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3 SENATE HEALTH COMMITTEE SUBSTITUTE FOR SB234

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8 SYNOPSIS: Under existing law, the licensing of nurses  
9 is administered by the Alabama Nursing Board.

10 This bill would change the composition of  
11 the Alabama Nursing Board by adding one additional  
12 advance practice nurse and removing one  
13 professional licensed nurse currently dedicated to  
14 a registered nurse.

15 This bill would change the process for  
16 selection of appointees to the Alabama Nursing  
17 Board.

18 This bill would also clarify that an  
19 advanced practice registered nurse or a physician's  
20 assistant, in addition to a physician or dentist,  
21 may delegate orders to a registered nurse or  
22 licensed practical nurse.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT

1  
2 Relating to the Alabama Nursing Board; to amend  
3 Sections 34-21-1 and 34-21-2, Code of Alabama 1975; to change  
4 the composition of the Alabama Nursing Board; to change the  
5 process for selection of appointees to the board; and to  
6 clarify that an advanced practice registered nurse or a  
7 physician's assistant, in addition to a physician or dentist,  
8 may delegate orders to a registered nurse or licensed  
9 practical nurse.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§34-21-1.

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

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

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

19 "(3) PRACTICE OF PROFESSIONAL AND PRACTICAL NURSING.  
20 Nursing is a profession the practice of which is defined as:

21 "a. Practice of Professional Nursing. The  
22 performance, for compensation, of any act in the care and  
23 counselling of persons or in the promotion and maintenance of  
24 health and prevention of illness and injury based upon the  
25 nursing process which includes systematic data gathering,  
26 assessment, appropriate nursing judgment and evaluation of

1 human responses to actual or potential health problems through  
2 such services as case finding, health teaching, health  
3 counselling; and provision of care supportive to or  
4 restorative of life and well-being, and executing medical  
5 regimens including administering medications and treatments  
6 prescribed by a licensed ~~or~~ and otherwise legally authorized  
7 physician, ~~or~~ dentist, assistant to physician, or advanced  
8 practice nurse. A nursing regimen shall be consistent with and  
9 shall not vary any existing medical regimen. Additional acts  
10 requiring appropriate education and training designed to  
11 maintain access to a level of health care for the consumer may  
12 be performed under emergency or other conditions which are  
13 recognized by the nursing and medical professions as proper to  
14 be performed by a registered nurse.

15 "b. Practice of Practical Nursing. The performance,  
16 for compensation, of acts designed to promote and maintain  
17 health, prevent illness and injury and provide care utilizing  
18 standardized procedures and the nursing process, including  
19 administering medications and treatments, under the direction  
20 of a licensed professional nurse or a licensed ~~or~~ and  
21 otherwise legally authorized physician, ~~or~~ dentist, assistant  
22 to physician, or advanced practice nurse. Such practice  
23 requires basic knowledge of the biological, physical, and  
24 behavioral sciences and of nursing skills but does not require  
25 the substantial specialized skill, independent judgment, and  
26 knowledge required in the practice of professional nursing.

1 Additional acts requiring appropriate education and training  
2 may be performed under emergency or other conditions which are  
3 recognized by the nursing and medical professions as proper to  
4 be performed by a licensed practical nurse.

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

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

9 "§34-21-2.

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

1 appointed to more than two consecutive terms of four years  
2 each. ~~Eight~~ The composition of the board shall be as follows:

3 "(1) Five members of the board shall be licensed  
4 professional nurses, and four appointed pursuant to  
5 subdivision (1) of subsection (b).

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

9 "(3) Four members of the board shall be licensed  
10 practical nurses appointed pursuant to subdivisions (2) and  
11 (3) of subsection (b).

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

14 "(b) (1) The Governor shall appoint the members of  
15 the board who are licensed professional nurses and advanced  
16 practice nurses from a list of nominees who are selected by  
17 the Board of Nursing Nomination Committee and furnished to the  
18 Governor by the Alabama State Nurses' Association, and such  
19 nominations committee for the Board of Nursing. The  
20 nominations committee shall be comprised of the following  
21 members, with each member chosen exclusively by the individual  
22 organization: two members of the Nurse Practitioner Alliance  
23 of Alabama, two members of the Alabama Association of Nurse  
24 Anesthetists, two members of the Alabama State Nurses  
25 Association, one member of the Alabama Organization of Nurse  
26 Executives, and one member of the Birmingham Black Nurses

1 Association. Such list, when furnished, shall contain at least  
2 twice the number of nominees as there are appointments to be  
3 made or vacancies to be filled. The ~~Alabama State Nurses'~~  
4 ~~Association~~ nominations committee, on or before December 1 of  
5 each year, or at such other times as necessary, shall furnish  
6 the Governor with a list of licensed professional nurses  
7 ~~qualified for appointment to the board~~ who meet the  
8 qualifications under subsection (d). Any licensed professional  
9 nurse, regardless of professional membership in any nursing  
10 organization, who is interested and eligible may submit his or  
11 her own name, and any professional nurse organization may  
12 submit the name of a licensed professional nurse, regardless  
13 of professional membership in any nursing organization, to the  
14 nominations committee for full consideration. In the  
15 nominating and appointing process, due care shall be taken to  
16 ensure the maintenance of qualified representation from the  
17 fields of nursing education, nursing administration, clinical  
18 nursing, and advanced practice nursing.

19           "(2) The Governor shall appoint two of the members  
20 of the board who are ~~to be~~ licensed practical nurses from a  
21 list of nominees furnished ~~him or her~~ by the Board of  
22 Directors of the Licensed Practical Nurses Association of  
23 Alabama (LPNAA), and such list, when furnished, shall contain  
24 at least twice the number of nominees for the vacancies to be  
25 filled. Any licensed practical nurse, regardless of  
26 professional membership in the LPNAA, who is interested and

1 eligible may submit his or her own name, and any licensed  
2 practical nurse organization may submit the name of a licensed  
3 practical nurse, regardless of professional membership in the  
4 LPNAA, to the LPNAA for full consideration. The Board of  
5 Directors of the Licensed Practical Nurses Association of  
6 Alabama, on or before December 1 of each year in which the  
7 term of office of a board member or a nominee of the Board of  
8 Directors shall expire, or at such other time as necessary,  
9 shall furnish the Governor with such list of licensed  
10 practical nurses ~~qualified for appointment to the board~~ who  
11 meet the qualifications under subsection (e).

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

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

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

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

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

15 "(2) Be a currently licensed professional nurse in  
16 Alabama.

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

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

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



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

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

6           "(3) Be a currently licensed practical nurse in  
7 Alabama.

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

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

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

24           "(g) ~~There~~ Effective January 1, 2016, there shall be  
25 ~~two~~ three advanced practice nurse positions ~~to be filled~~  
26 ~~effective January 1, 1998, in the same manner as all other~~

1 ~~professional nurse positions~~ comprised of two certified  
2 registered nurse practitioners and one certified registered  
3 nurse anesthetist. ~~One~~ The advanced practice nurse position  
4 ~~shall be served for an initial five-year term and successors~~  
5 ~~shall serve four-year terms. The remaining member appointed to~~  
6 ~~an advance practice nurse position shall serve,~~ added to the  
7 board pursuant to the act adding this amendatory language,  
8 shall be a certified registered nurse practitioner and shall  
9 serve an initial four-year term, effective January 1, 2016.  
10 ~~and successors~~ Successors shall serve four-year terms and be  
11 filled in the same manner as all other licensed professional  
12 nurse positions as provided in subdivision (1) of subsection  
13 (b).

14           "(h) All members of the board shall enjoy immunity  
15 from individual civil liability while acting within the scope  
16 of their duties as board members.

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

26           "(j) The board may:

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

4           "(2) Prescribe standards and approve curricula for  
5 nursing educational programs preparing persons for licensure  
6 under this chapter.

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

9           "(4) Approve such nursing educational programs as  
10 meet the requirements of this chapter and the board. Nothing  
11 in this chapter shall be construed to diminish the power of  
12 the State Board of Education or other constitutionally or  
13 legislatively established state agencies to govern the schools  
14 under their respective jurisdictions.

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

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

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

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

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

6           "(10) Keep a public record of all of its  
7 proceedings.

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

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

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

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

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

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

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

1           "(18) Perform such other duties, not inconsistent  
2 with law, as required by this chapter to foster and improve  
3 nursing and the regulation thereof and the public health of  
4 this state.

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

7           "(20) Determine and collect reasonable fees.

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

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

14          "(k) The executive officer employed by the board  
15 shall be a citizen of the United States, a person of the  
16 highest integrity, and possess these additional  
17 qualifications: Be a licensed professional nurse in Alabama or  
18 eligible for licensure, be a graduate of a professional  
19 nursing program approved by the state in which the program was  
20 completed, hold a master's degree, and have had a varied  
21 experience in nursing, including at least five years'  
22 experience in an administrative or teaching capacity.

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

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

11           "(n) Nothing in this chapter shall limit the rights  
12 of affected parties to appeal decisions of the board with  
13 regard to rules and regulations promulgated pursuant to this  
14 chapter."

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