

1 SB234
2 166838-7
3 By Senator Bussman
4 RFD: Health and Human Services
5 First Read: 17-MAR-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Alabama Nursing Board; to amend
12 Sections 34-21-1 and 34-21-2, Code of Alabama 1975; to change
13 the composition of the Alabama Nursing Board; to change the
14 process for selection of appointees to the board; and to
15 clarify that a certified registered nurse practitioner, a
16 certified nurse midwife, or a physician's assistant, in
17 addition to a physician or dentist, may delegate orders to a
18 registered nurse or licensed practical nurse.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

22 "§34-21-1.

23 "For purposes of this chapter, the following terms
24 shall have the respective meanings ascribed by this section:

25 "(1) BOARD. The Board of Nursing created hereunder.

26 "(2) ADVISORY COUNCILS. Advisory councils provided
27 for under the terms of this chapter.

1 "(3) PRACTICE OF PROFESSIONAL AND PRACTICAL NURSING.

2 Nursing is a profession the practice of which is defined as:

3 "a. Practice of Professional Nursing. The
4 performance, for compensation, of any act in the care and
5 counselling of persons or in the promotion and maintenance of
6 health and prevention of illness and injury based upon the
7 nursing process which includes systematic data gathering,
8 assessment, appropriate nursing judgment and evaluation of
9 human responses to actual or potential health problems through
10 such services as case finding, health teaching, health
11 counselling; and provision of care supportive to or
12 restorative of life and well-being, and executing medical
13 regimens including administering medications and treatments
14 prescribed by a licensed or otherwise legally authorized
15 physician or dentist, an assistant to physician who is
16 licensed and registered to perform medical services under the
17 supervision of a licensed physician, a certified registered
18 nurse practitioner who is subject to, and acting pursuant to,
19 a collaborative agreement with a licensed physician, or a
20 certified nurse midwife who is subject to, and acting pursuant
21 to, a collaborative agreement with a licensed physician. A
22 nursing regimen shall be consistent with and shall not vary
23 any existing medical regimen. Additional acts requiring
24 appropriate education and training designed to maintain access
25 to a level of health care for the consumer may be performed
26 under emergency or other conditions which are recognized by

1 the nursing and medical professions as proper to be performed
2 by a registered nurse.

3 "b. Practice of Practical Nursing. The performance,
4 for compensation, of acts designed to promote and maintain
5 health, prevent illness and injury and provide care utilizing
6 standardized procedures and the nursing process, including
7 administering medications and treatments, under the direction
8 of a licensed professional nurse, ~~or~~ a licensed or otherwise
9 legally authorized physician or dentist, an assistant to
10 physician who is licensed and registered to perform medical
11 services under the supervision of a licensed physician, a
12 certified registered nurse practitioner who is subject to, and
13 acting pursuant to, a collaborative practice agreement with a
14 licensed physician, or a certified nurse midwife who is
15 subject to, and acting pursuant to, a collaborative practice
16 agreement with a licensed physician. Such practice requires
17 basic knowledge of the biological, physical, and behavioral
18 sciences and of nursing skills but does not require the
19 substantial specialized skill, independent judgment, and
20 knowledge required in the practice of professional nursing.
21 Additional acts requiring appropriate education and training
22 may be performed under emergency or other conditions which are
23 recognized by the nursing and medical professions as proper to
24 be performed by a licensed practical nurse.

25 "(4) LICENSED PROFESSIONAL NURSE. A person who is
26 currently licensed to practice professional nursing.

1 "(5) LICENSED PRACTICAL NURSE. A person who is
2 currently licensed to practice practical nursing.

3 "§34-21-2.

4 "(a) There is created the Board of Nursing, which
5 shall be composed of 13 members to be appointed and have the
6 duties and powers enumerated in this section. The membership
7 of the board shall be inclusive and reflect the racial,
8 gender, geographic, urban/rural, and economic diversity of the
9 state. ~~In order to insure continuity of administration, the
10 nine board members provided for by Section 3 of Act 427,
11 Regular Session 1975, shall continue to serve to the
12 completion of the term for which they are serving. The
13 Governor, within 60 days of January 1, 1984, shall appoint a
14 tenth member who shall be a licensed practical nurse for a
15 term of four years from a list of nominees furnished him or
16 her by the Alabama Federation of Licensed Practical Nurses,
17 Incorporated. As the terms of all board members expire, their
18 successors shall be appointed for terms of four years each.
19 Vacancies in unexpired terms shall be filled in the same
20 manner as original appointments are made. No member shall be
21 appointed to more than two consecutive terms of four years
22 each. ~~Eight~~ The composition of the board shall be as follows:~~

23 "(1) Five members of the board shall be licensed
24 professional nurses, ~~and four~~ appointed pursuant to
25 subdivision (1) of subsection (b).

1 "(2) Three members of the board shall be advanced
2 practice nurses as described in subsection (g) and appointed
3 pursuant to subdivision (1) of subsection (b).

4 "(3) Four members of the board shall be licensed
5 practical nurses appointed pursuant to subdivisions (2) and
6 (3) of subsection (b).

7 "(4) One member of the board shall be a consumer
8 appointed pursuant to subsection (f).

9 "(b) (1) The Governor shall appoint the members of
10 the board who are licensed professional nurses and advanced
11 practice nurses from a list of nominees who are selected by
12 ~~the Board of Nursing Nomination Committee and furnished to the~~
13 ~~Governor by the Alabama State Nurses' Association, and such~~
14 nominations committee for the Board of Nursing. The
15 nominations committee shall be comprised of the following
16 members, with each member chosen exclusively by the individual
17 organization: two members of the Nurse Practitioner Alliance
18 of Alabama, two members of the Alabama Association of Nurse
19 Anesthetists, two members of the Alabama State Nurses
20 Association, one member of the Alabama Organization of Nurse
21 Executives, and one member of the Birmingham Black Nurses
22 Association. Such list, when furnished, shall contain at least
23 twice the number of nominees as there are appointments to be
24 made or vacancies to be filled. ~~The Alabama State Nurses'~~
25 ~~Association~~ nominations committee, on or before December 1 of
26 each year, or at such other times as necessary, shall furnish
27 the Governor with a list of licensed professional nurses

1 qualified for appointment to the board who meet the
2 qualifications under subsection (d). Any licensed professional
3 nurse, regardless of professional membership in any nursing
4 organization, who is interested and eligible may submit his or
5 her own name, and any professional nurse organization may
6 submit the name of a licensed professional nurse, regardless
7 of professional membership in any nursing organization, to the
8 nominations committee for full consideration. In the
9 nominating and appointing process, due care shall be taken to
10 ensure the maintenance of qualified representation from the
11 fields of nursing education, nursing administration, clinical
12 nursing, and advanced practice nursing.

13 "(2) The Governor shall appoint two of the members
14 of the board who are ~~to be~~ licensed practical nurses from a
15 list of nominees furnished ~~him or her~~ by the Board of
16 Directors of the Licensed Practical Nurses Association of
17 Alabama (LPNAA), and such list, when furnished, shall contain
18 at least twice the number of nominees for the vacancies to be
19 filled. Any licensed practical nurse, regardless of
20 professional membership in the LPNAA, who is interested and
21 eligible may submit his or her own name, and any licensed
22 practical nurse organization may submit the name of a licensed
23 practical nurse, regardless of professional membership in the
24 LPNAA, to the LPNAA for full consideration. The Board of
25 Directors of the Licensed Practical Nurses Association of
26 Alabama, on or before December 1 of each year in which the
27 term of office of a board member or a nominee of the Board of

1 Directors shall expire, or at such other time as necessary,
2 shall furnish the Governor with such list of licensed
3 practical nurses ~~qualified for appointment to the board~~ who
4 meet the qualifications under subsection (e).

5 "(3) The Governor shall appoint two members on the
6 board who are ~~to be~~ licensed practical nurses from a list of
7 nominees furnished ~~him or her~~ by the Board of Directors of the
8 Alabama Federation of Licensed Practical Nurses, Incorporated
9 (AFLPN), and such list, when furnished, shall contain at least
10 twice the number of nominees for the vacancies to be filled.
11 Any licensed practical nurse, regardless of professional
12 membership in the AFLPN, who is interested and eligible may
13 submit his or her own name, and any licensed practical nurse
14 organization may submit the name of a licensed practical
15 nurse, regardless of professional membership in the AFLPN, to
16 the AFLPN for full consideration. The Board of Directors of
17 the Alabama Federation of Licensed Practical Nurses,
18 Incorporated, on or before December 1 of each year in which
19 the term of office of the board member filled by the nominee
20 of such board of directors shall expire, or at such other
21 times as necessary, shall furnish the Governor with a list of
22 licensed practical nurses ~~qualified for appointment to the~~
23 ~~board~~ who meet the qualifications under subsection (e).

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

1 "(d) Each person appointed to the board as a
2 licensed professional nurse shall be a citizen of the United
3 States, a resident of the State of Alabama, and have all of
4 these additional qualifications:

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

8 "(2) Be a currently licensed professional nurse in
9 Alabama.

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

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

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

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

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

24 "(3) Be a currently licensed practical nurse in
25 Alabama.

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

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

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

15 "(g) ~~There~~ Effective January 1, 2016, there shall be
16 ~~two~~ three advanced practice nurse positions ~~to be filled~~
17 ~~effective January 1, 1998, in the same manner as all other~~
18 ~~professional nurse positions~~ comprised of two certified
19 registered nurse practitioners and one certified registered
20 nurse anesthetist. ~~One~~ The advanced practice nurse position
21 ~~shall be served for an initial five-year term and successors~~
22 ~~shall serve four-year terms. The remaining member appointed to~~
23 ~~an advance practice nurse position shall serve,~~ added to the
24 board pursuant to the act adding this amendatory language,
25 shall be a certified registered nurse practitioner and shall
26 serve an initial four-year term, effective January 1, 2016.
27 ~~and successors~~ Successors shall serve four-year terms and be

1 filled in the same manner as all other licensed professional
2 nurse positions as provided in subdivision (1) of subsection
3 (b).

4 ~~"(h) All members of the board shall enjoy immunity~~
5 ~~from individual civil liability while acting within the scope~~
6 ~~of their duties as board members. When acting in the line and~~
7 ~~scope of their duties, board members shall have the~~
8 ~~protections of Section 36-1-12 and shall not be liable for any~~
9 ~~costs or damages related to a board disciplinary~~
10 ~~investigation, report, complaint, charge, prosecution,~~
11 ~~hearing, or trial.~~

12 "(i) The board shall have the following powers and
13 perform the following duties: It shall meet at least once a
14 year and shall, at its organizational meeting and at its
15 annual meetings thereafter, elect from its members a
16 president, a vice-president, and a secretary. It may hold such
17 other and additional meetings during any year as it deems
18 necessary for the transaction of business. A majority of the
19 board, including one officer, shall constitute a quorum at any
20 meeting.

21 "(j) The board may:

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

25 "(2) Prescribe standards and approve curricula for
26 nursing educational programs preparing persons for licensure
27 under this chapter.

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

3 "(4) Approve such nursing educational programs as
4 meet the requirements of this chapter and the board. Nothing
5 in this chapter shall be construed to diminish the power of
6 the State Board of Education or other constitutionally or
7 legislatively established state agencies to govern the schools
8 under their respective jurisdictions.

9 "(5) Deny or withdraw approval from educational
10 programs for failure to meet prescribed standards. Withdrawal
11 of approval shall be effected only after a hearing in
12 accordance with board rules and regulations.

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

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

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

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

25 "(10) Keep a public record of all of its
26 proceedings.

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

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

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

5 "(14) Define the duties and fix the compensation for
6 the executive officer.

7 "(15) Employ such other persons as may be necessary
8 to carry on the work of the board and provide for appropriate
9 bonding of employees. Regular employees of the board shall be
10 employed subject to the state Merit System in effect on
11 January 1, 1966, or at the time of employment.

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

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

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

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

25 "(20) Determine and collect reasonable fees.

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

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

5 "(k) The executive officer employed by the board
6 shall be a citizen of the United States, a person of the
7 highest integrity, and possess these additional
8 qualifications: Be a licensed professional nurse in Alabama or
9 eligible for licensure, be a graduate of a professional
10 nursing program approved by the state in which the program was
11 completed, hold a master's degree, and have had a varied
12 experience in nursing, including at least five years'
13 experience in an administrative or teaching capacity.

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

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

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

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

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Senate

Read for the first time and referred to the Senate committee on Health and Human Services.....	17-MAR-15
Read for the second time and placed on the calendar with 1 substitute and 1 amendment.....	28-APR-15
Read for the third time and passed as amended	05-MAY-15

Yeas 30
Nays 0

Patrick Harris
Secretary