SB25

X1897EE-1

By Senator Weaver

RFD: Healthcare

First Read: 06-Feb-24

PFD: 01-Feb-24

SYNOPSIS:

Under existing law, the Board of Nursing is responsible for the licensing and regulation of the nursing profession in the state.

This bill would authorize the board, by rule, to clarify standards for the scope of practice for certified nursing support technicians and to issue permits to eligible applicants.

This bill would provide further for the nature and type of disciplinary actions the board may impose.

This bill would also make nonsubstantive, technical revisions to update existing code language to current style.

A BILL

TO BE ENTITLED

AN ACT

Relating to the Board of Nursing, to amend Sections 34-21-2 and 34-21-25, Code of Alabama 1975, to authorize the board, by rule, to provide standards for the scope of practice for certified nursing support technicians and to issue permits to eligible applicants; to provide further for the nature and type of disciplinary actions the board may impose; and to make

nonsubstantive, technical revisions to update existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-21-2 and 34-21-25 of the Code of Alabama 1975, are amended to read as follows:

"§34-21-2

(a) There is created the Board of Nursing, which shall be composed of 13 members to be appointed and have the duties and powers enumerated in this section. The Governor shall coordinate his or her appointments to assure that the membership of the board ~~shall be~~ is inclusive and ~~reflect~~ reflects the racial, gender, geographic, ~~urban/rural~~ urban, rural, and economic diversity of the state. ~~In order to insure continuity of administration, the nine board members provided for by Section 3 of Act 427, Regular Session 1975, shall continue to serve to the completion of the term for which they are serving. The Governor, within 60 days of January 1, 1984, shall appoint a tenth member who shall be a licensed practical nurse for a term of four years from a list of nominees furnished him or her by the Alabama Federation of Licensed Practical Nurses, Incorporated, or its successor organization.~~ As the terms of all board members expire, their successors shall be appointed for terms of four years each. Vacancies in unexpired terms shall be filled in the same manner as original appointments are made. No member shall be appointed to more than two consecutive terms of four years each. ~~Eight~~ Six members of the board shall be licensed professional nurses, ~~and~~ two members of the board shall be licensed professional

nurses who are approved to engage in advanced practice nursing in the state, four members of the board shall be licensed practical nurses, and one member of the board shall be a consumer.

(b)(1) The Governor shall appoint the eight members of the board who are licensed professional nurses, including two who are approved to engage in advanced practice nursing in the state, from a list of nominees who are selected by the Board of Nursing Nomination Committee and furnished to the Governor by the Alabama State Nurses Association, or its successor organization, and the list, when furnished, shall contain at least twice the number of nominees as there are appointments to be made or vacancies to be filled. The Alabama State Nurses Association, or its successor organization, on or before December 1 of each year, or at such other ~~times~~ time as necessary, shall furnish the Governor with a list of licensed professional nurses qualified for appointment to the board. In the nominating and appointing process, due care shall be taken to ensure the maintenance of qualified representation from the fields of nursing education, nursing administration, clinical nursing, and advanced practice nursing.

(2) The Governor shall appoint two of the four members of the board who are ~~to be~~ licensed practical nurses from a list of nominees furnished him or her by the Board of Directors of the Licensed Practical Nurses Association of Alabama, or its successor organization, and the list, when furnished, shall contain at least twice the number of nominees for the vacancies to be filled. The Board of Directors of the

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

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

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

(d) Each person appointed to the board as a licensed

professional nurse shall be a citizen of the United States, a resident of ~~the State of Alabama~~ this state, and have all of ~~these~~ the following additional qualifications:

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

(2) Be a currently licensed professional nurse in ~~Alabama~~ this state.

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

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

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

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

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

(3) Be a currently licensed practical nurse in ~~Alabama~~ this state.

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

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

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

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

~~(h)~~ (g) All members of the board shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

~~(i) The board shall have the following powers and perform the following duties: It~~ (h) The board shall meet at least once a year and ~~shall~~, at its organizational meeting and at its annual meetings thereafter, shall elect from its members a president, a vice president, and a secretary. ~~It~~ The board may hold ~~such~~ other and additional meetings during any

year as ~~it~~ the board deems necessary for the transaction of business. A majority of the board, including one officer, shall constitute a quorum at any meeting.

~~(j)~~(i) The board may do any of the following:

(1) Adopt and~~, from time to time,~~ revise ~~such~~ rules, not inconsistent with the law, as may be necessary to carry out this chapter.

(2) Prescribe standards and approve curricula for nursing educational programs preparing ~~persons~~ individuals for ~~licensure~~ licensing under this chapter.

(3) Provide for surveys and evaluations of ~~such~~ programs at ~~such~~ times as ~~it~~ the board may deem necessary.

(4) Approve ~~such~~ nursing educational programs ~~as meet~~ that satisfy the requirements of this chapter and the board. Nothing in this chapter shall be construed to diminish the power of the State Board of Education or any other constitutionally or legislatively established state ~~agencies~~ agency to govern the schools under their respective jurisdictions.

(5) Deny or withdraw approval from educational programs for failure to ~~meet~~ satisfy prescribed standards. Withdrawal of approval shall be effected only after a hearing in accordance with board rules.

(6) Examine, license, and renew the licenses of ~~duly~~ qualified applicants and require employers to submit listings of personnel covered by this chapter to the board upon request including, but not limited to, personnel practicing nursing in Alabama under a multistate license, a single state license, or

a multistate ~~licensure~~ licensing privilege. The board may issue qualified applicants either a single state license or a multistate license.

(7) Adopt and, from time to time, revise rules providing standards including, but not limited to, scope of practice for student nurse apprenticeships and the issuance of student nurse apprentice permits by the board to eligible students.

(8) Adopt and~~, from time to time,~~ revise rules providing standards including, but not limited to, scope of practice for certified medication assistants and the issuance of certified medication assistant permits by the board to eligible applicants. For purposes of this chapter, a certified medication assistant is ~~an unlicensed assistive personnel~~ an individual who has successfully completed a board-approved curriculum for assistance with medications, or a comparable program in another state, ~~and~~ who holds a valid certification as a medication assistant and who has been issued a permit pursuant to this chapter. Practice by a certified medication assistant is limited to employment in health care or educational facilities that are licensed, certified, or operated by this state.

(9) Adopt and revise rules providing standards including, but not limited to, scope of practice for certified nursing support technicians and the issuance of permits by the board to eligible applicants. For purposes of this chapter, a certified nursing support technician is an individual who has successfully completed a board-approved curriculum for

performing supportive nursing services, or a comparable program in another state, and who has passed a board-approved examination and has been issued a permit pursuant to this chapter. Supportive nursing services do not require the exercise of nursing judgment. A nursing support technician performs supportive nursing services under the supervision of a licensed nurse.

~~(9)~~ (10) Conduct investigations, hearings, and proceedings concerning alleged violations of this ~~section~~ chapter or of the rules of the board.

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

~~(11)~~ (12) Cause the prosecution of ~~all persons~~ any individual violating this chapter and incur ~~such~~ necessary expenses therefor.

~~(12)~~ (13) Keep a public record of all of its proceedings.

~~(13)~~ (14) Keep a register of all licensees.

~~(14)~~ (15) Make an annual report to the Governor.

~~(15)~~ (16) Appoint and employ a qualified ~~person~~ individual, not subject to the state Merit System~~, who shall not be~~ nor a member of the board, to serve as the executive officer and administrator and commissioner of the Enhanced Nurse Licensure Compact for Alabama.

~~(16)~~ (17) Define the duties and fix the compensation of the executive officer and administrator and commissioner of the Enhanced Nurse Licensure Compact for Alabama, with the

approval of the Governor and the State Personnel Board as provided in Section 36-6-6.

~~(17)~~(18) Employ~~ such other persons~~ other individuals as may be necessary to carry on the work of the board and provide for appropriate bonding of employees. Regular employees of the board shall be employed subject to the state Merit System in effect~~ on January 1, 1966, or~~ at the time of employment.

~~(18)~~(19) Employ consultants, specialists, counsel, or other specially qualified~~ persons~~ individuals under contract or on a part-time basis to assist~~ it~~ the board in administering this chapter and without regard to the state Merit System~~ in effect on or after January 1, 1966~~, and pay for the services of~~ such persons~~ those individuals.

~~(19)~~(20) Accept gifts and grants upon terms and conditions imposed by it through official resolutions.

~~(20)~~(21) Perform~~ such~~ other duties, not inconsistent with law, as required by this chapter to foster and improve nursing~~ and~~, the regulation~~ thereof~~ of the practice of nursing, and the public health of this state.

~~(21)~~(22) Expend funds of the board in exercising~~ its~~ board powers and duties and in administering this chapter.

~~(22)~~(23) Determine and collect reasonable fees.

~~(23)~~(24) Adopt standards for registered and practical nursing practice and for continued competency of licensees.

~~(24)~~(25) Join organizations that develop and regulate the national nursing~~ licensure~~ licensing examinations and promote the improvement of the legal standards of the practice of nursing for the protection of the public health, safety,

and welfare.

~~(k)~~ (j) The executive officer employed by the board shall be a citizen of the United States, ~~a person~~ an individual of the highest integrity, and possess ~~these~~ all of the following additional qualifications:

(1) Be a licensed professional nurse in Alabama or eligible for ~~licensure, be~~ licensing.

(2) Be a graduate of a professional nursing program approved by the state in which the program was completed~~,~~ ~~hold~~.

(3) Hold a master's degree~~, and have~~.

(4) Have had a varied experience in nursing, including at least five years' experience in an administrative or teaching capacity.

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

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

~~(n)~~ (m) Nothing in this chapter shall limit the rights of affected parties to appeal decisions of the board with regard to rules adopted pursuant to this chapter.

~~(o)~~ (n) Participation by the state in the compact provided in Article 7 shall be subject to review and evaluation by the Sunset Committee pursuant to Chapter 20 of Title 41, with the first review occurring in 2024. The Sunset Committee shall determine whether continued participation in the compact is in the best interests of the board or the licensees of the board. The Sunset Committee shall also review and evaluate participation in the compact within one year after the occurrence of any of the following:

(1) The annual assessment charged the board for participation in the compact exceeds one-half of one percent of the gross revenue of the board for the fiscal year immediately preceding the levying of the annual assessment.

(2) The state, the board, or members or employees of the state or board are named defendants in a suit brought in any court of law or equity by the Interstate Commission of Nurse Licensure Compact Administrators pursuant to Article 7.

(3) The passage of a resolution by either house of the Legislature requesting review pursuant to ~~subsection (d) of~~ Section 41-20-3(d)."

"§34-21-25

(a) For disciplinary purposes, the board may adopt, levy, and collect administrative fines not to exceed one thousand dollars ($1,000) per violation and may institute any legal proceedings necessary to effect compliance with this

chapter against ~~its licensees~~ the holder of any license, permit, certificate, or approval issued by the board or the holder of a multistate privilege to practice nursing in this state.

(b)(1) The board may also deny, revoke, ~~or~~ place on probation with conditions for continued practice, suspend, require the evaluation of, impose continuing education requirements upon, or otherwise discipline any applicant for or holder of any license, permit, certificate, or approval issued by ~~it or otherwise discipline a licensee,~~ the board or holder of a multistate privilege to practice in ~~Alabama~~ this state, upon proof of any of the following regarding the ~~licensee~~ applicant for or holder of any license, permit, certificate, approval, or multistate privilege to practice in this state:

a. Is guilty of fraud or deceit in procuring or attempting to procure a license.

b. Has been convicted of a felony.

c. Is guilty of a crime involving moral turpitude or of gross immorality that would tend to bring reproach upon the nursing profession.

d. Is unfit or incompetent due to the use of alcohol, or is addicted to the use of habit-forming drugs to ~~such~~ an extent as to render him or her unsafe or unreliable as a licensee.

e. Is unable to practice nursing with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or any

other substance, or as a result of any mental or physical condition.

f. Has been convicted of any violation of a federal or state law relating to controlled substances.

g. Is guilty of unprofessional conduct of a character likely to deceive, defraud, or injure the public in matters pertaining to health.

h. Has willfully or repeatedly violated this article, as defined by board rules.

i. Has been sentenced to a period of continuous incarceration serving a penal sentence for the commission of a misdemeanor or felony. The disciplinary action shall remain in effect until the board acts upon the application of the licensee for reinstatement of the license.

(2) The board may refrain from or delay taking disciplinary action under this subsection if a licensee ~~can~~ may be voluntarily treated or rehabilitated pursuant to subsection (j).

(c) Whenever a written complaint is made to the board that ~~a person~~ an individual has committed any of the acts or has come within any of the provisions enumerated in subsection (b), the board shall investigate the complaint and may bring an action in its own name to hear and determine the complaint. The hearing shall be held in Montgomery County. The ~~person~~ individual whose qualification is under consideration shall have not less than 20 days' written notice of the time and place of the initial hearing, and the notice shall be accompanied by a copy of the complaint. The notice may be

served upon the accused ~~person~~ individual by any sheriff of ~~the State of Alabama~~ this state. If the accused ~~person~~ individual is out of the state, evades service, or cannot be served in person, then service may be made by mailing, by registered or certified mail, the notice and a copy of the complaint to the accused ~~person~~ individual at his or her last known ~~post-office~~ mailing address in this state, and the return shall show that service has been made in this manner.

(d) At the hearing, the complainant, the ~~person~~ individual whose qualification is under consideration, and any other ~~person~~ individual permitted by the board, may introduce all oral or written testimony, or both, as the board deems relevant to the issues involved, and may be heard in person or by counsel, or both. The board may permit the complaint to be amended, but no amendment shall be permitted which is not germane to the charge or charges sought to be amended or which materially alters the nature of any offense charged. The board may determine all questions as to the sufficiency of the complaint, procedure, and admissibility and weight of evidence. If the ~~person~~ individual whose qualification is under consideration is absent, the hearing may proceed in his or her absence.

(e) Any accused ~~person~~ individual, complainant, or other party and the board may subpoena witnesses or pertinent records for the hearing, and those subpoenas may be served by any sheriff of ~~the State of Alabama~~ this state. Witnesses may be sworn by the president of the board or by the ~~person~~ individual discharging the duties of the president. Witnesses

testifying at a hearing shall upon discharge as a witness be paid by the party requesting the subpoena an amount not to exceed the per diem expense allowed to ~~Alabama~~ state employees for in-state travel and the actual cost of transportation to and from the place of the hearing, not to exceed the mileage rate allowed to ~~Alabama~~ state employees for in-state travel.

(f) Evidence may also be taken by deposition, and the law and practice as to depositions in circuit courts shall be followed in all reasonable respects.

(g) If the accused ~~person~~ individual is found guilty of the charges, the board may refuse to issue a license, may revoke or suspend a license, or may otherwise discipline a licensee. A revoked license may be considered for reinstatement after one year in accordance with board rules.

(h) Any ~~person~~ individual whose license is ordered suspended or revoked may appeal to the circuit court or a court of like jurisdiction of Montgomery County, from any order of the board under this section, within 30 days from the date of the decision of the board. The trial of appeals shall be conducted in like manner, as nearly as may be, as provided for in the Alabama Administrative Procedure Act.

(i) Any organization, registered nurse, licensed practical nurse, or other ~~person~~ individual who in good faith reports information to the board alleging that any ~~person~~ individual licensed or applying for a license to practice nursing may be guilty of the acts, offenses, or conditions set out in Section 34-21-7 or subsection (b), shall not be liable to any ~~person~~ individual for any statement or opinion made in

that report.

(j) ~~Not later than October 1, 1994, the~~ The board shall establish a voluntary Disciplinary Alternative Program to promote early identification, intervention, treatment, and rehabilitation of any licensed nurse whose competence is found to be impaired or compromised because of the use or abuse of drugs, alcohol, controlled substances, chemicals, or other substances or as a result of a physical or mental condition rendering the ~~person~~ licensee unable to meet the standards of the nursing profession. The intent of the program is to provide a voluntary alternative to traditional disciplinary actions.

(1) When a registered nurse or licensed practical nurse voluntarily seeks treatment for use or abuse of drugs, controlled substances, alcohol, chemicals, or other substances, or has a physical or mental condition that would render the individual unable to meet the standards of the nursing profession, the board may refrain from taking disciplinary action under subsection (b) if ~~it~~ the board determines that the licensee ~~can~~ may be treated or rehabilitated effectively and that there is no danger to the public. Upon voluntarily seeking treatment, the licensee is subject to the requirements of the Disciplinary Alternative Program established by the board.

(2) The board may establish, develop, adopt, and revise rules, and may adjust the license renewal fee as necessary to implement this subsection.

(3) The board may appoint an Advisory Council for the

Disciplinary Alternative Program pursuant to Section 34-21-3.

(4) The board may contract with specially qualified ~~persons~~ individuals or corporations, or both, to assist ~~it~~ the board in administering the Disciplinary Alternative Program.

(5) The board shall establish by rule criteria for eligibility to participate in the Disciplinary Alternative Program and requirements for successful participation in and completion of the program.

(6) Subject to Section 34-21-125, all records of a licensee who successfully completes the Disciplinary Alternative Program shall be confidential, not subject to public disclosure, and not available for court subpoena or for discovery proceedings. The records of a licensee who fails to comply with the program agreement or who leaves the state prior to the successful completion of the program are not confidential. Information regarding the participation of a licensee in the Disciplinary Alternative Program reported to the coordinated licensure information system pursuant to Section 34-21-125 shall be made available solely to other state boards of nursing and shall not be disclosed to the public by the coordinated licensure information system. Upon successful completion of the Disciplinary Alternative Program, all information regarding participation of the licensee in the Disciplinary Alternative Program shall be expunged from the coordinated licensure information system.

(7) Nonpublic or confidential data submitted to the coordinated licensure information system by the board may not be distributed to any nonparty state, organization, ~~person~~

individual, or entity, or any foreign government or an agent, entity, or representative of a foreign government, without the express written approval of the board.

(8) On request and payment of a certified verification fee, the board shall provide a registered nurse or licensed practical nurse licensed by this state with a copy of any information regarding the nurse maintained by the coordinated licensure information system under Article 7.

(9) The board is not obligated to provide information that is not otherwise available to the board or information that is not available to the ~~nurse~~ licensee under the laws of the state contributing the information to the coordinated licensure information system or that has been designated as available only to other boards of nursing by the state contributing the information to the coordinated licensure information system.

(10) Nothing in this subsection shall limit the authority of the board to discipline an impaired ~~individual~~ licensee subject to its jurisdiction.

(k) The board may adopt rules imposing a nondisciplinary administrative penalty for designated violations of this chapter."

Section 2. This act shall become effective on October 1, 2024.