

1 HB265  
2 209403-2  
3 By Representatives Rafferty and Lee  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 02-FEB-21

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
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8 Relating to licensed psychology professionals; to  
9 add new Section 34-26-4 to the Code of Alabama 1975; to  
10 establish the Alabama Psychology Professionals Wellness  
11 Committee, to be administered by the Board of Examiners in  
12 Psychology, to identify and intervene in instances of  
13 impairment of licensed psychology professionals caused by  
14 reason of illness, inebriation, substance dependence,  
15 excessive use of drugs, narcotics, alcohol, chemicals, or  
16 other substances, or as a result of any physical or mental  
17 condition; to authorize the board to contract with a nonprofit  
18 organization, health professional, or professional association  
19 to assist the committee in carrying out its duties; and to  
20 provide for the appointment and duties of the committee  
21 members and specify reporting procedures.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 34-26-4 is added to the Code of  
24 Alabama 1975, to read as follows:

25 §34-26-4.

26 (a) As used in this section, the following words  
27 have the following meanings:

1 (1) COMMITTEE. The Alabama Psychology Professionals  
2 Wellness Committee created under this section.

3 (2) IMPAIRED or IMPAIRMENT. The inability of a  
4 licensed psychologist or licensed psychological technician to  
5 practice with reasonable skill and safety by reason of  
6 illness, inebriation, substance dependence, excessive use of  
7 drugs, narcotics, controlled substances, alcohol, chemicals,  
8 or other dependence forming substances, or as a result of any  
9 physical or mental condition rendering the licensee unable to  
10 meet the standards of his or her profession.

11 (3) LICENSEE. A professional psychologist or  
12 psychological technician licensed under this chapter.

13 (b) The Alabama Board of Examiners in Psychology  
14 shall develop a program to promote the early identification,  
15 treatment, and rehabilitation of any licensee who may be  
16 impaired in accordance with this section.

17 (c) There is established the Alabama Psychology  
18 Professionals Wellness Committee, consisting of licensed  
19 psychologists or licensed psychological technicians appointed  
20 by the board as well as one member who is a representative of  
21 the contractor described in subsection (d). The board shall  
22 determine the number, qualifications, terms, and manner in  
23 which members of the committee shall be appointed, provided  
24 the committee shall be comprised of not less than three nor  
25 more than 11 members, all members shall be residents of this  
26 state, and the membership shall be inclusive and reflect the

1 racial, gender, geographic, urban/rural, and economic  
2 diversity of the state.

3 (d) In order to assist the committee, the board  
4 shall contract with a nonprofit organization, health  
5 professional, or professional association to undertake those  
6 functions and responsibilities specified in the agreement,  
7 which may include any of the following:

8 (1) Receiving and evaluating reports of suspected  
9 impairment from any source.

10 (2) Intervening in cases of verified impairment.

11 (3) Contracting with providers of treatment  
12 programs.

13 (4) Referring impaired licensees to treatment  
14 programs.

15 (5) Monitoring the treatment and rehabilitation of  
16 impaired licensees.

17 (6) Providing post-treatment monitoring and support  
18 of rehabilitated impaired licensees.

19 (7) Performing other related activities prescribed  
20 by board rule.

21 (e) The board, by rule, shall develop procedures for  
22 the committee to undertake the following:

23 (1) Periodic reporting of statistical information  
24 regarding impaired licensee program activity as the board  
25 deems appropriate, which may include, but not be limited to,  
26 the number of reports made, investigations and other actions  
27 taken, and the disposition of each report.

1                   (2) Annual reporting to the board concerning the  
2 operations and proceedings of the committee for the preceding  
3 year.

4                   (f) The committee shall report to the board the  
5 following:

6                   (1) Any licensee who in the opinion of the committee  
7 is unable to practice as a psychologist or as a psychological  
8 technician with reasonable skill and safety by reason of  
9 impairment.

10                  (2) Any licensee who in the opinion of the committee  
11 is in need of intervention, treatment, or rehabilitation and  
12 who has failed or refused to participate in programs of  
13 treatment or rehabilitation recommended by the committee.

14                  (g) (1) If the board has reasonable cause to believe  
15 that a licensee is impaired, the board may require that an  
16 evaluation of the licensee be conducted by the committee for  
17 the purpose of determining whether an impairment exists. The  
18 committee shall report the findings of its evaluation to the  
19 board.

20                  (2) The authority of the committee shall not  
21 supersede the authority of the board to take disciplinary  
22 action against a licensee. Nothing in this section shall limit  
23 the authority of the board to discipline an impaired licensee.  
24 If a licensee is impaired and currently in need of  
25 intervention, treatment, or rehabilitation, and the licensee  
26 is currently participating in a program or rehabilitation  
27 recommended by the committee, then the board may refrain from

1 taking or continuing disciplinary action against the licensee.  
2 If the board, upon reasonable cause to believe a licensee is  
3 impaired, has referred the licensee to the committee for  
4 evaluation, then the board may refrain from taking or  
5 continuing disciplinary action against the licensee.

6 (3) A report of the committee shall be deemed to be  
7 a report to the board for the purposes of any mandated  
8 reporting of professional psychology impairment otherwise  
9 required by law.

10 (h) (1) All information, interviews, reports,  
11 statements, memoranda, or other documents furnished to or  
12 produced by the committee and any findings, conclusions,  
13 recommendations, or reports resulting from any investigation,  
14 intervention, treatment, or rehabilitation, or other  
15 proceedings of the committee are confidential. All records and  
16 proceedings of the committee pertaining to an impaired  
17 licensee are confidential and may only be used by the  
18 committee and the members of the committee in the exercise of  
19 the proper function of the committee, and are not public  
20 records nor available for court subpoena or for discovery  
21 proceedings. The committee may not disclose any personally  
22 identifiable information except as otherwise allowed under  
23 this chapter.

24 (2) In the event of a breach of contract between the  
25 committee and an impaired licensee, all records pertaining to  
26 the conduct determined to cause the breach of contract shall

1 be disclosed to the board, upon its request, for disciplinary  
2 purposes only.

3 (3) This subsection does not apply to records made  
4 in the regular course of business of a licensee, and  
5 information, documents, or records otherwise available from  
6 original sources may not be construed as immune from discovery  
7 or used in any civil proceeding merely because they were  
8 presented or considered during the proceedings of the  
9 committee.

10 (i) The board may collect funds or expend available  
11 funds to adequately provide for the operational expenses of  
12 the committee, including, but not limited to, the actual cost  
13 of travel, office overhead, personnel expenses, and  
14 compensation for the members of the committee and committee  
15 staff. The operational expenses of the committee may not  
16 include the cost of treatment or rehabilitation programs  
17 recommended by the committee to individual licensees. The  
18 funds provided by the board under this section shall not be  
19 subject to any competitive bidding law.

20 Section 2. This act shall become effective January  
21 1, 2022, following its passage and approval by the Governor,  
22 or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Boards, Agencies  
and Commissions..... 02-FEB-21

Read for the second time and placed  
on the calendar..... 24-FEB-21

Read for the third time and passed  
as amended..... 15-APR-21

Yeas 98, Nays 0, Abstains 0

Jeff Woodard  
Clerk