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3 HOUSE BOARDS, AGENCIES AND COMMISSIONS SUBSTITUTE FOR HB254
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8 SYNOPSIS: Under existing law, the State Board of
9 Nursing employs investigators who investigate
10 alleged violations of the Nurse Practice Act. The
11 investigators do not have the power of law
12 enforcement officers and are not required to meet
13 the minimum standards for law enforcement officers.

14 This bill would grant investigators of the
15 Board of Nursing who meet the minimum standards of
16 the Alabama Peace Officers' Minimum Standards and
17 Training Commission authority to exercise the
18 powers of law enforcement officers, except the
19 power to make arrests, in investigating alleged
20 violations perpetrated by licensees of the Nurse
21 Practice Act.

22 This bill would also authorize the Board of
23 Nursing to expunge, for purposes of public
24 disclosure, records of prior reprimand against a
25 licensed nurse after a period of five years has
26 lapsed.
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1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 Relating to the Board of Nursing; to amend Section
6 34-21-2, Code of Alabama 1975; to grant investigators of the
7 board who meet the minimum standards of the Alabama Peace
8 Officers' Minimum Standards and Training Commission authority
9 to exercise the powers of law enforcement officers, except the
10 power to make arrests, in investigating alleged violations
11 perpetrated by licensees of the Nurse Practice Act; and to
12 authorize the Board of Nursing to expunge, for purposes of
13 public disclosure, certain disciplinary records.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 34-21-2, Code of Alabama 1975, is
16 amended to read as follows:

17 "§34-21-2.

18 "(a) There is created the Board of Nursing, which
19 shall be composed of 13 members to be appointed and have the
20 duties and powers enumerated in this section. The membership
21 of the board shall be inclusive and reflect the racial,
22 gender, geographic, urban/rural, and economic diversity of the
23 state. In order to insure continuity of administration, the
24 nine board members provided for by Section 3 of Act 427,
25 Regular Session 1975, shall continue to serve to the
26 completion of the term for which they are serving. The
27 Governor, within 60 days of January 1, 1984, shall appoint a

1 tenth member who shall be a licensed practical nurse for a
2 term of four years from a list of nominees furnished him or
3 her by the Alabama Federation of Licensed Practical Nurses,
4 Incorporated. As the terms of all board members expire, their
5 successors shall be appointed for terms of four years each.
6 Vacancies in unexpired terms shall be filled in the same
7 manner as original appointments are made. No member shall be
8 appointed to more than two consecutive terms of four years
9 each. Eight members of the board shall be licensed
10 professional nurses, and four members of the board shall be
11 licensed practical nurses.

12 " (b) (1) The Governor shall appoint the members of
13 the board who are licensed professional nurses from a list of
14 nominees who are selected by the Board of Nursing Nomination
15 Committee and furnished to the Governor by the Alabama State
16 Nurses' Association, and such list, when furnished, shall
17 contain at least twice the number of nominees as there are
18 appointments to be made or vacancies to be filled. The Alabama
19 State Nurses' Association, on or before December 1 of each
20 year, or at such other times as necessary, shall furnish the
21 Governor with a list of licensed professional nurses qualified
22 for appointment to the board. In the nominating and appointing
23 process, due care shall be taken to ensure the maintenance of
24 qualified representation from the fields of nursing education,
25 nursing administration, clinical nursing, and advanced
26 practice nursing.

1 "(2) The Governor shall appoint two of the members
2 of the board who are to be licensed practical nurses from a
3 list of nominees furnished him or her by the Board of
4 Directors of the Licensed Practical Nurses Association of
5 Alabama, and such list, when furnished, shall contain at least
6 twice the number of nominees for the vacancies to be filled.
7 The Board of Directors of the Licensed Practical Nurses
8 Association of Alabama, on or before December 1 of each year
9 in which the term of office of a board member or a nominee of
10 the Board of Directors shall expire, or at such other time as
11 necessary, shall furnish the Governor with such list of
12 licensed practical nurses qualified for appointment to the
13 board.

14 "(3) The Governor shall appoint two members on the
15 board who are to be licensed practical nurses from a list of
16 nominees furnished him or her by the Board of Directors of the
17 Alabama Federation of Licensed Practical Nurses, Incorporated,
18 and such list, when furnished, shall contain at least twice
19 the number of nominees for the vacancies to be filled. The
20 Board of Directors of the Alabama Federation of Licensed
21 Practical Nurses, Incorporated, on or before December 1 of
22 each year in which the term of office of the board member
23 filled by the nominee of such board of directors shall expire,
24 or at such other times as necessary, shall furnish the
25 Governor with a list of licensed practical nurses qualified
26 for appointment to the board.

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

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

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

11 "(2) Be a currently licensed professional nurse in
12 Alabama.

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

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

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

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

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

1 "(3) Be a currently licensed practical nurse in
2 Alabama.

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

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

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

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

1 "(h) All members of the board shall enjoy immunity
2 ~~from individual civil liability pursuant to Section 36-1-12~~
3 while acting within the scope of their duties as board
4 members.

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

14 "(j) The board may:

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

18 "(2) Prescribe standards and approve curricula for
19 nursing educational programs preparing persons for licensure
20 under this chapter.

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

23 "(4) Approve such nursing educational programs as
24 meet the requirements of this chapter and the board. Nothing
25 in this chapter shall be construed to diminish the power of
26 the State Board of Education or other constitutionally or

1 legislatively established state agencies to govern the schools
2 under their respective jurisdictions.

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

7 "(6) Examine, license, and renew the licenses of
8 duly qualified applicants and require employers to submit
9 listings of personnel covered by this chapter to the board
10 upon request.

11 "(7) Conduct investigations, hearings, and
12 proceedings concerning alleged violations of this section or
13 of the rules and regulations of the board.

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

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

19 "(10) Expunge, for purposes of public disclosure,
20 records of prior reprimand taken against licensees after a
21 period of five years has lapsed.

22 "~~(10)~~ (11) Keep a public record of all of its
23 proceedings.

24 "~~(11)~~ (12) Keep a register of all licensees.

25 "~~(12)~~ (13) Make an annual report to the Governor.

1 "~~(13)~~(14) Appoint and employ a qualified person, not
2 subject to the state Merit System, who shall not be a member
3 of the board, to serve as executive officer.

4 "~~(14)~~(15) Define the duties and fix the compensation
5 for the executive officer.

6 "~~(15)~~(16) Employ such other persons as may be
7 necessary to carry on the work of the board and provide for
8 appropriate bonding of employees. Regular employees of the
9 board shall be employed subject to the state Merit System in
10 effect on January 1, 1966, or at the time of employment.

11 "~~(16)~~(17) Employ consultants, specialists, counsel,
12 or other specially qualified persons under contract or on a
13 part-time basis to assist it in administering this chapter and
14 without regard to the state Merit System in effect on or after
15 January 1, 1966, and pay for the services of such persons.

16 "~~(17)~~(18) Accept gifts and grants upon terms and
17 conditions imposed by it through official resolutions.

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

22 "~~(19)~~(20) Expend funds of the board in exercising
23 its powers and duties and in administering this chapter.

24 "~~(20)~~(21) Determine and collect reasonable fees.

25 "~~(21)~~(22) Adopt standards for registered and
26 practical nursing practice and for continued competency of
27 licensees.

1 "~~(22)~~(23) Join organizations that develop and
2 regulate the national nursing licensure examinations and
3 promote the improvement of the legal standards of the practice
4 of nursing for the protection of the public health, safety,
5 and welfare.

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

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

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

1 diem and travel expenses and daily compensation or allowance
2 authorized by the board.

3 "(n) (1) Except as provided in subdivision (2),
4 investigators employed by the board who comply with the
5 Alabama Peace Officers' Minimum Standards and Training Act
6 shall have the authority of a law enforcement officer,
7 including the authority to inspect documents and to enforce
8 laws involving an alleged violation of this chapter.

9 "(2) The investigators shall not have the power to
10 make arrests.

11 "(3) The officers shall not be entitled to overtime
12 compensation pursuant to Sections 36-21-4 and 36-21-5 or to
13 compensation pursuant to the requirements of Section 36-21-13.

14 "(o) Nothing in this chapter shall limit the rights
15 of affected parties to appeal decisions of the board with
16 regard to rules and regulations promulgated pursuant to this
17 chapter."

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