

1 SB32  
2 163989-1  
3 By Senator McClendon  
4 RFD: Health and Human Services  
5 First Read: 03-MAR-15  
6 PFD: 02/10/2015

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8 SYNOPSIS: Under existing law, the Board of Physical  
9 Therapy is authorized to employ an executive  
10 director and establish the responsibilities and  
11 salary of the executive director. An issue exists  
12 as to whether the State Merit System Law otherwise  
13 restricts the authority of the board to set the  
14 salary of the executive director.

15 This bill would specify that the executive  
16 director of the board would not be subject to the  
17 State Merit System Law.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 To amend Section 34-24-193 of the Code of Alabama  
24 1975, relating to the Board of Physical Therapy, to specify  
25 that the executive director of the board would not be subject  
26 to the State Merit System Law.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 34-24-193 of the Code of Alabama  
3 1975, is amended to read as follows:

4 "§34-24-193.

5 "(a) It shall be the duty of the board to pass upon  
6 the qualifications of applicants for licensing as physical  
7 therapists and licensing as physical therapist assistants, to  
8 conduct examinations, to issue licenses and renewals to  
9 physical therapists and physical therapist assistants  
10 qualifying under this article and in a proper case to suspend  
11 or revoke the license of such persons. The board may adopt  
12 rules and regulations not inconsistent with law as it may deem  
13 necessary for the performance of its duties; however, the  
14 board shall not issue any rules or regulations that require a  
15 physical therapist assistant to be within sight of a  
16 consulting physical therapist or a physical therapist  
17 supervisor while working under the direction of that physical  
18 therapist or issue any rules, regulations, or orders  
19 inconsistent with Section 34-24-217(b). The board shall  
20 maintain a listing of the name of every living physical  
21 therapist and physical therapist assistant licensed in this  
22 state, his or her last known place of business and last known  
23 place of residence, and the date and number of his or her  
24 license. The board shall compile a list of physical therapists  
25 and physical therapist assistants licensed to practice in this  
26 state, and such list shall be available to any person upon

1 application to the board and the payment of such charge as may  
2 be fixed by the board. Subject to the provisions of Section  
3 34-24-195, the board shall have the power to make such  
4 expenditures and employ such personnel as it may deem  
5 necessary for the administration of the provisions of this  
6 article. The board shall hire and establish the  
7 responsibilities and salary of an executive director, without  
8 regard to the State Merit System Law, Chapter 26 of Title 36  
9 or any other provision of law, including, but not limited to,  
10 Section 36-6-6. Notwithstanding the foregoing, the executive  
11 director shall be entitled to receive all benefits accruing to  
12 Merit System employees, including, but not limited to, the  
13 right to receive and accumulate leave and the right to  
14 participate in the Employees' Retirement System and the State  
15 Employees Health Insurance Plan.

16 "(b) The board is hereby specifically authorized to  
17 establish and collect a fee for certifying to other boards or  
18 entities that a licensee is a member in good standing with the  
19 Alabama board.

20 "(c) The board may collect a fee from providers of  
21 continuing education programs.

22 "(d) The board is hereby authorized to discipline  
23 its licensees by the adoption and collection of administrative  
24 fines, not to exceed one thousand dollars (\$1,000) per  
25 violation, and it is further authorized to institute any legal  
26 proceedings necessary to effect compliance with this chapter.

1           "(e) The board shall provide for an impaired  
2 practitioner program beginning January 1, 2014.

3           "(1) The board shall promote the early  
4 identification, intervention, treatment, and rehabilitation of  
5 physical therapy licensees who may be impaired by reason of  
6 illness, inebriation, excessive use of drugs, narcotics,  
7 alcohol, chemicals, or other substances, or as a result of any  
8 physical or mental condition.

9           "(2) In order to carry out this obligation the board  
10 may contract with any nonprofit corporation or medical  
11 professional association for the purpose of creating,  
12 supporting, and maintaining a committee to be designated the  
13 Alabama Physical Therapy Wellness Committee. The committee  
14 shall be selected in a manner prescribed by the board. The  
15 board may expend available funds as necessary to adequately  
16 provide for the operational expenses of the committee  
17 including, but not limited to, the actual cost of travel,  
18 office overhead, and personnel expense. The funds provided by  
19 the board for the purpose of operating expenses are not  
20 subject to any provision of law requiring competitive bidding.

21           "(3) The board may enter into an agreement with a  
22 nonprofit corporation or medical professional association for  
23 the committee to undertake those functions and  
24 responsibilities specified in the agreement, which may include  
25 any or all of the following:

1            "a. Contracting with providers of treatment  
2 programs.

3            "b. Receiving and evaluating reports of suspected  
4 impairment from any source.

5            "c. Intervening in cases of verified impairment.

6            "d. Referring impaired physical therapy licensees to  
7 treatment programs.

8            "e. Monitoring the treatment and rehabilitation of  
9 impaired physical therapy licensees.

10           "f. Providing post-treatment monitoring and support  
11 of rehabilitated impaired physical therapy licensees.

12           "g. Performing other activities as agreed by the  
13 board and the committee.

14           "(4) The committee shall develop procedures in  
15 consultation with the board for all of the following:

16           "a. Periodic reporting of statistical information  
17 regarding impaired physical therapy licensee program activity.

18           "b. Periodic disclosure and joint review of all  
19 information the board deems appropriate regarding reports  
20 received, contracts or investigations made, and the  
21 disposition of each report. The committee may not disclose any  
22 personally identifiable information except as otherwise  
23 provided in this article.

24           "(5) Any individual appointed to serve as a member  
25 of the committee and any auxiliary personnel, consultant,  
26 attorney, or other volunteer or employee of the committee

1 taking any action authorized by this article, engaging in the  
2 performance of any duties on behalf of the committee, or  
3 participating in any administrative or judicial proceeding  
4 resulting therefrom, in the performance and operation thereof,  
5 shall be immune from any liability, civil or criminal, that  
6 might otherwise be incurred or imposed. Any nonprofit  
7 corporation or medical professional association or other  
8 entity that contracts with or receives funds from the board  
9 for the creation, support, and operation of the committee, in  
10 so doing, shall be immune from any liability, civil or  
11 criminal, that might otherwise be incurred or imposed.

12 "(6) All information, interviews, reports,  
13 statements, memoranda, or other documents furnished to or  
14 produced by the committee and any findings, conclusions,  
15 recommendations, or reports resulting from any investigation,  
16 intervention, treatment, or rehabilitation, or other  
17 proceeding of the committee is privileged and confidential.  
18 All records and proceedings of the committee pertaining to an  
19 impaired physical therapy licensee are confidential and shall  
20 be used by the committee and the members of the committee only  
21 in the exercise of the proper function of the committee and  
22 shall not be public record nor available for court subpoena or  
23 for discovery proceedings. In the event of a breach of  
24 contract between the committee and the impaired physical  
25 therapy licensee, all records pertaining to the conduct  
26 determined to cause the breach of contract shall be disclosed

1 to the board upon its request for disciplinary purposes only.  
2 Nothing contained in this subdivision shall apply to records  
3 made in the regular course of business of a physical therapy  
4 licensee and any information, document, or record otherwise  
5 available from an original source is not to be construed as  
6 immune from discovery or use in any civil proceeding merely  
7 because it is presented or considered during proceedings of  
8 the committee.

9 "(7) The committee shall render an annual report to  
10 the board concerning the operations and proceedings of the  
11 committee for the preceding year. The committee shall report  
12 to the board any physical therapy licensee who in the opinion  
13 of the committee is unable to perform physical therapy duties  
14 with reasonable skill and safety to patients by reason of  
15 illness, inebriation, excessive use of drugs, narcotics,  
16 alcohol, chemicals, or other substances, or as a result of any  
17 physical or mental condition when it appears that the physical  
18 therapy licensee is currently in need of intervention,  
19 treatment, or rehabilitation and the licensee has failed or  
20 refused to participate in any program of treatment or  
21 rehabilitation recommended by the committee. A report to the  
22 Alabama Physical Therapy Wellness Committee shall be deemed a  
23 report to the board for the purposes of any mandated reporting  
24 of physical therapy licensee impairment otherwise provided for  
25 by law.



1                   "(8) If the board has reasonable cause to believe  
2                   that a physical therapy licensee is impaired, the board may  
3                   cause an evaluation of the physical therapy licensee to be  
4                   conducted by the committee for the purpose of determining if  
5                   there is an impairment. The committee shall report the  
6                   findings of its evaluation to the board."

7                   Section 2. All laws or parts of laws which conflict  
8                   with this act are repealed.

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