

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

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8 SYNOPSIS: This bill would amend various provisions of
9 law relating to the practice and licensing of
10 Chiropractic and the Board of Chiropractic
11 Examiners.

12 This bill would: Provide further for a state
13 at-large member in addition to members elected from
14 congressional districts; provide that retired
15 licensees must pay back fees for reinstating
16 licenses to active status; require applicants for
17 licensure to provide sets of fingerprints for
18 criminal background checks and to bear the costs of
19 background checks of applicants for licensure or
20 reinstatement; provide for board certification for
21 any license for specialized areas; provide for a
22 board administered exam for the issuance of a
23 permit; authorize disciplinary board action for
24 unpaid checks; provide for subpoena powers for the
25 board; provide further for judicial reviews of
26 administrative action; provide for licensure by
27 credentials; and provide for the issuance and

1 renewal of a permit by the board including fees to
2 operate or own a chiropractic office or practice
3 and costs or fines for violations by permit holders
4 and to otherwise specifically include permits
5 within the scope of regulation by the board.
6

7 A BILL
8 TO BE ENTITLED
9 AN ACT
10

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

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 34-24-121, 34-24-123, 34-24-140,
3 34-24-143, 34-24-160, 34-24-161, 34-24-165, 34-24-166,
4 34-24-168, 34-24-170, 34-24-172, 34-24-175, and 34-24-176,
5 Code of Alabama 1975, are amended to read as follows:

6 "§34-24-121.

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

12 "§34-24-123.

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

1 less than 30 days nor more than one year, either or both, at
2 the discretion of the court. All subsequent offenses shall be
3 separate and distinct offenses and punishable in like manner.

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

21 "§34-24-140.

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

1 provided in Section 34-24-141. ~~Each of the members elected~~
2 ~~from congressional districts shall be a resident of the~~
3 ~~congressional district from which elected.~~ Any candidate for
4 or member of the board shall be a resident of the appropriate
5 congressional district except one candidate for the board
6 shall be elected from the state at large. One elected member
7 of the board shall be elected from the state at-large and
8 shall be an African-American. Each elected member of or
9 candidate for the board shall ~~be all of~~ meet the following
10 qualifications: A citizen and resident of Alabama who has
11 resided in this state for at least five years; a graduate of a
12 chartered chiropractic school or college, which required
13 actual attendance in the school as a prerequisite to
14 graduation; currently engaged in the clinical practice of
15 chiropractic and has been engaged in the clinical practice in
16 this state for at least the five immediately preceding years;
17 having renewed his or her license to practice chiropractic by
18 September 30 of the year in which the election shall take
19 place; of good moral character; and must not be presently on
20 probation relating to the practice of chiropractic in any
21 state including this state.

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

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

1 a district receives a majority of the votes, the board shall
2 hold a run-off election in the same manner as provided in this
3 subsection. The members of the board shall take office
4 immediately upon election and the executive director of the
5 board shall set the first meeting of the board after the
6 election of the new board.

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

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

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

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

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

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

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

26 "(i) Issue a reprimand.

27 "§34-24-143.

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

23 "§34-24-160.

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

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

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

25 "(d) Each applicant shall be a graduate of a
26 chartered chiropractic school or college accredited by the
27 council of chiropractic education which teaches only

1 attendance courses and requires a minimum four-year standard
2 college course. ~~An applicant for licensure prior to December~~
3 ~~31, 2009, shall also have had literary training equaling as~~
4 ~~much as a regular high school.~~

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

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

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

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

1 Chiropractic Examiners shall be paid for any subsequent
2 examination.

3 "§34-24-161.

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

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

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

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

1 and shall be signed by the executive director and the
2 president of the board.

3 "(e) Replacement licenses:

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

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

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

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

25 "(g) The board shall issue a certification to any
26 licensee who meets the qualifications for any specialized area

1 of practice recognized in any part of this chapter or by board
2 rule.

3 "§34-24-165.

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

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

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

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

7 "A chiropractor may continue to practice or a permit
8 holder may continue to own a chiropractic practice until
9 December 31 of the year for which a license or permit is
10 issued subject to subsection (b).

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

1 "(c) Any licensee who is no longer in active
2 practice may apply for retirement of his or her license by
3 submitting an affidavit to that effect on a form supplied by
4 the executive director. A licensee whose license is retired is
5 excused from the professional education requirement specified
6 in this article. The annual fee for maintenance of a retired
7 license may not be more than one-half of the amount required
8 by this article for an active license. ~~Licensees who have not~~
9 ~~renewed in the last five years because of the increase in the~~
10 ~~retired renewal fee may renew to "Retired" status without~~
11 ~~having to pay the full amount of back fees and late fees. A~~
12 retired licensee ~~may not~~ shall be required to pay back fees
13 and reinstatement fees required by this article for
14 reinstatement to active practice. The board may require the
15 retired licensee to enroll in and successfully complete a
16 refresher course approved by the board at an accredited
17 chiropractic college. The decision of the board as to whether
18 a course of study will be required and whether a particular
19 course of study will be approved shall be made on an
20 individual case basis and shall be based on all relevant
21 circumstances of that case.

22 "(d) The board may waive or reduce annual
23 registration and the payment of fees while any licensee is
24 prevented from practicing chiropractic by reason of physical
25 disability, temporary active duty with any of the Armed Forces
26 of the United States, or while any licensee is completely
27 retired from the practice of chiropractic. The waiver of fees

1 shall be effective so long as the disability, temporary active
2 duty, or complete retirement continues.

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

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

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

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

18 "§34-24-166.

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

25 "(b) The State Board of Chiropractic Examiners may
26 invoke disciplinary action as outlined in subsection (c)

1 whenever the licensee or permit holder shall be found guilty
2 of any of the following:

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

5 "(2) Immoral conduct.

6 "(3) Unprofessional conduct.

7 "(4) Habitual intoxication or addiction to the use
8 of drugs.

9 "(5) Conviction of a felony or any crime of moral
10 turpitude.

11 "(6) Conviction for violation of any narcotic or
12 controlled substance statute.

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

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

19 "(9) Continuing to practice after suspension or
20 revocation of license.

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

22 "(11) Engaging in the incompetent practice of
23 chiropractic.

24 "(12) Aiding the unauthorized practice of
25 chiropractic.

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

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

3 "(15) Patient abandonment.

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

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

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

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

1 permit holder upon a determination of guilt of any of the
2 above enumerated grounds.

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

7 "a. Revoke the license to practice chiropractic or
8 permit.

9 "b. Suspend the license to practice chiropractic or
10 permit.

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

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

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

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

19 "g. Impose peer review or professional education
20 requirements.

21 "h. Assess the costs of the disciplinary
22 proceedings.

23 "(i) Issue a reprimand.

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

1 "(d) The board may in an emergency situation, when
2 danger to the public health, safety, and welfare requires,
3 suspend any license or permit without a hearing or with an
4 abbreviated hearing in accordance with the following sections
5 of this article.

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

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

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

1 combination thereof, and to waive all objections to the
2 admissibility of the testimony or examination reports of the
3 examining physician on the ground that the reports constitute
4 privileged doctor-patient communications.

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

13 "(1) Contracting with providers for treatment
14 programs.

15 "(2) Receiving and evaluating reports of suspected
16 impairment from any source.

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

18 "(4) Referring impaired chiropractors to treatment
19 programs.

20 "(5) Monitoring the treatment and rehabilitation of
21 impaired chiropractors.

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

24 "(h) All information, interviews, reports,
25 statements, memoranda, or other documents furnished to the
26 board are confidential and shall be used by the board only in
27 the exercise of the proper function of the board and shall not

1 be public records nor available for court subpoena or for
2 discovery proceedings.

3 "§34-24-168.

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

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

12 "§34-24-170.

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

19 "§34-24-172.

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

1 moral character and possession of the qualifications required
2 under the terms of this article and as may be specified in the
3 rules ~~and regulations~~ adopted by the board. Any person to whom
4 such license or permit may have been restored shall pay to the
5 board a restoration fee. The restoration fee shall be in an
6 amount determined by the board, but not to exceed one-half the
7 amount of the annual license or permit fee upon the issuance
8 of a new license or permit.

9 "§34-24-175.

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

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

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

1 preparation, transcription, reproduction, and transmittal of
2 the proceedings under review.

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

8 "§34-24-176.

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

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

27 §34-24-162. Application; licensure by credentials.

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

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

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

1 promulgate rules relating to licensure by credentials in
2 addition to any statutory requirements.

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

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

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

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

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

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

1 (6) The individual must successfully pass a written
2 jurisprudence examination.

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

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

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

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

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

25 a. Questioning under oath.

26 b. Results of peer review reports from constituent
27 chiropractic societies or federal chiropractic services.

- 1 c. Substance abuse testing or treatment.
- 2 d. Proof of no physical or psychological impairment
- 3 that would adversely affect the ability to practice
- 4 chiropractic with reasonable skill and safety.
- 5 e. Participation in continuing education.
- 6 f. Background checks for criminal or fraudulent
- 7 activities.
- 8 g. An agreement to initiate practice within the
- 9 State of Alabama within a period of one year from the date of
- 10 the issuance of a license.
- 11 h. Proof of professional liability coverage and that
- 12 coverage has not been refused, declined, cancelled,
- 13 non-renewed, or modified.
- 14 i. In the event an applicant has or is practicing in
- 15 a state which allows an applicant to prescribe or administer
- 16 drugs, the applicant has not been the subject of any
- 17 disciplinary action or is subject to the pendency of any
- 18 disciplinary action or enforcement proceeding of any kind in
- 19 connection with these activities. This section applies
- 20 regardless of whether or not a separate permit or license was
- 21 issued to engage in the described activities.

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

1 issuance of a license that the individual engaged in any acts
2 constituting the disciplinary grounds set forth in Section
3 34-24-166(b).

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

7 Section 3. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.