

1 SB193
2 189079-1
3 By Senator Reed
4 RFD: Health and Human Services
5 First Read: 18-JAN-18

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8 SYNOPSIS: Under existing law, there is no addiction
9 recovery program or rehabilitation program designed
10 specifically for licensed psychologists and
11 licensed psychological technicians who may be
12 impaired by reason of illness, inebriation,
13 excessive use of drugs, narcotics, alcohol,
14 chemicals, or other substances, or as a result of
15 any physical or mental condition.

16 This bill would establish the Alabama
17 Psychology Professionals Wellness Committee, to be
18 administered by the Board of Examiners in
19 Psychology, to identify and intervene in instances
20 of impairment of licensed psychology professionals
21 caused by reason of illness, inebriation, substance
22 dependence, excessive use of drugs, narcotics,
23 alcohol, chemicals, or other substances, or as a
24 result of any physical or mental condition.

25 This bill would authorize the board to
26 contract with a nonprofit organization, health

1 professional, or professional association to assist
2 the committee in carrying out its duties.

3 This bill would provide for the appointment
4 and duties of the committee members and specify
5 reporting procedures.

6 This bill would provide certain immunities.

7
8 A BILL
9 TO BE ENTITLED
10 AN ACT

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

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 §34-26-4.

4 (a) As used in this section, the following words
5 have the following meanings:

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

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

16 (3) LICENSEE. A professional psychologist or
17 psychological technician licensed under this chapter.

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

22 (c) There is established the Alabama Psychology
23 Professionals Wellness Committee, consisting of licensed
24 psychologists or licensed psychological technicians appointed
25 by the board as well as one member who is a representative of
26 the contractor described in subsection (d). The board shall
27 determine the number, qualifications, terms, and manner in

1 which members of the committee shall be appointed, provided
2 the committee shall be comprised of not less than three nor
3 more than 11 members.

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

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

11 (2) Intervening in cases of verified impairment.

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

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

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

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

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

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

24 (1) Periodic reporting of statistical information
25 regarding impaired licensee program activity as the board
26 deems appropriate, which may include, but not be limited to,

1 the number of reports made, investigations and other actions
2 taken, and the disposition of each report.

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

6 (f) The committee shall report to the board the
7 following:

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

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

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

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

1 is currently participating in a program or rehabilitation
2 recommended by the committee, then the board may refrain from
3 taking or continuing disciplinary action against the licensee.
4 If the board, upon reasonable cause to believe a licensee is
5 impaired, has referred the licensee to the committee for
6 evaluation, then the board may refrain from taking or
7 continuing disciplinary action against the licensee.

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

12 (h) (1) 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 proceedings of the committee are confidential. All records and
18 proceedings of the committee pertaining to an impaired
19 licensee are confidential and may only be used by the
20 committee and the members of the committee in the exercise of
21 the proper function of the committee, and are not public
22 records nor available for court subpoena or for discovery
23 proceedings. The committee may not disclose any personally
24 identifiable information except as otherwise allowed under
25 this chapter.

26 (2) In the event of a breach of contract between the
27 committee and an impaired licensee, all records pertaining to

1 the conduct determined to cause the breach of contract shall
2 be disclosed to the board, upon its request, for disciplinary
3 purposes only.

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

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

21 (j) Any licensee and any representative of a
22 nonprofit organization, health provider, or professional
23 association who is appointed to serve as a member of the
24 committee, and any auxiliary personnel, consultants,
25 attorneys, or other volunteers or employees of the committee
26 or the board taking any action authorized by this section,
27 engaging in the performance of any duties on behalf of the

1 committee or the board, or participating in any administrative
2 or judicial proceeding resulting therefrom, shall be immune
3 from any liability, civil or criminal, that might otherwise be
4 incurred or imposed in the performance of his or her duties.
5 Any nonprofit organization, health provider, or professional
6 association that contracts with or receives funds from the
7 board to assist the committee shall be immune from any
8 liability, civil or criminal, that might otherwise be incurred
9 or imposed in the performance of its duties.

10 Section 2. This act shall become effective on the
11 first day of the sixth month following its passage and
12 approval by the Governor, or its otherwise becoming law.