section for an active license.

16 "§34-24-166.

17 "(a) The State Board of Chiropractic Examiners may
18 refuse to grant a license or permit to any applicant who is
19 not of good moral character and reputation or has a history of
20 narcotic addiction or has previously been convicted of a
21 felony or any crime of moral turpitude or has previously been
22 diagnosed as having a psychopathic disorder.

23 "(b) The State Board of Chiropractic Examiners may
24 invoke disciplinary action as outlined in subsection (c)
25 whenever the licensee or permit holder shall be found guilty
26 of any of the following:

1 "(1) Fraud in procuring a license or permit, or any
2 fraud in obtaining money or other thing of value.

3 "(2) Immoral conduct.

4 "(3) Unprofessional conduct.

5 "(4) Habitual intoxication or addiction to the use
6 of drugs.

7 "(5) Conviction of a felony or any crime of moral
8 turpitude.

9 "(6) Conviction for violation of any narcotic or
10 controlled substance statute.

11 "(7) Unlawful invasion of the field of practice of
12 any other health practitioner when the licensee is not
13 licensed to practice such profession.

14 "(8) Division of fees or agreeing to split or divide
15 fees received for professional services with any person for
16 bringing or referring a patient.

17 "(9) Continuing to practice after suspension or
18 revocation of license.

19 "(10) A violation of any order issued by the board.

20 "(11) Engaging in the incompetent practice of
21 chiropractic.

22 "(12) Aiding the unauthorized practice of
23 chiropractic.

24 "(13) Advertising in any manner which violates the
25 rules and regulations established by the board.

26 "(14) A violation of any of the provisions of this
27 article or any rule or regulation adopted by the board.

1 "(15) Patient abandonment.

2 "~~(16) Presenting to the board, as payment for any~~
3 ~~fee, fine, costs, or any financial obligation ordered by the~~
4 ~~board, a check that is returned unpaid.~~

5 "~~(15) (17)~~ 16 The suspension, revocation, or
6 probation by another state of a license to practice
7 chiropractic or permit to operate or own a chiropractic office
8 or practice. A certified copy of the record of suspension,
9 revocation, or probation shall be conclusive evidence of the
10 suspension, revocation, or probation.

11 "~~(16) (18)~~ 17 The inability to practice chiropractic
12 with reasonable skill and safety to patients by reason of
13 illness, inebriation, excessive use of drugs, narcotics,
14 alcohol, chemicals, or any other substance, or as a result of
15 any mental or physical condition.

16 "(c) (1) The Board of Chiropractic Examiners shall
17 establish rules and regulations which shall govern the
18 practice of chiropractic and shall detail prohibited acts
19 stated in this article. The board shall have the power and it
20 shall be its duty as a consumer protection agency to ~~fine any~~
21 ~~licensee and/or suspend for a specific time or revoke any~~
22 ~~license to practice chiropractic upon a determination of guilt~~
23 ~~on any of the above enumerated grounds~~ impose any of the
24 sanctions set forth in subdivision (2) against any licensee or
25 permit holder upon a determination of guilt of any of the
26 above enumerated grounds.

1 "(2) When the board finds any licensee or permit
2 holder guilty of any of the grounds set forth in subsection
3 (b), the board may enter an order imposing one or more of the
4 following penalties:

5 "a. Revoke the license to practice chiropractic or
6 permit.

7 "b. Suspend the license to practice chiropractic or
8 permit.

9 "c. Enter a censure on the license or permit.

10 "d. Issue an order fixing a period and terms of
11 probation best adapted to protect the public health and safety
12 and to rehabilitate the licensee or permit holder.

13 "e. Impose an administrative fine not to exceed
14 eight thousand dollars (\$8,000) for each count or separate
15 offense.

16 "f. Impose restrictions on the scope of practice.

17 "g. Impose peer review or professional education
18 requirements.

19 "h. Assess the costs of the disciplinary
20 proceedings.

21 "(i) Issue a reprimand.

22 "(3) Failure to comply with any final order of the
23 board, including, but not limited to, an order of censure or
24 probation, is cause for suspension or revocation of the
25 license or permit.

26 "(d) The board may in an emergency situation, when
27 danger to the public health, safety, and welfare requires,

1 suspend any license or permit without a hearing or with an
2 abbreviated hearing in accordance with the following sections
3 of this article.

4 "(e) Any person who engages in the unlawful practice
5 of chiropractic, or who violates any provision of this
6 chapter, shall be guilty of a Class C misdemeanor.

7 "(f) (1) When the issue is whether or not a licensee
8 is physically or mentally capable of practicing chiropractic
9 with reasonable skill and safety to patients, then, upon a
10 showing of probable cause to the board that the licensee is
11 not capable of practicing chiropractic with reasonable skill
12 and safety to patients, the board may order and direct the
13 licensee in question to submit to a physical, mental, or
14 laboratory examination, or any combination thereof, to be
15 performed by a physician designated or approved by the board.
16 The expense of the examination shall be borne by the licensee
17 who is examined.

18 "~~(2) Every licensee who accepts the privilege of~~
19 ~~practicing chiropractic in the State of Alabama by actually~~
20 ~~practicing or by the making and filing of an annual renewal to~~
21 ~~practice chiropractic, and person issued a license to practice~~
22 ~~chiropractic in this state or issued a permit in this state~~
23 upon a showing of probable cause as provided in subdivision
24 (1), shall be deemed to have given consent to submit to a
25 mental, physical, or laboratory examination, or to any
26 combination thereof, and to waive all objections to the
27 admissibility of the testimony or examination reports of the

1 examining physician on the ground that the reports constitute
2 privileged doctor-patient communications.

3 "(g) It shall be the duty and obligation of the
4 board to promote the early identification, intervention,
5 treatment, and rehabilitation of chiropractors licensed to
6 practice in the state who may be impaired by reason of
7 illness, inebriation, excessive use of drugs, narcotics,
8 alcohol, chemicals, or other substances or as a result of any
9 physical or mental condition. The board may enter into an
10 agreement for any of the following:

11 "(1) Contracting with providers for treatment
12 programs.

13 "(2) Receiving and evaluating reports of suspected
14 impairment from any source.

15 "(3) Intervening in cases of verified impairment.

16 "(4) Referring impaired chiropractors to treatment
17 programs.

18 "(5) Monitoring the treatment and rehabilitation of
19 impaired chiropractors.

20 "(6) Providing post-treatment monitoring and support
21 of rehabilitated impaired chiropractors.

22 "(h) All information, interviews, reports,
23 statements, memoranda, or other documents furnished to the
24 board are confidential and shall be used by the board only in
25 the exercise of the proper function of the board and shall not
26 be public records nor available for court subpoena or for
27 discovery proceedings.

1 "§34-24-168.

2 "~~(a)~~ The board shall specify in its rules and
3 regulations specific guidelines to govern all hearings.

4 "~~(b) In the event of a settlement of a contested~~
5 ~~case by means of a written guilty plea and waiver of hearing,~~
6 ~~the attorney for the board shall submit the complaint, plea,~~
7 ~~and waiver with a recommendation as to final decision. The~~
8 ~~recommendation shall not be binding upon the board in making~~
9 ~~its final decision.~~

10 "§34-24-170.

11 "The board shall specify in its rules and
12 regulations a schedule of costs or fines, or both, to be
13 imposed upon any person or permit holder who has been found
14 guilty of a violation of Sections 34-24-166 or 34-24-161(f),
15 each not to exceed eight thousand dollars (\$8,000) per
16 violation.

17 "§34-24-172.

18 "The State Board of Chiropractic Examiners, at any
19 time after two years of the refusal or revocation or
20 cancellation of a license or permit under this article, by a
21 majority vote, may issue a new license or permit or grant a
22 license or permit to the person affected, restoring to, or
23 conferring upon the person, all the rights and privileges of
24 and pertaining to the practice of chiropractic as defined and
25 regulated by this article, upon the applicant's showing good
26 moral character and possession of the qualifications required
27 under the terms of this article and as may be specified in the

1 rules ~~and regulations~~ adopted by the board. Any person to whom
2 such license or permit may have been restored shall pay to the
3 board a restoration fee. The restoration fee shall be in an
4 amount determined by the board, but not to exceed one-half the
5 amount of the annual license or permit fee upon the issuance
6 of a new license or permit.

7 "§34-24-175.

8 "(a) Any party whose license or permit is ~~revoked,~~
9 ~~refused, or suspended by the board~~ sanctioned as provided
10 herein, shall not be required to file a motion for rehearing
11 to exhaust his or her remedies available from the board.

12 "(b) Any party ~~whose license is revoked, refused, or~~
13 ~~suspended by the board~~ sanctioned as provided herein, may file
14 a petition for judicial review in the Circuit Court ~~of~~
15 Montgomery County where the board office is located. The
16 filing of the petition must be within 30 days of the date of
17 the board's final decision.

18 "(c) Within 30 days after receipt of the petition
19 for judicial review or within such additional time as the
20 court may allow, the board shall transmit to the reviewing
21 court the original or a certified copy of the entire record
22 and transcript of the proceedings under review. Any party
23 seeking judicial review of ~~the board's revocation, refusal, or~~
24 ~~suspension of his or her license~~ any sanction imposed by the
25 board shall be responsible for all costs associated with
26 preparation, transcription, reproduction, and transmittal of
27 the proceedings under review.

1 "(d) Other than specified in this statute, any
2 judicial review of the board's final decision shall be
3 conducted in accordance with the provisions for review of
4 final agency decisions of contested cases in Sections 41-22-20
5 and 41-22-21.

6 "§34-24-176.

7 "In any event any licensee or permit holder allows
8 his or her license or permit to lapse and desires to return to
9 active practice, he or she must apply to the board for a
10 reinstatement of the license or permit and must submit to the
11 board a reinstatement fee together with all back fees. The
12 reinstatement fee shall be one-half the amount of the annual
13 license or permit fee. The applicant must satisfy the board
14 that he or she is of good moral character and otherwise
15 possesses all qualifications required by law of licensees or
16 permit holders. Additionally, the board may require the
17 licensee to enroll in and pass a refresher course approved by
18 the board at an accredited chiropractic college. The board's
19 decision as to whether a course of study will be required and
20 whether a particular course of study will be approved shall be
21 made on an individual case basis and shall be based on all
22 relevant circumstances of that case."

23 Section 2. Section 34-24-162 is added to the Code of
24 Alabama 1975, to read as follows:

25 §34-24-162. Application; licensure by credentials.

26 (a) Every person who desires to practice
27 chiropractic within the State of Alabama shall file an

1 application prescribed by the board. Notwithstanding the
2 method of obtaining licensure or any particular requirement
3 set forth herein, every person as a prerequisite to licensure
4 must be at least 21 years of age, of good moral character, a
5 citizen of the United States or, if not a citizen of the
6 United States a person who is legally present in the United
7 States with appropriate documentation from the federal
8 government, a graduate of a chiropractic school or college
9 accredited and recognized by the board and must satisfy any
10 other requirement set forth in any rule adopted by the board.

11 (b) Any individual who possesses a current license
12 in any state, who has passed a state licensure examination
13 approved by the board and who has, since graduation from
14 chiropractic school, participated in a clinical residency or
15 practiced chiropractic in the Armed Forces or with the Public
16 Health Service shall be eligible for licensure if an
17 application is received by the board within 18 months of the
18 completion of the subject residency or Armed Forces or Public
19 Health Service commitment. All of the above applicants shall
20 pay a fee which shall accompany the application.

21 (c) Licensure by credentials may be utilized to
22 evaluate the theoretical knowledge and clinical skill of a
23 chiropractor when an applicant for licensure by credentials
24 holds a chiropractic license in another state. The board may
25 promulgate rules relating to licensure by credentials in
26 addition to any statutory requirements.

1 (d) An applicant for licensure by credentials must
2 meet all of the following:

3 (1) The chiropractor shall have engaged in the
4 active practice of chiropractic or full-time chiropractic
5 education for the five years immediately preceding his or her
6 application. The active practice of chiropractic or full-time
7 chiropractic education shall mean spending a minimum of at
8 least 5,000 hours engaged in these activities during the
9 relevant time period.

10 (2) The applicant must hold a current, valid,
11 unrevoked, and unexpired license in a state having examination
12 standards regarded by the State Board of Chiropractic
13 Examiners as an equivalent to the Alabama standards.

14 (3) The board of examiners in the state of current
15 practice must verify or endorse that the applicant's license
16 is in good standing without any restrictions.

17 (4) The chiropractor shall not be the subject of a
18 pending disciplinary action in any state in which the
19 individual is or has been licensed which shall be verified by
20 a query to the National Practitioner Data Bank, the Health
21 Integrity Protection Data Bank, the Federation of Chiropractic
22 Licensing Board CINBAD Databank, or any other pertinent bank
23 currently existing or which may exist in the future.

24 (5) The applicant must provide a written statement
25 agreeing to be interviewed at the request of the board.

26 (6) The individual must successfully pass a written
27 jurisprudence examination.

1 (7) The applicant must submit affidavits from two
2 licensed chiropractors practicing in the same geographical
3 area where the applicant currently is practicing or teaching
4 attesting to the applicant's moral character, standing, and
5 ability.

6 (8) The applicant must provide the board with an
7 official transcript with school seal from the chiropractic
8 school which issued the applicant's professional degree or
9 execute a request and authorization allowing the board to
10 obtain the transcript.

11 (9) The applicant must not be the subject of any
12 pending or final action from any hospital revoking,
13 suspending, limiting, modifying, or interfering with any
14 clinical or staff privileges.

15 (10) The applicant must not have been convicted of a
16 felony, a misdemeanor involving moral turpitude, any offense
17 relating to controlled or legend drugs or any offense which
18 would interfere with or impair the ability of the applicant to
19 practice chiropractic with reasonable skill and safety to his
20 or her patients.

21 (11) The board may consider or require other
22 criteria including, but not limited to, any of the following:

23 a. Questioning under oath.

24 b. Results of peer review reports from constituent
25 chiropractic societies or federal chiropractic services.

26 c. Substance abuse testing or treatment.

1 d. Proof of no physical or psychological impairment
2 that would adversely affect the ability to practice
3 chiropractic with reasonable skill and safety.

4 e. Participation in continuing education.

5 f. Background checks for criminal or fraudulent
6 activities.

7 g. An agreement to initiate practice within the
8 State of Alabama within a period of one year from the date of
9 the issuance of a license.

10 h. Proof of professional liability coverage and that
11 coverage has not been refused, declined, cancelled,
12 non-renewed, or modified.

13 i. In the event an applicant has or is practicing in
14 a state which allows an applicant to prescribe or administer
15 drugs, the applicant has not been the subject of any
16 disciplinary action or is subject to the pendency of any
17 disciplinary action or enforcement proceeding of any kind in
18 connection with these activities. This section applies
19 regardless of whether or not a separate permit or license was
20 issued to engage in the described activities.

21 (12) The board may refuse to grant a license to an
22 applicant who does not comply with the requirements of Section
23 34-24-166(a) or who has engaged in any acts constituting the
24 disciplinary grounds set forth in Section 34-24-166(b). The
25 board may further take disciplinary action authorized by this
26 chapter if the board learns or discovers subsequent to the
27 issuance of a license that the individual engaged in any acts

1 constituting the disciplinary grounds set forth in Section
2 34-24-166(b).

3 (13) The board may promulgate rules relating to
4 licensure by credentials including applicable fees in addition
5 to any requirements by law.

6 Section 3. This act shall become effective on the
7 first day of the third month following its passage and
8 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..... 07-FEB-12

Read for the second time and placed
on the calendar 1 amendment 23-FEB-12

Read for the third time and passed
as amended..... 22-MAR-12

Yeas 94, Nays 2, Abstains 0

Greg Pappas
Clerk