

1 HB544  
2 151231-3  
3 By Representative Patterson  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 04-APR-13

1  
2 ENROLLED, An Act,

3 To amend Sections 34-26-21, 34-26-22, 34-26-41,  
4 34-26-42, 34-26-43, 34-26-43.1, 34-26-44, 34-26-46, and  
5 34-26-47, Code of Alabama 1975, relating to the practice of  
6 psychology; to make numerous revisions to the statute  
7 regulating the practice of psychology; to provide for the  
8 membership of the Board of Examiners in Psychology; to provide  
9 further for renewal and licensing fees of psychologists and  
10 psychological technicians; to provide further for continuing  
11 education; to provide further for licensing mobility and  
12 temporary and emergency disaster licensing; to increase the  
13 fines for unauthorized practice of psychology; to provide  
14 civil remedies for enjoining violations of the licensing act;  
15 to provide for background check fees; to provide further for  
16 complaints of licensees; to provide further for hearings of  
17 alleged violations; and to repeal Section 34-26-45, Code of  
18 Alabama 1975, providing for the waiver of examination for  
19 certain persons licensed in other states.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 34-26-21, 34-26-22, 34-26-41,  
22 34-26-42, 34-26-43, 34-26-43.1, 34-26-44, 34-26-46, and  
23 34-26-47 of the Code of Alabama 1975, are amended to read as  
24 follows:

25 "§34-26-21.

1           "(a) (1) There is created a State Board of Examiners  
2 in Psychology to consist of seven persons who are residents of  
3 this state, who shall be appointed by the Governor under  
4 conditions set forth in this section. At least ~~two members~~ one  
5 member shall be chosen from and shall be ~~members~~ a member of  
6 the faculty, with the rank of assistant professor or above, of  
7 the accredited colleges and universities of the state, shall  
8 be licensed psychologists under this chapter, and shall be  
9 primarily engaged in teaching, research, or administration of  
10 psychology. ~~Three~~ Five members shall be licensed ~~practicing~~  
11 psychologists under this chapter. One member shall be licensed  
12 as a psychological technician ~~or qualified for licensure as a~~  
13 ~~psychological technician~~ under this chapter. One member shall  
14 be a member of the general public.

15           "(2) The board shall perform those duties and  
16 exercise those powers prescribed in this chapter. No member of  
17 the board shall be liable to civil action for any act  
18 performed in good faith in the performance of his or her duty  
19 pursuant to this chapter. ~~Original appointments to the board~~  
20 ~~shall be for terms as follows: One practicing psychologist for~~  
21 ~~a term of one year, one academic psychologist for a term of~~  
22 ~~two years, one practicing psychologist for a term of three~~  
23 ~~years, one academic psychologist for a term of four years, and~~  
24 ~~one practicing psychologist for a term of five years.~~  
25 Vacancies shall be filled for any unexpired term, and members

1 shall serve until their successors are appointed and have  
2 qualified.

3 "(3) Board members shall not serve more than two  
4 consecutive terms of office. ~~Within 30 days after October 1,~~  
5 ~~1963, the Executive Committee of the Alabama Psychological~~  
6 ~~Association, or of its successor organization, shall submit to~~  
7 ~~the Governor a list of qualified candidates for the original~~  
8 ~~five positions on the board. The list shall contain names of~~  
9 ~~at least two qualified academic psychologists and two~~  
10 ~~qualified practicing psychologists, from which the Governor~~  
11 ~~shall select the board within 60 days. Not later than October~~  
12 ~~1 of each year the executive committee council of the~~  
13 ~~association~~ Alabama Psychological Association, or of its  
14 successor organization, shall submit to the Governor the names  
15 of two qualified candidates for the position of the board to  
16 be vacated by reason of expiration of term of office. Efforts  
17 shall be made to have nominations, with due consideration,  
18 reflect the geographic, gender, racial, and ethnic diversity  
19 of the state without regard to political affiliation. From the  
20 two candidates the Governor shall appoint one member not later  
21 than January 1 to serve on the board for a term of five years.  
22 With the exception of the ~~two members~~ member appointed from  
23 the general public ~~pursuant to subsection (b)~~, other vacancies  
24 occurring in the board shall be filled for the unexpired term  
25 by appointment of the Governor from two qualified candidates

1 for each vacancy submitted within 30 days after the vacancy  
2 occurs by the executive ~~committee~~ council of the association,  
3 or by its successor organization. Those appointments shall be  
4 made by the Governor within 30 days after the candidates'  
5 names have been submitted. If the association, or its  
6 successor organization, fails to furnish the Governor with the  
7 list of persons eligible for appointment to the board, the  
8 Governor shall appoint any qualified members of the profession  
9 of psychology to the vacant position on the board.

10 " (b) ~~(1) Within 30 days following October 1, 1988,~~  
11 ~~the~~ The Governor shall appoint, ~~two new members to the board~~  
12 ~~for a five-year terms term~~ of office. ~~Each of the two new~~  
13 ~~members shall be members,~~ a member of the general public, ~~and~~  
14 who is a resident of Alabama ~~residents who are~~ not licensed by  
15 the board, and whose ~~spouses~~ spouse, if married, ~~are~~ is not  
16 licensed by the board. ~~One of the two new public members, and~~  
17 ~~his or her successors, shall be Black.~~ Vacancies for unexpired  
18 terms of the general public member shall be filled by the  
19 Governor. Successor public members shall be appointed by the  
20 Governor. Efforts shall be made to have nominations, with due  
21 consideration, reflect the geographic, gender, racial, and  
22 ethnic diversity of the state without regard to political  
23 affiliation.

24 "~~(2) Immediately upon the expiration or vacancy of~~  
25 ~~the public position not held by a Black individual that public~~

1 ~~position on the board shall be abolished. Thereafter, only one~~  
2 ~~public position shall remain on the board. That public~~  
3 ~~position shall continue to be filled by a member of the~~  
4 ~~general public who is Black.~~

5 ~~"(c) (1) On October 1, 1997, there is created a~~  
6 ~~psychological technician position on the board. The Governor~~  
7 ~~shall appoint a candidate to the psychological technician~~  
8 ~~position on the board. The person initially appointed to fill~~  
9 ~~the psychological technician position on the board shall have~~  
10 ~~a master's degree in psychology and shall not be required to~~  
11 ~~be a licensed psychological technician. Any subsequent~~  
12 ~~appointment to the psychological technician position on the~~  
13 ~~board shall be a licensed psychological technician.~~

14 ~~"(2)(c) To fill the psychological technician~~  
15 ~~position on the board, the Executive Council of the Alabama~~  
16 ~~Psychological Association, or its successor organization,~~  
17 ~~shall submit a list of four nominees to the executive~~  
18 ~~committee of the association, or its successor organization,~~  
19 ~~who shall select two names from the list to be submitted to~~  
20 ~~the Governor by October 1 prior to the expiration of the term.~~  
21 ~~On or before the immediately following January 1, the Governor~~  
22 ~~shall appoint one of the two names submitted to serve in the~~  
23 ~~psychological technician position on the board for a term of~~  
24 ~~five years.~~

1           "(d) Any board members may be removed by the  
2 Governor after notice and hearing for incompetence, neglect of  
3 duty, malfeasance in office, or moral turpitude.

4           "(e) Immediately before entering public duties of  
5 the office, the members of the board shall take the  
6 constitutional oath of office and shall file the oath in the  
7 Office of the Governor, who upon receiving the oath shall  
8 issue to each member a certificate of appointment. The board  
9 shall have available for the Governor or his or her  
10 representative detailed reports on proceedings and shall make  
11 annual reports in the form required by the Governor.

12           "(f) The board shall elect annually a chair and  
13 vice-chair. Each member shall receive the same per diem and  
14 travel allowance paid to state employees for each day's  
15 attendance at an official meeting of the board. The board  
16 shall hold at least one regular meeting each year. Additional  
17 meetings may be held at the discretion of the chair or at the  
18 written request of any two members of the board. The board  
19 shall adopt a seal which shall be affixed to all ~~certificates~~  
20 licenses issued by the board. The board shall from time to  
21 time adopt rules and regulations necessary for the performance  
22 of its duties. Four members of the board shall constitute a  
23 quorum. The board may hire any assistants necessary to carry  
24 on its activities within the limit of funds available to the

1 board. The board may accept grants from foundations,  
2 individuals, and institutions to carry on its functions.

3 "§34-26-22.

4 "(a) The Board of Examiners in Psychology shall have  
5 authority to administer oaths, to summon witnesses and to take  
6 testimony in all matters relating to its duties. The board  
7 shall be the sole agency in this state empowered to certify  
8 concerning competence in the practice of psychology and the  
9 sole board empowered to recommend licensure for the practice  
10 of psychology. The board shall have the power to recognize  
11 areas of specialization for practice and supervision, and to  
12 ensure through rules and regulations and enforcement that  
13 licensees limit their practice to demonstrated areas of  
14 competence as documented by relevant professional education,  
15 training, and experience. No individual shall be issued a  
16 license for the practice of psychology who has not been  
17 previously certified at the appropriate level of practice by  
18 the board. The board shall certify as competent to practice  
19 psychology or as competent to practice as a psychological  
20 technician all persons who shall present satisfactory evidence  
21 of attainments and qualifications under provisions of this  
22 chapter and the rules and regulations of the board. The  
23 certification shall be signed by the chair of the board under  
24 the adopted seal of the board. The chair shall, under the  
25 direction of the board, aid the district attorneys in the



1 enforcement of this chapter and the prosecutions of all  
2 persons charged with the violation of its provisions.  
3 Psychologists and psychological technicians licensed by the  
4 board shall be required to submit annually to the board a  
5 completed registration fee ~~of up to one hundred fifty dollars~~  
6 ~~(\$150) for psychologists and of up to one hundred dollars~~  
7 ~~(\$100) for psychological technicians as set, not exceeding~~  
8 five hundred dollars (\$500), as determined by the board, after  
9 the first year. The list of ~~registered~~ licensed psychologists  
10 and ~~registered~~ licensed psychological technicians shall be  
11 made available to interested individuals or organizations at a  
12 nominal charge.

13 "(b) A psychology license issued by the board shall  
14 expire on October 15, and shall be renewed annually upon the  
15 satisfaction of continuing education requirements and payment  
16 of the renewal fee. Failure to comply with all requirements  
17 for renewal within the time period prescribed by the board  
18 shall result in a lapsed license. Failure to satisfy all  
19 requirements for reactivation of an inactive license shall  
20 result in a lapsed license. A psychologist may have his or her  
21 lapsed license reinstated upon the payment of all accrued  
22 annual fees and late penalties and satisfaction of all  
23 requirements established by rule of the board. If a  
24 psychologist is alleged to have violated any of the  
25 prohibitions on professional conduct provided in this chapter,

1 the board, upon a hearing and proof of the violation, may deny  
 2 reinstatement of the license or prohibit the psychologist from  
 3 applying for reinstatement.

4 ~~"(b) By the year 1990 the~~ (c) The board shall  
 5 implement requirements through its rules and regulations that  
 6 licensees shall engage in annual continuing education  
 7 activities other than individual study to renew the license to  
 8 practice. Continuing education activities shall be relevant to  
 9 the practice of psychology or applicable within the practice  
 10 of psychology. The board may charge a reasonable fee to  
 11 register and keep records of licensees' continuing education  
 12 credits. ~~Failure to engage in continuing education or failure~~  
 13 ~~to pay fees for registration of continuing education credits~~  
 14 ~~will provide grounds for suspension of licensure.~~

15 ~~"(c)~~ (d) The board may promulgate and adopt rules and  
 16 regulations as are necessary to implement the requirements of  
 17 this chapter. The rules and regulations shall be adopted  
 18 pursuant to the state administrative procedure statutes.

19 "§34-26-41.

20 "(a) (1) Any person wishing to obtain the right to  
 21 practice as a psychologist or psychological technician in this  
 22 state, who has not heretofore been licensed to do so, shall,  
 23 before it shall be lawful for him or her to practice as a  
 24 psychologist or psychological technician in this state, make  
 25 application to the Board of Examiners in Psychology through

1 the chair upon such form and in such manner as prescribed by  
2 the board.

3 "(2) Unless a person has first obtained a valid  
4 license as aforesaid, it shall be unlawful and a violation of  
5 this chapter for him or her to practice.

6 "(b) A candidate for licensure as a psychologist  
7 shall furnish the board with satisfactory evidence of all of  
8 the following:

9 "(1) He or she is of good moral character.

10 "(2) He or she is at least 19 years of age.

11 "(3) He or she has received a doctorate degree from  
12 a department of, or school of, psychology, from an educational  
13 institution accredited and recognized by national and regional  
14 accrediting agencies as maintaining satisfactory standards.

15 "(4) He or she is competent in psychology as shown  
16 by passing such examinations, written or oral, or both, as the  
17 board will prescribe, unless exempted pursuant to subsection  
18 ~~(d)~~ (e).

19 "(5) He or she is not engaged in unethical practice  
20 as defined in the Code of Ethics of the American Psychological  
21 Association.

22 "(6) He or she has not within the preceding six  
23 months failed an examination given by the board.

24 ~~"(7) He or she is a citizen of the United States or,~~  
25 ~~if not a citizen of the United States, a person who is legally~~

1 ~~present in the United States with appropriate documentation~~  
2 ~~from the federal government.~~

3           "(c) The board may issue a license to any person who  
4 is a licensed psychologist of another state, and who applies  
5 to the board, provided the licensee of another state shall  
6 furnish the board with satisfactory evidence of all of the  
7 following:

8           "(1) He or she is of good moral character, and holds  
9 his or her license in good standing from another state.

10           "(2) He or she is at least 19 years of age.

11           "(3) He or she has received a doctorate degree in  
12 psychology from an educational institution accredited and  
13 recognized by national and regional accrediting agencies as  
14 maintaining satisfactory standards or, in lieu of a doctorate  
15 degree in psychology, a doctorate degree in a closely allied  
16 field, if the training received therefor is substantially  
17 similar to that required of doctorates obtained from  
18 departments of psychology.

19           "(4) He or she is competent in psychology as shown  
20 by the passing of an examination, unless exempted pursuant to  
21 subsection ~~(d)~~ (e), substantially equivalent to the  
22 examinations prescribed in subsection (a), or by the passing  
23 of a recognized national examination in psychology.

1           "(5) He or she is not engaged in unethical practice  
2 as defined in the Code of Ethics of the American Psychological  
3 Association.

4           "(6) He or she has practiced psychology in another  
5 state at least four consecutive years prior to application.

6           "(7) That the other state under which he or she is  
7 licensed gives similar recognition and reciprocal licensing to  
8 licensed psychologists of this state.

9           ~~"(8) He or she is a citizen of the United States or,  
10 if not a citizen of the United States, a person who is legally  
11 present in the United States with appropriate documentation  
12 from the federal government.~~

13           "(d) (1) The board shall accept the Certificate of  
14 Professional Qualification (CPQ) in psychology issued by the  
15 Association of State and Provincial Psychology Boards (ASPPB),  
16 or its successor organization, or board certification by the  
17 American Board of Professional Psychology (ABPP) as evidence  
18 that the applicant, who has not within the preceding six  
19 months failed an examination given by the board, has met the  
20 requirements for licensure.

21           "(2) The applicant shall submit all of the following  
22 to the board:

23           "a. An application for licensure and the  
24 corresponding licensure fee.

1           "b. Verification forms from the jurisdictions of  
 2           licensure, verifying that licensure is current and in good  
 3           standing.

4           "c. A verification form from the ASPPB or from the  
 5           ABPP.

6           "(3) All applicants under this subsection shall  
 7           successfully pass any local jurisdictional examinations. The  
 8           board may deny licensure to any applicant who has had  
 9           disciplinary action taken against him or her by any licensing  
 10           authority or professional organization or who has a record  
 11           that discloses any other matter that puts in question his or  
 12           her competency to practice.

13           "~~(d)~~(e) The board shall issue a license to any  
 14           applicant with a doctoral degree in psychology who is  
 15           otherwise qualified pursuant to subsections (a) and (b), who  
 16           is licensed in at least two states and who has passed a  
 17           recognized national exam.

18           "(f) An individual who possesses a valid license to  
 19           practice psychology independently at the doctoral level, by  
 20           any jurisdiction recognized by the Association of State and  
 21           Provincial Psychology Boards, may practice psychology in  
 22           Alabama for no more than 30 days each calendar year without  
 23           applying for a license to practice psychology in Alabama,  
 24           unless otherwise exempted pursuant to this chapter. This  
 25           authority to practice does not apply to a psychologist who has

1 been denied licensure in Alabama, is a legal resident of  
2 Alabama, or intends to practice full-time or a major portion  
3 of his or her time in Alabama.

4 "(g) An individual licensed to practice psychology  
5 in another jurisdiction, who is providing services in response  
6 to a declared disaster or state of emergency, may practice  
7 psychology in this jurisdiction for no more than 60 days per  
8 year, without applying for a license, upon proper notification  
9 as required by board rule.

10 "(h) A licensee may request that the board designate  
11 his or her license as inactive at any time before the date of  
12 renewal. Granting inactive status to a licensee revokes all  
13 privileges associated with licensure under this chapter until  
14 reactivation is requested by the licensee. Procedures for  
15 reactivating a license and granted by the board shall be  
16 established by the rule of the board.

17 ~~(e)~~(i) A candidate for licensure as a psychological  
18 technician shall furnish the board with satisfactory evidence  
19 of all of the following:

20 "(1) He or she is of good moral character.

21 "(2) He or she is at least 19 years of age.

22 "(3) He or she has a master's degree in psychology  
23 from a regionally accredited institution of higher education,  
24 or has completed the equivalent of a master's degree from an  
25 American Psychological Association accredited doctoral program

1 in psychology, as determined by the board. Educational  
2 requirements are provided in Section 34-26-65.

3 "(4) Is competent as a psychological technician, as  
4 shown by passing examinations, written or oral, or both, as  
5 prescribed by the board.

6 "(5) Is not engaged in unethical practice as defined  
7 in the most recent version of the Code of Ethics of the  
8 American Psychological Association.

9 "(6) Has not within the preceding six months failed  
10 an examination given by the board.

11 ~~"(7) He or she is a citizen of the United States or,  
12 if not a citizen of the United States, a person who is legally  
13 present in the United States with appropriate documentation  
14 from the federal government.~~

15 "§34-26-42.

16 "(a) If any person holds himself or herself out to  
17 the public as being engaged in practice as a psychologist or  
18 psychological technician, such as clinical, counseling,  
19 school, or combined professional-scientific psychology, and  
20 does not then possess in full force and virtue a valid license  
21 to practice as a psychologist or psychological technician  
22 under this chapter, he or she shall be deemed guilty of a  
23 Class C B misdemeanor and, upon conviction, shall be fined not  
24 less than ~~one hundred dollars (\$100)~~ five hundred dollars  
25 (\$500) per occurrence nor more than ~~five hundred dollars~~



1     ~~(\$500)~~ five thousand dollars (\$5,000) per occurrence plus  
2     court costs. Nothing in this chapter shall be construed to  
3     limit the professional pursuits of teachers in recognized  
4     public and private schools, clergymen, practitioners of  
5     medicine, social workers, licensed professional counselors,  
6     school psychometrists, school psychologists, school  
7     counselors, and guidance counselors from full performance of  
8     their professional duties. However, in such performance any  
9     title shall be in accord with this chapter. Students of  
10    psychology, psychological interns, or other persons preparing  
11    for the profession of psychology may perform as a part of  
12    their training the functions specified in this chapter, but  
13    only under qualified supervision. Use of psychological  
14    techniques by business and industrial organizations for  
15    employment placement, evaluation, promotion, or job adjustment  
16    of their own officers or employees or by employment agencies  
17    for the evaluation of their own clients prior to  
18    recommendations for employment is also specifically allowed.  
19    However, no industrial or business firm or corporation may  
20    sell or offer to the public or to other firms or corporations  
21    for remuneration any psychological services as specified in  
22    this chapter unless the services are performed or supervised  
23    by individuals duly and appropriately licensed under this  
24    chapter.

1           "(b) When the board has evidence that any person has  
2 engaged in any act or practice constituting a violation of  
3 this chapter, or any rule or order promulgated pursuant to  
4 this chapter, the board may bring an action in the Circuit  
5 Court of Montgomery County to enjoin the act or practice and  
6 to enforce compliance with this chapter or any rule or order  
7 promulgated pursuant to this chapter, regardless of whether  
8 criminal proceedings have been or may be initiated. Upon a  
9 proper showing, the court may order a permanent or temporary  
10 injunction, restraining order, or a writ of mandamus.

11           "§34-26-43.

12           "There shall be paid to the board ~~chair~~ by each  
13 applicant for a permanent license to practice ~~psychology as a~~  
14 ~~psychologist or a psychological technician~~ a fee not to exceed  
15 ~~two hundred dollars (\$200), and by each applicant for a~~  
16 ~~permanent license to practice as a psychological technician a~~  
17 ~~fee not to exceed one hundred forty dollars (\$140) five~~  
18 ~~hundred dollars (\$500), as set by the board rule. No part of~~  
19 ~~any fee shall be returnable under any circumstance ~~other than~~~~  
20 ~~failure of the board to hold examinations at the time~~  
21 ~~originally announced, whereupon the entire fee may be returned~~  
22 ~~at the option of the candidate. All fees collected in this~~  
23 ~~manner plus renewal fees as outlined in Section 34-26-22 and~~  
24 ~~all gifts or grants shall be deposited in the State Treasury~~  
25 ~~to the credit of the board. Vouchers in payment of expenses~~

1 shall be drawn on the state Comptroller signed by the chair or  
2 executive officer of the board.

3 "§34-26-43.1.

4 "The Board of Examiners in Psychology shall charge  
5 each candidate for licensure as a psychologist or  
6 psychological technician ~~an examination~~ a fee sufficient to  
7 cover the entire actual costs of the examination of the  
8 applicant as well as the cost of criminal and civil background  
9 checks of the applicant.

10 "§34-26-44.

11 "Examination of applicants for a license to practice  
12 as a psychologist or psychological technician shall be made by  
13 the board at least once a year according to methods and in  
14 such subject fields as may be deemed by the board to be the  
15 most practical and expeditious to test the qualifications of  
16 the applicant. The board shall require the examinations to be  
17 written or oral, or both. ~~In any written examination the~~  
18 ~~applicant shall be designated by a number instead of his or~~  
19 ~~her name so that his or her identity shall not be disclosed to~~  
20 ~~the members of the board until the examination papers have~~  
21 ~~been graded. The board shall grade the written examinations~~  
22 ~~returned by the candidates and shall keep them for at least~~  
23 ~~one year. A~~ The board, by rule, shall provide circumstances  
24 under which a candidate shall be held to have passed the  
25 examination ~~upon the affirmative vote of three or more members~~

1 ~~of the board. Any unsuccessful candidate may, upon written~~  
2 ~~request to the board, see his or her graded paper.~~

3 "§34-26-46.

4 "(a) The board shall suspend, place on probation, or  
5 require remediation, or any combination thereof, for any  
6 psychologist or psychological technician for a specified time,  
7 to be determined at the discretion of the board, or revoke any  
8 license to practice as a psychologist or psychological  
9 technician or take any other action specified in the rules and  
10 regulations whenever the board finds by a preponderance of the  
11 evidence that the psychologist or psychological technician has  
12 engaged in any of the following acts or offenses:

13 "(1) Fraud or deception in applying for or procuring  
14 a license to practice as a psychologist or psychological  
15 technician; or in passing the examination provided for in this  
16 chapter.

17 "(2) Practice as a psychologist or psychological  
18 technician under a false or assumed name or the impersonation  
19 of another practitioner of a like or different name.

20 "(3) Immoral, unprofessional, or dishonorable  
21 conduct as defined in the rules and regulations promulgated by  
22 the board.

23 "(4) Practicing as a psychologist or psychological  
24 technician in such a manner as to endanger the welfare of  
25 clients or patients.

1           "(5) Conviction of felony (a copy of the record of  
2 conviction, certified to by the clerk of the court entering  
3 the conviction shall be conclusive evidence).

4           "(6) Conviction of any crime or offense that  
5 reflects the inability of the practitioner to practice as a  
6 psychologist or psychological technician with due regard for  
7 the health and safety of clients or patients.

8           "(7) Harassment, intimidation, or abuse, sexual or  
9 otherwise, of a client or patient.

10          "(8) Engaging in sexual intercourse or other sexual  
11 contact with a client or patient.

12          "(9) Use of repeated untruthful or deceptive or  
13 improbable statements concerning the licensee's qualifications  
14 or the effects or results of proposed treatment, including  
15 functioning outside of one's professional competence or area  
16 of specialization established by education, training, and  
17 experience as recognized by the board.

18          "(10) Gross malpractice or repeated malpractice or  
19 gross negligence in practice as a psychologist or  
20 psychological technician.

21          "(11) Aiding or abetting practice as a psychologist  
22 or psychological technician by any person not licensed by the  
23 board.

24          "(12) Conviction of fraud in filing Medicare or  
25 Medicaid claims or in filing claims to any third party payor

1 (a copy of the record of conviction, certified to by the clerk  
2 of the court entering the conviction, shall be conclusive  
3 evidence).

4 "(13) Exercising undue influence in such a manner as  
5 to exploit the client, patient, student, or supervisee for  
6 financial or other personal advantage to the practitioner or a  
7 third party.

8 "(14) The suspension or revocation by another state  
9 of a license to practice as a psychologist or psychological  
10 technician for cause other than failure to renew the license  
11 (a certified copy of the record of suspension or revocation of  
12 the state making such a suspension or revocation shall be  
13 conclusive evidence thereof).

14 "(15) Refusal to appear before the board after  
15 having been ordered to do so in writing by the executive  
16 office or chair of the board.

17 "(16) Making any fraudulent or untrue statement to  
18 the board.

19 "(17) Failing to cooperate with or to respond  
20 promptly, completely, and honestly to the board.

21 "~~(17)~~(18) Violation of the code of ethics adopted in  
22 the rules and regulations of the board.

23 "~~(18)~~(19) Upon the recommendation of the Ethics  
24 Committee of the Alabama Psychological Association, or of its

1 successor organization, or the Ethics Committee of the  
2 American Psychological Association.

3 ~~"(19)~~ (20) Inability to practice as a psychologist or  
4 psychological technician with reasonable skill and safety to  
5 patients or clients by reason of illness, inebriation, misuse  
6 of drugs, narcotics, alcohol, chemicals, or any other  
7 substance, or as a result of any mental or physical condition.

8 ~~"(20)~~ (21) Engaging in practice as a psychologist or  
9 psychological technician before a license is issued.

10 ~~"(21) Failure to engage in continuing education or  
11 failure to pay fees for registration of continuing education  
12 credits.~~

13 "(22) Practice of a level of psychology  
14 inappropriate or beyond the scope of the particular license  
15 held by the licensee.

16 "(23) Failure to comply with any of the respective  
17 responsibilities of a supervisor or supervisee as provided in  
18 this chapter.

19 "(b) When the issue is whether or not a psychologist  
20 or psychological technician is physically or mentally capable  
21 of practicing as a psychologist or psychological technician  
22 with reasonable skill and safety to patients or clients, then,  
23 upon a showing of probable cause to the board that the  
24 psychologist or psychological technician is not capable of  
25 practicing psychology with reasonable skill and safety to

1 patients, the board may petition a court of competent  
2 jurisdiction to order the psychologist or psychological  
3 technician in question to submit to a psychological  
4 examination by a psychologist to determine psychological  
5 status and/or a physical examination by a physician to  
6 determine physical condition. The psychologist and/or  
7 physician is to be designated by the court. The expense of the  
8 examination shall be borne by the board. Where the  
9 psychologist or psychological technician raises the issue of  
10 mental or physical competence or appeals a decision regarding  
11 his or her mental or physical competence, the psychologist or  
12 psychological technician shall be permitted to obtain his or  
13 her own evaluation at his or her own expense. If the  
14 objectivity or adequacy of the examination is suspect, the  
15 board may complete an examination by its designated  
16 practitioners at its own expense. When mental or physical  
17 capacity to practice is at issue, every psychologist or  
18 psychological technician licensed to practice in the state  
19 shall be deemed to have given consent to submit to a mental or  
20 physical examination or to any combination of such  
21 examinations and to waive all objections to the admissibility  
22 of the examination, or to previously adjudicated evidence of  
23 mental incompetence.

24 "(c) ~~The~~ In addition to any penalties referenced in  
25 subsection (d), the board may assess the cost of any



1 investigation, legal service, legal proceeding, or  
2 disciplinary action against any applicant or licensee found to  
3 be in violation of this chapter.

4 "(d) In determining the amount of any penalty, which  
5 may not exceed one thousand dollars (\$1,000) per violation or  
6 a total of five thousand dollars (\$5,000), the board shall  
7 consider the seriousness of the violation, including any  
8 threat to the health, safety, or welfare of the public, the  
9 unlawful gain or economic benefit gained from the violation,  
10 the history of previous violations by the person, and the  
11 efforts of the person to mitigate and comply with this  
12 chapter.

13 "(e) Judicial review of an order entered by the  
14 board under this section shall be conducted in accordance with  
15 those provisions providing for the judicial review of  
16 contested cases of the Alabama Administrative Procedure Act.

17 "(f) The board shall exercise its jurisdiction for  
18 disciplinary oversight of licensees for any psychological  
19 services, regardless of how or where those services are  
20 rendered, even if those services are rendered in another  
21 state, federal facility, or foreign country during the  
22 licensure period. The board may not accept the voluntary  
23 surrender of a license on the part of a licensee in an effort  
24 to avoid possible disciplinary actions by the board. Inactive  
25 status does not negate the jurisdiction of the board over the

1 actions of a license during any period of active licensure. If  
2 a former licensee or a licensee on inactive status is found to  
3 be in violation of a state law or administrative rule, a  
4 public announcement of the decision of the board shall be  
5 proffered in a manner to be determined by rule of the board.

6 ~~"(d)~~ (g) The Board of Examiners in Psychology may  
7 refuse to grant a ~~certificate~~ license, or may recommend  
8 suspension of any license for a definite period not to exceed  
9 three years. The board may, upon satisfactory proof that any  
10 applicant or licentiate has been guilty of any of the above  
11 offenses, refuse to grant a ~~certificate~~ license to the  
12 applicant or may recommend revocation of a license of the  
13 licentiate upon a vote of at least four members of the board.  
14 After three years from the date of a revocation, an  
15 application for reinstatement may be made to the board, and it  
16 may, upon favorable action by four of its members, recommend  
17 reinstatement.

18 "§34-26-47.

19 "(a) The board may not recommend suspension or  
20 revocation of licensure or refuse to issue or to renew any  
21 ~~certificate~~ license for any cause listed in Section 34-26-46  
22 unless the person accused has been given at least ~~20~~ 30 days'  
23 notice in writing of the charge against him or her and a  
24 public hearing by the board. The written notice shall be  
25 mailed to the person's last known address, but the

1 nonappearance of the person shall not prevent such a hearing.  
2 Upon such a hearing the board may administer oath and procure  
3 by its subpoenas the attendance of witness and the production  
4 of relevant books and papers.

5 "(b) At least one member of the board shall be  
6 present at all times during a hearing, deliberation, and  
7 action thereon. A board member who has assisted with an  
8 investigation of a complaint may not vote on the disciplinary  
9 action to be taken relating to the complaint. A hearing  
10 officer appointed by the Attorney General shall act as the  
11 hearing officer for the purpose of ruling on motions,  
12 evidence, and other like matters."

13 Section 2. All laws or parts of laws which conflict  
14 with this act are repealed, specifically Section 34-26-45,  
15 Code of Alabama 1975, providing for the waiver of examination  
16 for persons licensed in other states.

17 Section 3. The Board of Examiners in Psychology  
18 shall be subject to the Alabama Sunset Law, Title 41, Chapter  
19 20, Code of Alabama 1975, as an enumerated agency as provided  
20 in Section 41-20-3, and shall have a termination date of  
21 October 1, 2016, and every four years thereafter, unless  
22 continued pursuant to the Alabama Sunset Law.

23 Section 4. This act shall become effective on the  
24 first day of the ninth month following its passage and  
25 approval by the Governor, or its otherwise becoming law.



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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 25-APR-13, as amended.

Jeff Woodard  
Clerk

Senate	20-MAY-13	Amended and Passed
House	20-MAY-13	Concurred in Senate Amendment