

1 HB75  
2 214744-5  
3 By Representative Lee  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 11-JAN-22

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8       SYNOPSIS:               Under existing law, the Board of Pharmacy  
9                               notifies a licensed pharmacist or a permitted  
10                              pharmacy of charges to revoke the license of the  
11                              pharmacist or the pharmacy permit by registered or  
12                              certified mail.

13                             This bill would authorize the delivery of  
14                             the charges to a person or entity regulated by the  
15                             board, by a recognized delivery or courier service  
16                             selected by the board.

17                             Under existing law, the Board of Pharmacy  
18                             mails ballots to licensed pharmacists relating to  
19                             the election of members of the board. Existing law  
20                             also provides for a canvassing committee to  
21                             tabulate the ballots.

22                             This bill would provide for elections of  
23                             board members to be conducted by a third party. The  
24                             bill would delete provisions for the canvassing  
25                             committee and to further provide for the tabulation  
26                             of the ballots.

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
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5 Relating to the Board of Pharmacy; to amend Section  
6 34-23-34 of the Code of Alabama 1975, to further authorize the  
7 board to provide for the method of delivery of charges  
8 relating to disciplinary action on a person or entity  
9 regulated by the board; and to amend Section 34-23-90 of the  
10 Code of Alabama 1975, relating to the election of members of  
11 the board by licensed pharmacists; to provide for the election  
12 of board members to be conducted by a third party; and to  
13 delete provisions for a canvassing committee to tabulate the  
14 ballots and further provide for the tabulation of the ballots.  
15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 1. Sections 34-23-34 and 34-23-90  
17 of the Code of Alabama 1975, are amended to read as follows:

18 "§34-23-34.

19 ~~"No action to revoke or suspend the license of any~~  
20 ~~pharmacist or the permit to operate any pharmacy in this state~~  
21 ~~shall be taken until the licensee or holder of such permit has~~  
22 ~~been furnished a statement in writing of the charges against~~  
23 ~~him or her together with a notice of the time and place of~~  
24 ~~hearing. The statement of charges and notice shall be served~~  
25 ~~upon such a person at least 30 days before the date fixed for~~  
26 ~~the hearing, either personally or by registered or certified~~  
27 ~~mail sent to his or her last known post-office address. No~~

1 disciplinary action relating to the license, registration,  
2 certificate, or permit of any person or entity regulated by  
3 the board may be taken unless a statement of charges and  
4 notice of hearing has been served on the person or entity at  
5 least 30 days before the date fixed for the hearing. The  
6 board, at its sole discretion, may serve the statement of  
7 charges by personal service or by registered or certified mail  
8 or delivery by any recognized delivery or courier service to  
9 the address of the person or entity in the records of the  
10 board. The burden of proof shall be on the board.

11 "§34-23-90.

12 "(a) The Alabama State Board of Pharmacy is vested  
13 with the authority to carry out the purposes of and enforce  
14 this chapter. The board shall consist of five members who are  
15 ~~citizens~~ residents of this state. The members of the board  
16 shall be licensed pharmacists who have been licensed in this  
17 state for a minimum of five years and who are actively engaged  
18 in the practice of pharmacy or pharmacy administration, or  
19 both.

20 "(b) Three members shall be appointed by the  
21 Governor. Of the three appointed members, one member shall be  
22 engaged in the practice of pharmacy or pharmacy  
23 administration, or both, in a hospital, one in an independent  
24 pharmacy, and one in a chain pharmacy. On or before August 1,  
25 1996, and each five years thereafter, or whenever a vacancy  
26 occurs in the designated position for hospital pharmacists,  
27 the Alabama Society of Health System Pharmacists, or its

1 successor organization, shall submit a list of three nominees  
2 to the Governor. On or before August 1, 1994, and each five  
3 years thereafter, or whenever a vacancy occurs in the  
4 designated position for a chain pharmacist, the Alabama  
5 Pharmacy Association, or its successor organization, shall  
6 submit a list of three nominees to the Governor. On or before  
7 August 1, 1997, and each five years thereafter, or whenever a  
8 vacancy occurs in the designated position for the independent  
9 pharmacist, the independent pharmacist members of the Alabama  
10 Pharmacy Association, or its successor organization, shall  
11 submit a list of three nominees to the Governor. From the  
12 names submitted to the Governor, the Governor shall appoint a  
13 replacement on or before December 31 of the same year the  
14 nominations are received, for the member or members whose term  
15 or terms are expiring. Background information shall be  
16 provided for each nominee for an appointed position.

17 "(c) (1) On or before December 1, 1995, and each five  
18 years thereafter, and on or before December 1, 1998, and each  
19 five years thereafter, or whenever a vacancy occurs in a  
20 nondesignated position, the Board of Trustees of the Alabama  
21 Pharmacy Association, or its successor organization, shall  
22 select a committee of five pharmacists who are members of the  
23 association to serve as a nominating committee. No ~~one~~  
24 member of the nominating committee shall be a candidate. The  
25 committee shall receive names of pharmacists actively engaged  
26 in pharmacy practice or administration, or both, from  
27 companies and individuals, and shall narrow the list of

1 nominees to two names to be placed on a ballot to be voted on  
2 by all Alabama pharmacists.

3 "(2) The election procedure for a nondesignated slot  
4 shall be as follows: Each candidate shall provide a  
5 biographical sketch of not more than 150 words, which shall  
6 include his or her most recent practice experience. The board  
7 shall select a third party to conduct the election and  
8 tabulate the ballot results. The board shall mail election  
9 ballots and a biographical sketch of the candidates shall be  
10 delivered by the third party to Alabama licensed pharmacists  
11 by September 1. Completed ballots returned to the board  
12 postmarked by October 1 shall be tabulated. The ballot  
13 delivery shall be conducted in a secure manner to safeguard  
14 organizational data and to ensure the integrity of the voting  
15 process. Completed election ballots must be received by the  
16 third party no later than October 1 to be tabulated. A  
17 pharmacist receiving a majority of the ballots received shall  
18 be considered the winner. If a runoff election is necessary,  
19 the runoff ballots shall be ~~mailed~~ delivered to licensed  
20 pharmacists by November 1 ~~and returned postmarked by December~~  
21 ~~±~~ by the same method of ballot delivery as provided above.  
22 Completed runoff election ballots must be received by the  
23 third party no later than December 1 to be tabulated.

24 ~~"(3) A canvassing committee consisting of a~~  
25 ~~representative from the Alabama Pharmacy Association, or its~~  
26 ~~successor organization, Alabama Society of Health System~~  
27 ~~Pharmacists, or its successor organization, Auburn University~~

1 ~~School of Pharmacy, and Samford University School of Pharmacy~~  
2 ~~shall tabulate the ballots. The ballots for each election~~  
3 ~~shall be tabulated by the third party and the results shall be~~  
4 ~~certified and audited by the third party. The results of the~~  
5 ~~tabulation and audit shall be made available to any candidate~~  
6 ~~and to the nominating body upon request.~~

7 "(d) Any vacancies occurring on the board other than  
8 by expiration of term shall be filled by election or  
9 appointment only for the unexpired term and shall be filled by  
10 the same procedure that the replaced member was elected or  
11 appointed. Each member of the board shall serve a term of five  
12 years beginning on January 1 following appointment and  
13 terminating on December 31 of his or her fifth year as a  
14 member of the board.

15 "(e) No pharmacist shall serve two full terms  
16 consecutively.

17 "(f) The Governor, upon recommendation of the board,  
18 may remove a member of the board upon proven charges of  
19 inefficiency, incompetency, immorality, or professional  
20 misconduct. The replacement member shall be elected or  
21 appointed by the same procedure that the removed member was  
22 elected or appointed. Appointees to the board shall within 30  
23 days after their appointment or election take an oath or make  
24 affirmation before a properly qualified officer that ~~they~~ he  
25 or she will faithfully and impartially perform the duties of  
26 ~~their~~ his or her office. This oath or affirmation shall be  
27 filed with the Secretary of State. At its last regular meeting

1 in each calendar year, the board shall ~~organize by electing~~  
2 elect for a term of one year, effective the following January  
3 1, a president, a vice-president, and a treasurer who shall be  
4 members of the board. No member shall serve more than two  
5 years in the same office on the board during a five-year term.  
6 The board shall also elect a secretary who shall not serve as  
7 a member of the board and the board shall have the authority  
8 to fix the amount of the secretary's remuneration. If a board  
9 member is selected as secretary, the board member shall resign  
10 from the board and a replacement on the board shall be  
11 selected by the same procedure by which the resigned member  
12 was originally elected or appointed. The secretary shall not  
13 be employed during the service by any registrant of the board.

14 "(g) For the purpose of this section, a chain  
15 pharmacy ~~shall be~~ is defined as any retail pharmacy employing  
16 in Alabama a minimum of 40 full-time equivalent pharmacists. A  
17 chain pharmacist is defined as a pharmacist employed on a  
18 full-time basis by a chain pharmacy for a minimum of three  
19 years.

20 "(h) It is the intent of the Legislature that the  
21 composition of the board reflect the demographics of the  
22 pharmacy profession. For vacancies occurring after March 18,  
23 2005, the nominating organizations and the appointing  
24 authorities shall select those persons whose appointments  
25 ensure that the membership of the board is inclusive and  
26 reflects the racial, gender, geographic, urban/rural, and  
27 economic diversity of this state."



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