

HB124 ENROLLED



1 HB124
2 I1UXWWW-2
3 By Representative Wilcox
4 RFD: Boards, Agencies and Commissions
5 First Read: 04-Feb-25
6 PFD: 03-Feb-25



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Enrolled, An Act,

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Optometry until October 1, 2029, with certain modifications; to amend Sections 34-22-5, 34-22-8, 34-22-22, 34-22-40, 34-22-41, and 34-22-43, Code of Alabama 1975, to further provide for the issuance of a limited license; to increase the per diem paid to board members; to permit multiple methods of board communication with licensees; to remove the secretary's registry's status as the official book of records; and to create the Alabama Board of Optometry Fund in the State Treasury and provide for the fund's operation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Alabama Board of Optometry until October 1, 2029, with additional recommendations for statutory change as set out in Section 3.

Section 2. The existence and functioning of the Alabama Board of Optometry, created and functioning pursuant to Sections 34-22-1 to 34-22-110, inclusive, Code of Alabama 1975, is continued until October 1, 2029, and those code sections are expressly preserved.

Section 3. Sections 34-22-5, 34-22-8, 34-22-22, 34-22-40, 34-22-41, and 34-22-43, Code of Alabama 1975, are amended to read as follows:

"§34-22-5



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(a) The board, by rule, may,~~under rules and regulations to be promulgated by the board,~~ issue a limited teaching license ~~licenses, in the case of teachers, to persons to teachers~~ who hold an optometric degree ~~where such persons and~~ are not licensed and registered to practice optometry in this state. The board may also issue a limited resident license to student residents at a school of optometry approved by the board. The dean of any school of optometry within ~~the State of Alabama which~~ this state that has been approved by the board ~~shall be required to~~ annually certify to the board the names and addresses of the members of the faculty and student residents of the school who are not licensed and registered to practice optometry ~~in the~~ this state and shall ~~be required to~~ promptly notify the board of any change in personnel on the faculty. The board may issue limited licenses to applicants upon the certification of the dean of any school of optometry setting forth that the applicant is a bona fide member of the faculty or a student resident of the school. ~~The~~ A limited license shall be valid so long as the holder thereof remains a member of the faculty or a student resident of the school and abides by the rules ~~and regulations~~ under which the ~~same~~ limited license is issued. The holder of a limited license shall be subject to ~~all provisions of~~ this chapter regulating the practice of optometry in this state and ~~shall be entitled to~~ may perform all services which a person licensed to practice optometry in this state would be entitled to perform, subject to the following limitations:

(1) A limited teaching licensee may only practice



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57 ~~optometry, but only~~ as a part of ~~the~~ a program of the school
58 and as an adjunct to his or her teaching functions in the
59 school.

60 (2) A limited resident licensee may only practice
61 optometry as a part of a program of the school, as an adjunct
62 to the learning functions prescribed by the school, and under
63 the supervision of the faculty of the school.

64 (b) A fee of one hundred dollars (\$100) shall be paid
65 ~~by the~~ an applicant to the board for the issuance of a limited
66 license. ~~Limited license holders who are not members of a~~
67 ~~residency program at a school of optometry shall be subject to~~
68 ~~the same annual license renewal fees and other requirements as~~
69 ~~required of holders of regular licenses."~~

70 "§34-22-8

71 (a) Any person, including a licensed optometrist, may
72 initiate a charge of violation of ~~the provisions of this~~
73 chapter or a charge of misconduct by a licensed optometrist by
74 filing with the secretary of the board a written statement
75 under oath of the charge ~~or charges~~ against the accused. If a
76 member of the board files a charge, the member shall not
77 participate in the hearing or disposition of the charge,
78 except to the extent of giving testimony in connection with
79 the charge. The member filing the charge shall not be present
80 during the hearing or deliberation of the charge except to
81 give testimony. A discreet preliminary investigation into the
82 charge ~~or charges~~ shall be made by the board, after which, if
83 the board is reasonably satisfied that the charge ~~or charges~~
84 ~~are~~ is not frivolous, the board shall hear the charge ~~or~~



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85 ~~charges~~ under rules of procedure ~~to be established~~ adopted by
86 the board. A quorum of the board shall be present at all times
87 during the hearing and deliberation and action thereon. A time
88 and place, either within the City of Montgomery, Alabama, or
89 the county in which the accused resides for the hearing of the
90 charge ~~or charges~~ shall be fixed by the board as soon as
91 convenient. A copy of the charge ~~or charges~~, together with a
92 written notice of the time and place of the hearing, and a
93 copy of the rules of procedure adopted by the board for the
94 hearing shall be served on the accused at least 20 days before
95 the date fixed for the hearing, ~~by~~ leaving a copy thereof at
96 his or her last recorded ~~and usual~~ place of residence, by
97 personal service upon the accused, ~~or by forwarding~~
98 transmitting a copy to the accused via ~~United States~~
99 registered mail or other common carrier approved by the board,
100 ~~with a return receipt requested, addressed to him or her at to~~
101 his or her last ~~known~~ mailing address of record, if a resident
102 ~~of the State of Alabama~~ this state, or by electronic mail at
103 his or her last electronic mail address of record with
104 electronic mail delivery receipt. If the accused is not a
105 resident of ~~Alabama~~ this state or has departed from ~~the State~~
106 ~~of Alabama~~ this state, ~~then~~ notice of the time and place of
107 the hearing shall be published in a newspaper of general
108 circulation in the county where the accused is last known to
109 have resided, ~~three weeks prior to the hearing, setting out~~
110 the time and place of the hearing. At least five days before
111 the time of the hearing, the accused shall file with the
112 secretary of the board an answer to the ~~written charges~~ charge



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113 together with a list of witnesses which the accused desires to
114 be subpoenaed for the hearing. At the hearing, witnesses may
115 be examined respecting the charge~~or charges~~. The board or the
116 accused, or both, may require the attendance of witnesses, the
117 production of books, records, and papers pertinent to the
118 issues, and, either or both may require the secretary of the
119 board to issue a subpoena for any witnesses or a subpoena
120 duces tecum to compel the production of any books, records,
121 papers, or documents, which shall be directed to the sheriff
122 of the county where the witness resides or is to be found. The
123 subpoena shall be served and returned in the same manner as
124 subpoenas in civil cases in the circuit court are served and
125 returned. If any person is subpoenaed to appear before the
126 board and fails to obey the subpoena without reasonable cause,
127 or if any witness upon any hearing before the board refuses to
128 be sworn, or to be examined, or to produce a book, record,
129 paper, or document, as ordered by the board, this fact shall
130 be certified by the board to the circuit court or the judge
131 thereof in the county where the witness resides, and the
132 witness shall be ordered and directed by the court to appear
133 before the board and testify or produce such books, papers,
134 records, or documents as are ordered by the board. At the
135 hearing, the accused may cross-examine the witnesses against
136 him or her, produce witnesses in his or her defense, appear
137 personally or by counsel, or both, and have the testimony
138 taken down by a stenographer, but the expense of counsel and
139 stenographer shall be borne by the accused. A majority of the
140 quorum of members of the board conducting the hearings shall



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render a decision on the merits of the charge~~or charges~~ and, if warranted by the evidence, impose appropriate sanctions.

(b) In all cases of suspension or revocation of ~~licenses~~ a license or of other disciplinary sanctions imposed by the board, the accused may appeal only to the Circuit Court of Montgomery County, Alabama, notwithstanding any other provision of law to the contrary. Except as otherwise provided ~~herein in this chapter~~, judicial review of the orders and decisions of the board shall be governed by ~~the provisions of Sections 41-22-1 to 41-22-27, inclusive,~~ the Alabama Administrative Procedure Act, Chapter 22 of Title 41.

(c) Members of the board, and the members of any committee of optometrists impaneled by the board, and any other optometrist and individual making any report, ~~or~~ rendering any opinion, ~~or~~ service, ~~or~~ supplying any evidence or information, ~~or~~ offering any testimony to the board in connection with a disciplinary investigation or proceeding as authorized in this chapter shall be immune from suit for any conduct with respect to the ~~investigations, actions, hearings, and proceedings~~ investigation, action, hearing, or proceeding."

"§34-22-22

(a) All registered optometrists licensed in ~~the State of Alabama~~ this state are required to take annual courses of study in subjects relating to the practice of optometry. The length of study shall be prescribed by the board but shall not exceed 25 ~~clock~~ hours in any calendar year. Licensees approved by the board to use pharmaceutical agents shall be required to



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take not less than 20 nor more than 25 hours of continuing education, half of which shall be in subjects relating to the diagnosis, treatment, and management of disease of the human eye and its adjacent structures. Attendance shall be at a course or courses approved by the board.

(b) Continuing education requirements shall be completed between October 1 and September 30 of each fiscal year prior to the time for license renewal for the next fiscal year. Upon the failure of any licensee to certify compliance with continuing education requirements for the fiscal year on or before the first day of November, the board shall notify the licensee by registered mail or other common carrier approved by the board with return receipt requested or electronic mail with electronic mail delivery receipt ~~addressed to his or her last address of record~~ that certification has not been received and unless certification is received on or before the first day of January, his or her license and license certificate shall be automatically suspended. Notification by common carrier shall be transmitted to the licensee's last mailing address of record. Notification by electronic mail shall be transmitted to the licensee's last electronic mail address of record. If the certification demonstrating compliance with continuing education requirements is not received by the board on or before January 1, the license and license certificate of the licensee ~~which~~ that was previously granted shall automatically be suspended. Notwithstanding the foregoing, between October 1 and December 31 of each year, the licensee shall be permitted to complete



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continuing education requirements—~~which~~ that he or she has failed to complete prior to the end of the fiscal year on September 30.

(c) The license and license certificate shall be reinstated only upon the provision of satisfactory evidence to the board, in a form acceptable to the board, that the continuing education requirements for the ~~one~~ fiscal year next preceding the proposed reinstatement have been satisfied and upon the payment of all fees required to be paid under this chapter.

(d) Every licensed optometrist who desires to continue the practice of optometry in ~~the~~ this state shall annually, on or before ~~the first day of~~ October 1, pay to the secretary of the board a renewal fee of one hundred sixty dollars (\$160), for which the licensee shall receive a renewal of the registration. Every licensed optometrist approved by the board to use pharmaceutical agents shall pay an additional fee of one hundred dollars (\$100). The licensee shall sign and verify, either physically or electronically, the accuracy of the registration and certify his or her compliance with the continuing education requirements of the board for renewal on a form provided by the board either physically or electronically. Upon submission of the completed ~~form~~ prescribed verification provided by the board, together with the aforementioned fee, the licensee shall receive the current annual registration certificate authorizing him or her to continue the practice of optometry in this state for a period of one year.



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(e) Any license and license certificate previously granted shall ~~automatically~~ be suspended automatically if the holder fails to secure the annual registration certificate by January 1 each year. Any optometrist whose license is ~~automatically~~ suspended automatically by reason of failure, neglect, or refusal to secure the annual registration certificate shall be reinstated by the board upon payment of a penalty fee of two hundred dollars (\$200) plus all accrued annual registration fees accompanied with the prescribed form for annual registration of the license.

(f) Upon the failure of any licensee to file an application for the annual registration certificate and pay the annual registration fee on or before ~~the first day of~~ November 1 each year, the board shall notify the licensee by certified or registered mail or other common carrier approved by the board with return receipt requested or electronic mail with electronic mail delivery receipt ~~addressed to his or her last address of record~~ that the application and fee have not been received and that, unless the application and fee are received on or before the first day of January of the following year, the license and license certificate shall be automatically suspended. Notification by common carrier shall be transmitted to the licensee's last mailing address of record. Notification by electronic mail shall be transmitted to the licensee's last electronic mail address of record.

(g) The board may waive annual registration and the payment of fees while any licensee is prevented from practicing optometry by reason of physical disability,



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temporary active duty with any of the Armed Forces of the United States, or while any licensee is completely retired from the practice of optometry. The waiver of fees shall be effective so long as the disability, temporary active duty, or complete retirement continues.

(h) The board shall ~~promulgate~~ adopt rules ~~for the administration of~~ to administer this section."

"§34-22-40

(a) In order to accomplish the purposes and to provide for the enforcement of this chapter, there is created the Alabama Board of Optometry. The board may implement and enforce this chapter. On October 10, 1975, the State Board of Optometry as then constituted shall be abolished, but the members thereof shall serve as members of the Alabama Board of Optometry created by this section and shall continue to serve until their present terms of appointment expire, as set out below. The membership of the board shall be inclusive and reflect the racial, gender, geographic, ~~urban/rural~~ urban, rural, and economic diversity of the state. Until October 1, 1992, the Alabama Board of Optometry shall consist of five ~~persons~~ individuals, no two of whom shall reside in the same ~~U.S.~~ United States Congressional District. On October 1, 1993, two additional members shall be appointed to the board. The board shall than be composed of seven members, one from each United States Congressional District as follows:

The members shall be ~~persons~~ individuals licensed to practice optometry in this state, each of whom shall be a citizen and resident of this state, who shall have been



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actively engaged in the practice of optometry for at least five years next preceding the date of their appointment. The term of one member of the board shall expire October 1, 1975, and every fifth year thereafter; the term of one member shall expire October 1, 1976, and every fifth year thereafter; the term of one member shall expire October 1, 1977, and every fifth year thereafter; the term of one member shall expire October 1, 1978, and every fifth year thereafter; the term of one member shall expire October 1, 1979, and every fifth year thereafter; the term of two additional members shall begin on October 1, 1993, and expire October 1, 1998, and every fifth year thereafter. Each member of the board shall be appointed by the Governor from a list of five names of qualified ~~persons~~ individuals certified to him or her by the board.

(b) When the term of any member of the board expires, that ~~person~~ individual shall continue to serve until his or her successor is appointed and qualified. No individual may serve more than two consecutive terms on the board

(c) For the purpose of preparing the list of five names, the board shall conduct an annual meeting at least 30 days prior to October 1 of each year, at which all optometrists licensed to practice and holding a current annual registration certificate pursuant to this chapter may attend, nominate, and vote. The board may regulate and prescribe the place and hour of the meeting, the method of nomination, and the manner of voting. Each optometrist in attendance may vote for those ~~persons~~ individuals duly nominated, and no cumulative or proxy voting shall be permitted. Each



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optometrist voting shall vote for five nominees in order for his or her ballot to be valid, and any ballot indicating votes for more or less than five nominees shall be ~~null and~~ void.

The ~~five persons~~ individuals receiving the greatest number of votes of those in attendance at the meeting shall be the five ~~persons~~ individuals whose names shall be certified to the Governor for appointment to the board, without substitution.

In order for ~~a person~~ an individual to withdraw from the list, the ~~person~~ individual must do so in writing and present it to the secretary of the board prior to the submission of the list to the Governor, after eliminating the ~~person~~ individual withdrawing from the list, and the list shall be composed

solely of those names remaining. At least 30 days prior to the meeting the board shall ~~mail~~ transmit notices to each

optometrist licensed to practice and holding a current annual registration certificate pursuant to this chapter at the mailing address or electronic mail address shown on his or her

current registration notifying each optometrist of the exact date, place, and hour of the meeting, the purpose of the meeting, and of the right to attend and vote. In the event of a vacancy prior to the next annual meeting, the Governor shall fill the vacancy from the remaining names on the list. The Governor may remove any member for neglect of duty, incompetency, improper or unprofessional conduct, or having his or her license revoked or suspended.

~~(d) Effective October 1, 1984, no person may serve more than two consecutive terms on the board. Time served on the board prior to October 1, 1984, shall not count toward this~~



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337 ~~limitation."~~

338 "§34-22-41

339 (a) The board shall choose annually one of its members
340 as president, one as ~~vice-president~~ vice president, and one as
341 secretary-treasurer, who each may administer oaths and take
342 affidavits, certifying thereto under their hand and the common
343 seal of the board.

344 (b) The board shall meet at least once ~~in~~ each year in
345 the City of Montgomery or in a place designated by the
346 president and, in addition thereto, whenever and wherever the
347 president thereof calls a meeting. A majority of the board
348 shall at all times constitute a quorum. The secretary of the
349 board shall keep a full record of the proceedings of the
350 board, which shall at all reasonable times be open to public
351 inspection.

352 (c) Each member of the board shall be reimbursed at the
353 same per diem and travel allowance amounts paid by law to
354 state employees for each day of attendance upon the business
355 of the board ~~and, and~~ in addition thereto, the sum of ~~two~~
356 ~~hundred fifty dollars (\$250)~~ four hundred dollars (\$400) per
357 diem for each day actually spent by each member upon the
358 business of the board. All expenses and per diem shall be paid
359 out of the receipts of the board under this chapter. The
360 secretary shall receive compensation as fixed by the board and
361 shall be the custodian of all records and the official seal of
362 the board.

363 (d) All money received by the board shall be deposited
364 ~~to the credit of the board in a bank selected by its members~~



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in the Alabama Board of Optometry Fund which is created in the State Treasury for the use of the board, and the execution and enforcement of this chapter and the payments of salaries, expenses, and other authorized costs ~~shall be paid by checks drawn by the treasurer and countersigned by the president or executive director~~ of the board. Receipts deposited into the fund shall be disbursed only by warrant of the Comptroller drawn upon the State Treasury on itemized vouchers by the executive director of the board. No funds may be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, and Sections 41-19-1 to 41-19-12, inclusive, and only in amounts as stipulated in the general appropriations act, other appropriation acts, or this section. At the end of each fiscal year, any unencumbered balance shall not revert to the State General Fund under Section 41-4-93, but shall carry over to the next fiscal year within the Alabama Board of Optometry Fund.

(e) The president, executive director, and treasurer shall give such bonds as the board from time to time directs.

(f) The board shall make an annual report of its proceedings to the Governor on the first Monday of January of each year."

"§34-22-43

(a) The secretary of the board shall keep a registry in which shall be entered the names of all persons to whom temporary licenses, limited licenses, license certificates, approvals for the use of pharmaceutical agents, and annual



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registration certificates have been granted under this chapter, the numbers of the license certificates and annual registration certificates, the dates of granting the same, and other matters of record and shall keep a true and correct copy of the minutes of all board meetings, ~~and the book so provided and kept shall be the official book of records.~~

(b) ~~A photostatic copy~~ photograph of the records, or a copy of the records certified by the secretary and under the seal of the board, shall be admitted in any of the courts of this state as prima facie evidence of the facts contained in the records and in lieu of the original records.

(c) A certificate under the hand of the secretary and the seal of the board that there is not entered in the record books the name, number of, and date of granting ~~the~~ a license certificate or renewal license certificate to a person charged with a violation of ~~any of the provisions of~~ this chapter shall be prima facie evidence of the facts contained therein. The certificates shall be admitted in any of the courts of this state in lieu of the records of the board.

(d) The original books, records, and papers of the board shall be kept at the office of the secretary of the board, which office shall be at a place designated by the board.

(e) Upon the payment of a reasonable fee established ~~from time to time~~ by the board, the secretary of the board shall ~~mail~~ transmit a copy of the most recent registry to any person requesting it."

Section 4. The Legislature concurs in the



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421 recommendations of the Sunset Committee as provided in
422 Sections 1, 2, and 3.
423 Section 5. This act shall become effective on June 1,
424 2025.



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Speaker of the House of Representatives

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 06-Feb-25.

John Treadwell
Clerk

Senate

01-Apr-25

Passed