

1 SB250  
2 148022-1  
3 By Senator Ward  
4 RFD: Health  
5 First Read: 26-FEB-13

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would make numerous revisions to  
9 the statute regulating the practice of psychology.

10 This bill would provide further for the  
11 membership of the Board of Examiners in Psychology.

12 This bill would provide further for renewal  
13 and licensing fees of psychologists and  
14 psychological technicians.

15 This bill would provide further for  
16 continuing education, licensing mobility, and  
17 temporary and emergency disaster licensing.

18 This bill would require legal citizenship or  
19 legal presence in the country of licensees.

20 This bill would increase the fines for  
21 unauthorized practice of psychology.

22 This bill would provide civil remedies for  
23 enjoining violations of the licensing act.

24 This bill would provide for a background  
25 check fee.

26 This bill would provide further for  
27 complaints of licensees.

1                   This bill would also provide further for  
2                   hearings of alleged violations.

3  
4                   A BILL  
5                   TO BE ENTITLED  
6                   AN ACT

7  
8                   To amend Sections 34-26-21, 34-26-22, 34-26-41,  
9                   34-26-42, 34-26-43, 34-26-43.1, 34-26-44, 34-26-46, and  
10                  34-26-47, Code of Alabama 1975, relating to the practice of  
11                  psychology; to make numerous revisions to the statute  
12                  regulating the practice of psychology; to provide for the  
13                  membership of the Board of Examiners in Psychology; to provide  
14                  further for renewal and licensing fees of psychologists and  
15                  psychological technicians; to provide further for continuing  
16                  education; to provide further for licensing mobility and  
17                  temporary and emergency disaster licensing; to require legal  
18                  citizenship or legal presence in the country; to increase the  
19                  fines for unauthorized practice of psychology; to provide  
20                  civil remedies for enjoining violations of the licensing act;  
21                  to provide for background check fees; to provide further for  
22                  complaints of licensees; to provide further for hearings of  
23                  alleged violations; and to repeal Section 34-26-45, Code of  
24                  Alabama 1975, providing for the waiver of examination for  
25                  certain persons licensed in other states.

26                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Sections 34-26-21, 34-26-22, 34-26-41,  
2                   34-26-42, 34-26-43, 34-26-43.1, 34-26-44, 34-26-46, and  
3                   34-26-47 of the Code of Alabama 1975, are amended to read as  
4                   follows:

5                   "§34-26-21.

6                   "(a) (1) There is created a State Board of Examiners  
7                   in Psychology to consist of seven persons who are residents of  
8                   this state, who shall be appointed by the Governor under  
9                   conditions set forth in this section. At least ~~two members~~ one  
10                  member shall be chosen from and shall be ~~members~~ a member of  
11                  the faculty, with the rank of assistant professor or above, of  
12                  the accredited colleges and universities of the state, shall  
13                  be licensed psychologists under this chapter, and shall be  
14                  primarily engaged in teaching, research, or administration of  
15                  psychology. ~~Three~~ Five members shall be licensed ~~practicing~~  
16                  psychologists under this chapter. One member shall be licensed  
17                  as a psychological technician ~~or qualified for licensure as a~~  
18                  ~~psychological technician~~ under this chapter. One member shall  
19                  be a member of the general public.

20                  "(2) The board shall perform those duties and  
21                  exercise those powers prescribed in this chapter. No member of  
22                  the board shall be liable to civil action for any act  
23                  performed in good faith in the performance of his or her duty  
24                  pursuant to this chapter. ~~Original appointments to the board~~  
25                  ~~shall be for terms as follows: One practicing psychologist for~~  
26                  ~~a term of one year, one academic psychologist for a term of~~  
27                  ~~two years, one practicing psychologist for a term of three~~

1 ~~years, one academic psychologist for a term of four years, and~~  
2 ~~one practicing psychologist for a term of five years.~~

3 Vacancies shall be filled for any unexpired term, and members  
4 shall serve until their successors are appointed and have  
5 qualified.

6 "(3) Board members shall not serve more than two  
7 consecutive terms of office. ~~Within 30 days after October 1,~~  
8 ~~1963, the Executive Committee of the Alabama Psychological~~  
9 ~~Association, or of its successor organization, shall submit to~~  
10 ~~the Governor a list of qualified candidates for the original~~  
11 ~~five positions on the board. The list shall contain names of~~  
12 ~~at least two qualified academic psychologists and two~~  
13 ~~qualified practicing psychologists, from which the Governor~~  
14 ~~shall select the board within 60 days. Not later than October~~  
15 ~~1 of each year the executive committee~~ council of the  
16 ~~association~~ Alabama Psychological Association, or of its  
17 successor organization, shall submit to the Governor the names  
18 of two qualified candidates for the position of the board to  
19 be vacated by reason of expiration of term of office. Efforts  
20 shall be made to have nominations, with due consideration,  
21 reflect the geographic, gender, racial, and ethnic diversity  
22 of the state without regard to political affiliation. From the  
23 two candidates the Governor shall appoint one member not later  
24 than January 1 to serve on the board for a term of five years.  
25 With the exception of the ~~two members~~ member appointed from  
26 the general public ~~pursuant to subsection (b)~~, other vacancies  
27 occurring in the board shall be filled for the unexpired term

1 by appointment of the Governor from two qualified candidates  
2 for each vacancy submitted within 30 days after the vacancy  
3 occurs by the executive ~~committee~~ council of the association,  
4 or by its successor organization. Those appointments shall be  
5 made by the Governor within 30 days after the candidates'  
6 names have been submitted. If the association, or its  
7 successor organization, fails to furnish the Governor with the  
8 list of persons eligible for appointment to the board, the  
9 Governor shall appoint any qualified members of the profession  
10 of psychology to the vacant position on the board.

11 " (b) ~~(1) Within 30 days following October 1, 1988,~~  
12 ~~the~~ The Governor shall appoint, ~~two new members to the board~~  
13 ~~for a five-year terms term~~ of office. ~~Each of the two new~~  
14 ~~members shall be members,~~ a member of the general public, ~~and~~  
15 who is a resident of Alabama ~~residents who are~~ not licensed by  
16 the board, and whose ~~spouses spouse,~~ if married, ~~are~~ is not  
17 licensed by the board. ~~One of the two new public members, and~~  
18 ~~his or her successors, shall be Black.~~ Vacancies for unexpired  
19 terms of the general public member shall be filled by the  
20 Governor. Successor public members shall be appointed by the  
21 Governor. Efforts shall be made to have nominations, with due  
22 consideration, reflect the geographic, gender, racial, and  
23 ethnic diversity of the state without regard to political  
24 affiliation.

25 "~~(2) Immediately upon the expiration or vacancy of~~  
26 ~~the public position not held by a Black individual that public~~  
27 ~~position on the board shall be abolished. Thereafter, only one~~

1 ~~public position shall remain on the board. That public~~  
2 ~~position shall continue to be filled by a member of the~~  
3 ~~general public who is Black.~~

4 ~~"(c) (1) On October 1, 1997, there is created a~~  
5 ~~psychological technician position on the board. The Governor~~  
6 ~~shall appoint a candidate to the psychological technician~~  
7 ~~position on the board. The person initially appointed to fill~~  
8 ~~the psychological technician position on the board shall have~~  
9 ~~a master's degree in psychology and shall not be required to~~  
10 ~~be a licensed psychological technician. Any subsequent~~  
11 ~~appointment to the psychological technician position on the~~  
12 ~~board shall be a licensed psychological technician.~~

13 ~~"(2)(c) To fill the psychological technician~~  
14 ~~position on the board, the Executive Council of the Alabama~~  
15 ~~Psychological Association, or its successor organization,~~  
16 ~~shall submit a list of four nominees to the executive~~  
17 ~~committee of the association, or its successor organization,~~  
18 ~~who shall select two names from the list to be submitted to~~  
19 ~~the Governor by October 1 prior to the expiration of the term.~~  
20 ~~On or before the immediately following January 1, the Governor~~  
21 ~~shall appoint one of the two names submitted to serve in the~~  
22 ~~psychological technician position on the board for a term of~~  
23 ~~five years.~~

24 "(d) Any board members may be removed by the  
25 Governor after notice and hearing for incompetence, neglect of  
26 duty, malfeasance in office, or moral turpitude.

1           "(e) Immediately before entering public duties of  
2 the office, the members of the board shall take the  
3 constitutional oath of office and shall file the oath in the  
4 Office of the Governor, who upon receiving the oath shall  
5 issue to each member a certificate of appointment. The board  
6 shall have available for the Governor or his or her  
7 representative detailed reports on proceedings and shall make  
8 annual reports in the form required by the Governor.

9           "(f) The board shall elect annually a chair and  
10 vice-chair. Each member shall receive the same per diem and  
11 travel allowance paid to state employees for each day's  
12 attendance at an official meeting of the board. The board  
13 shall hold at least one regular meeting each year. Additional  
14 meetings may be held at the discretion of the chair or at the  
15 written request of any two members of the board. The board  
16 shall adopt a seal which shall be affixed to all ~~certificates~~  
17 licenses issued by the board. The board shall from time to  
18 time adopt rules and regulations necessary for the performance  
19 of its duties. Four members of the board shall constitute a  
20 quorum. The board may hire any assistants necessary to carry  
21 on its activities within the limit of funds available to the  
22 board. The board may accept grants from foundations,  
23 individuals, and institutions to carry on its functions.

24           "§34-26-22.

25           "(a) The Board of Examiners in Psychology shall have  
26 authority to administer oaths, to summon witnesses and to take  
27 testimony in all matters relating to its duties. The board



1 shall be the sole agency in this state empowered to certify  
2 concerning competence in the practice of psychology and the  
3 sole board empowered to recommend licensure for the practice  
4 of psychology. The board shall have the power to recognize  
5 areas of specialization for practice and supervision, and to  
6 ensure through rules and regulations and enforcement that  
7 licensees limit their practice to demonstrated areas of  
8 competence as documented by relevant professional education,  
9 training, and experience. No individual shall be issued a  
10 license for the practice of psychology who has not been  
11 previously certified at the appropriate level of practice by  
12 the board. The board shall certify as competent to practice  
13 psychology or as competent to practice as a psychological  
14 technician all persons who shall present satisfactory evidence  
15 of attainments and qualifications under provisions of this  
16 chapter and the rules and regulations of the board. The  
17 certification shall be signed by the chair of the board under  
18 the adopted seal of the board. The chair shall, under the  
19 direction of the board, aid the district attorneys in the  
20 enforcement of this chapter and the prosecutions of all  
21 persons charged with the violation of its provisions.  
22 Psychologists and psychological technicians licensed by the  
23 board shall be required to submit annually to the board a  
24 completed registration fee ~~of up to one hundred fifty dollars~~  
25 ~~(\$150) for psychologists and of up to one hundred dollars~~  
26 ~~(\$100) for psychological technicians as set, not exceeding~~  
27 five hundred dollars (\$500), as determined by the board, after

1 ~~the first year.~~ The list of ~~registered~~ licensed psychologists  
2 and ~~registered~~ licensed psychological technicians shall be  
3 made available to interested individuals or organizations at a  
4 nominal charge.

5 "(b) A psychology license issued by the board shall  
6 expire on October 15, and shall be renewed annually upon the  
7 satisfaction of continuing education requirements and payment  
8 of the renewal fee. Failure to comply with all requirements  
9 for renewal within the time period prescribed by the board  
10 shall result in a lapsed license. Failure to satisfy all  
11 requirements for reactivation of an inactive license shall  
12 result in a lapsed license. A psychologist may have his or her  
13 lapsed license reinstated upon the payment of all accrued  
14 annual fees and late penalties and satisfaction of all  
15 requirements established by rule of the board. If a  
16 psychologist is alleged to have violated any of the  
17 prohibitions on professional conduct provided in this chapter,  
18 the board, upon a hearing and proof of the violation, may deny  
19 reinstatement of the license or prohibit the psychologist from  
20 applying for reinstatement.

21 ~~"(b) By the year 1990 the~~ (c) The board shall  
22 implement requirements through its rules and regulations that  
23 licensees shall engage in annual continuing education  
24 activities other than individual study to renew the license to  
25 practice. Continuing education activities shall be relevant to  
26 the practice of psychology or applicable within the practice  
27 of psychology. The board may charge a reasonable fee to

1 register and keep records of licensees' continuing education  
2 credits. ~~Failure to engage in continuing education or failure~~  
3 ~~to pay fees for registration of continuing education credits~~  
4 ~~will provide grounds for suspension of licensure.~~

5 "(c)(d) The board may promulgate and adopt rules and  
6 regulations as are necessary to implement the requirements of  
7 this chapter. The rules and regulations shall be adopted  
8 pursuant to the state administrative procedure statutes.

9 "§34-26-41.

10 "(a) (1) Any person wishing to obtain the right to  
11 practice as a psychologist or psychological technician in this  
12 state, who has not heretofore been licensed to do so, shall,  
13 before it shall be lawful for him or her to practice as a  
14 psychologist or psychological technician in this state, make  
15 application to the Board of Examiners in Psychology through  
16 the chair upon such form and in such manner as prescribed by  
17 the board.

18 "(2) Unless a person has first obtained a valid  
19 license as aforesaid, it shall be unlawful and a violation of  
20 this chapter for him or her to practice.

21 "(b) A candidate for licensure as a psychologist  
22 shall furnish the board with satisfactory evidence of all of  
23 the following:

24 "(1) He or she is of good moral character.

25 "(2) He or she is at least 19 years of age.

26 "(3) He or she has received a doctorate degree from  
27 a department of, or school of, psychology, from an educational

1 institution accredited and recognized by national and regional  
2 accrediting agencies as maintaining satisfactory standards.

3 "(4) He or she is competent in psychology as shown  
4 by passing such examinations, written or oral, or both, as the  
5 board will prescribe, unless exempted pursuant to subsection  
6 ~~(d)~~(e).

7 "(5) He or she is not engaged in unethical practice  
8 as defined in the Code of Ethics of the American Psychological  
9 Association.

10 "(6) He or she has not within the preceding six  
11 months failed an examination given by the board.

12 "(7) He or she is a citizen of the United States or,  
13 if not a citizen of the United States, a person who is legally  
14 present in the United States with appropriate documentation  
15 from the federal government.

16 "(c) The board may issue a license to any person who  
17 is a licensed psychologist of another state, and who applies  
18 to the board, provided the licensee of another state shall  
19 furnish the board with satisfactory evidence of all of the  
20 following:

21 "(1) He or she is of good moral character, and holds  
22 his or her license in good standing from another state.

23 "(2) He or she is at least 19 years of age.

24 "(3) He or she has received a doctorate degree in  
25 psychology from an educational institution accredited and  
26 recognized by national and regional accrediting agencies as  
27 maintaining satisfactory standards or, in lieu of a doctorate

1 degree in psychology, a doctorate degree in a closely allied  
2 field, if the training received therefor is substantially  
3 similar to that required of doctorates obtained from  
4 departments of psychology.

5 "(4) He or she is competent in psychology as shown  
6 by the passing of an examination, unless exempted pursuant to  
7 subsection ~~(d)~~ (e), substantially equivalent to the  
8 examinations prescribed in subsection (a), or by the passing  
9 of a recognized national examination in psychology.

10 "(5) He or she is not engaged in unethical practice  
11 as defined in the Code of Ethics of the American Psychological  
12 Association.

13 "(6) He or she has practiced psychology in another  
14 state at least four consecutive years prior to application.

15 "(7) That the other state under which he or she is  
16 licensed gives similar recognition and reciprocal licensing to  
17 licensed psychologists of this state.

18 "(8) He or she is a citizen of the United States or,  
19 if not a citizen of the United States, a person who is legally  
20 present in the United States with appropriate documentation  
21 from the federal government.

22 "(d) (1) The board shall accept the Certificate of  
23 Professional Qualification (CPQ) in psychology issued by the  
24 Association of State and Provincial Psychology Boards (ASPPB),  
25 or its successor organization, or board certification by the  
26 American Board of Professional Psychology (ABPP) as evidence  
27 that the applicant, who has not within the preceding six

1 months failed an examination given by the board, has met the  
2 requirements for licensure.

3 "(2) The applicant shall submit all of the following  
4 to the board:

5 "a. An application for licensure and the  
6 corresponding licensure fee.

7 "b. Verification forms from the jurisdictions of  
8 licensure, verifying that licensure is current and in good  
9 standing.

10 "c. A verification form from the ASPPB or from the  
11 ABPP.

12 "(3) All applicants under this subsection shall  
13 successfully pass any local jurisdictional examinations. The  
14 board may deny licensure to any applicant who has had  
15 disciplinary action taken against him or her by any licensing  
16 authority or professional organization or who has a record  
17 that discloses any other matter that puts in question his or  
18 her competency to practice.

19 "~~(d)~~(e) The board shall issue a license to any  
20 applicant with a doctoral degree in psychology who is  
21 otherwise qualified pursuant to subsections (a) and (b), who  
22 is licensed in at least two states and who has passed a  
23 recognized national exam.

24 "(f) An individual who possesses a valid license to  
25 practice psychology independently at the doctoral level, by  
26 any jurisdiction recognized by the Association of State and  
27 Provincial Psychology Boards, may practice psychology in

1 Alabama for no more than 30 days each calendar year without  
2 applying for a license to practice psychology in Alabama,  
3 unless otherwise exempted pursuant to this chapter. This  
4 authority to practice does not apply to a psychologist who has  
5 been denied licensure in Alabama, is a legal resident of  
6 Alabama, or intends to practice full-time or a major portion  
7 of his or her time in Alabama.

8 "(g) An individual licensed to practice psychology  
9 in another jurisdiction, who is providing services in response  
10 to a declared disaster or state of emergency, may practice  
11 psychology in this jurisdiction for no more than 60 days per  
12 year, without applying for a license, upon proper notification  
13 as required by board rule.

14 "(h) A licensee may request that the board designate  
15 his or her license as inactive at any time before the date of  
16 renewal. Granting inactive status to a licensee revokes all  
17 privileges associated with licensure under this chapter until  
18 reactivation is requested by the licensee. Procedures for  
19 reactivating a license and granted by the board shall be  
20 established by the rule of the board.

21 ~~(e)~~(i) A candidate for licensure as a psychological  
22 technician shall furnish the board with satisfactory evidence  
23 of all of the following:

24 "(1) He or she is of good moral character.

25 "(2) He or she is at least 19 years of age.

26 "(3) He or she has a master's degree in psychology  
27 from a regionally accredited institution of higher education,

1 or has completed the equivalent of a master's degree from an  
2 American Psychological Association accredited doctoral program  
3 in psychology, as determined by the board. Educational  
4 requirements are provided in Section 34-26-65.

5 "(4) Is competent as a psychological technician, as  
6 shown by passing examinations, written or oral, or both, as  
7 prescribed by the board.

8 "(5) Is not engaged in unethical practice as defined  
9 in the most recent version of the Code of Ethics of the  
10 American Psychological Association.

11 "(6) Has not within the preceding six months failed  
12 an examination given by the board.

13 "(7) He or she is a citizen of the United States or,  
14 if not a citizen of the United States, a person who is legally  
15 present in the United States with appropriate documentation  
16 from the federal government.

17 "§34-26-42.

18 "(a) If any person holds himself or herself out to  
19 the public as being engaged in practice as a psychologist or  
20 psychological technician, such as clinical, counseling,  
21 school, or combined professional-scientific psychology, and  
22 does not then possess in full force and virtue a valid license  
23 to practice as a psychologist or psychological technician  
24 under this chapter, he or she shall be deemed guilty of a  
25 Class C B misdemeanor and, upon conviction, shall be fined not  
26 less than ~~one hundred dollars (\$100)~~ five hundred dollars  
27 (\$500) per occurrence nor more than ~~five hundred dollars~~



1       ~~(\$500)~~ five thousand dollars (\$5,000) per occurrence plus  
2       court costs. Nothing in this chapter shall be construed to  
3       limit the professional pursuits of teachers in recognized  
4       public and private schools, clergymen, practitioners of  
5       medicine, social workers, and guidance counselors from full  
6       performance of their professional duties. However, in such  
7       performance any title shall be in accord with this chapter.  
8       Students of psychology, psychological interns, or other  
9       persons preparing for the profession of psychology may perform  
10      as a part of their training the functions specified in this  
11      chapter, but only under qualified supervision. Use of  
12      psychological techniques by business and industrial  
13      organizations for employment placement, evaluation, promotion,  
14      or job adjustment of their own officers or employees or by  
15      employment agencies for the evaluation of their own clients  
16      prior to recommendations for employment is also specifically  
17      allowed. However, no industrial or business firm or  
18      corporation may sell or offer to the public or to other firms  
19      or corporations for remuneration any psychological services as  
20      specified in this chapter unless the services are performed or  
21      supervised by individuals duly and appropriately licensed  
22      under this chapter.

23               "(b) When the board has evidence that any person has  
24               engaged in any act or practice constituting a violation of  
25               this chapter, or any rule or order promulgated pursuant to  
26               this chapter, the board may bring an action in the Circuit  
27               Court of Montgomery County to enjoin the act or practice and

1 to enforce compliance with this chapter or any rule or order  
2 promulgated pursuant to this chapter, regardless of whether  
3 criminal proceedings have been or may be initiated. Upon a  
4 proper showing, the court may order a permanent or temporary  
5 injunction, restraining order, or a writ of mandamus.

6 "§34-26-43.

7 "There shall be paid to the board ~~chair~~ by each  
8 applicant for a permanent license to practice ~~psychology as a~~  
9 ~~psychologist or a psychological technician~~ a fee not to exceed  
10 ~~two hundred dollars (\$200), and by each applicant for a~~  
11 ~~permanent license to practice as a psychological technician a~~  
12 ~~fee not to exceed one hundred forty dollars (\$140) five~~  
13 ~~hundred dollars (\$500), as set by the board rule. No part of~~  
14 ~~any fee shall be returnable under any circumstance ~~other than~~~~  
15 ~~failure of the board to hold examinations at the time~~  
16 ~~originally announced, whereupon the entire fee may be returned~~  
17 ~~at the option of the candidate. All fees collected in this~~  
18 ~~manner plus renewal fees as outlined in Section 34-26-22 and~~  
19 ~~all gifts or grants shall be deposited in the State Treasury~~  
20 ~~to the credit of the board. Vouchers in payment of expenses~~  
21 ~~shall be drawn on the state Comptroller signed by the chair or~~  
22 ~~executive officer of the board.~~

23 "§34-26-43.1.

24 "The Board of Examiners in Psychology shall charge  
25 each candidate for licensure as a psychologist or  
26 psychological technician ~~an examination~~ a fee sufficient to  
27 cover the entire actual costs of the examination of the

1 applicant as well as the cost of criminal and civil background  
2 checks of the applicant.

3 "§34-26-44.

4 "Examination of applicants for a license to practice  
5 as a psychologist or psychological technician shall be made by  
6 the board at least once a year according to methods and in  
7 such subject fields as may be deemed by the board to be the  
8 most practical and expeditious to test the qualifications of  
9 the applicant. The board shall require the examinations to be  
10 written or oral, or both. ~~In any written examination the~~  
11 ~~applicant shall be designated by a number instead of his or~~  
12 ~~her name so that his or her identity shall not be disclosed to~~  
13 ~~the members of the board until the examination papers have~~  
14 ~~been graded. The board shall grade the written examinations~~  
15 ~~returned by the candidates and shall keep them for at least~~  
16 ~~one year. A The board, by rule, shall provide circumstances~~  
17 ~~under which a candidate shall be held to have passed the~~  
18 ~~examination upon the affirmative vote of three or more members~~  
19 ~~of the board. Any unsuccessful candidate may, upon written~~  
20 ~~request to the board, see his or her graded paper.~~

21 "§34-26-46.

22 "(a) The board shall suspend, place on probation, or  
23 require remediation, or any combination thereof, for any  
24 psychologist or psychological technician for a specified time,  
25 to be determined at the discretion of the board, or revoke any  
26 license to practice as a psychologist or psychological  
27 technician or take any other action specified in the rules and

1 regulations whenever the board finds by a preponderance of the  
2 evidence that the psychologist or psychological technician has  
3 engaged in any of the following acts or offenses:

4 "(1) Fraud or deception in applying for or procuring  
5 a license to practice as a psychologist or psychological  
6 technician; or in passing the examination provided for in this  
7 chapter.

8 "(2) Practice as a psychologist or psychological  
9 technician under a false or assumed name or the impersonation  
10 of another practitioner of a like or different name.

11 "(3) Immoral, unprofessional, or dishonorable  
12 conduct as defined in the rules and regulations promulgated by  
13 the board.

14 "(4) Practicing as a psychologist or psychological  
15 technician in such a manner as to endanger the welfare of  
16 clients or patients.

17 "(5) Conviction of felony (a copy of the record of  
18 conviction, certified to by the clerk of the court entering  
19 the conviction shall be conclusive evidence).

20 "(6) Conviction of any crime or offense that  
21 reflects the inability of the practitioner to practice as a  
22 psychologist or psychological technician with due regard for  
23 the health and safety of clients or patients.

24 "(7) Harassment, intimidation, or abuse, sexual or  
25 otherwise, of a client or patient.

26 "(8) Engaging in sexual intercourse or other sexual  
27 contact with a client or patient.

1           "(9) Use of repeated untruthful or deceptive or  
2 improbable statements concerning the licensee's qualifications  
3 or the effects or results of proposed treatment, including  
4 functioning outside of one's professional competence or area  
5 of specialization established by education, training, and  
6 experience as recognized by the board.

7           "(10) Gross malpractice or repeated malpractice or  
8 gross negligence in practice as a psychologist or  
9 psychological technician.

10           "(11) Aiding or abetting practice as a psychologist  
11 or psychological technician by any person not licensed by the  
12 board.

13           "(12) Conviction of fraud in filing Medicare or  
14 Medicaid claims or in filing claims to any third party payor  
15 (a copy of the record of conviction, certified to by the clerk  
16 of the court entering the conviction, shall be conclusive  
17 evidence).

18           "(13) Exercising undue influence in such a manner as  
19 to exploit the client, patient, student, or supervisee for  
20 financial or other personal advantage to the practitioner or a  
21 third party.

22           "(14) The suspension or revocation by another state  
23 of a license to practice as a psychologist or psychological  
24 technician for cause other than failure to renew the license  
25 (a certified copy of the record of suspension or revocation of  
26 the state making such a suspension or revocation shall be  
27 conclusive evidence thereof).

1           "(15) Refusal to appear before the board after  
2 having been ordered to do so in writing by the executive  
3 office or chair of the board.

4           "(16) Making any fraudulent or untrue statement to  
5 the board.

6           "(17) Failing to cooperate with or to respond  
7 promptly, completely, and honestly to the board.

8           "~~(17)~~(18) Violation of the code of ethics adopted in  
9 the rules and regulations of the board.

10           "~~(18)~~(19) Upon the recommendation of the Ethics  
11 Committee of the Alabama Psychological Association, or of its  
12 successor organization, or the Ethics Committee of the  
13 American Psychological Association.

14           "~~(19)~~(20) Inability to practice as a psychologist or  
15 psychological technician with reasonable skill and safety to  
16 patients or clients by reason of illness, inebriation, misuse  
17 of drugs, narcotics, alcohol, chemicals, or any other  
18 substance, or as a result of any mental or physical condition.

19           "~~(20)~~(21) Engaging in practice as a psychologist or  
20 psychological technician before a license is issued.

21           "~~(21) Failure to engage in continuing education or~~  
22 ~~failure to pay fees for registration of continuing education~~  
23 ~~credits.~~

24           "(22) Practice of a level of psychology  
25 inappropriate or beyond the scope of the particular license  
26 held by the licensee.

1           "(23) Failure to comply with any of the respective  
2 responsibilities of a supervisor or supervisee as provided in  
3 this chapter.

4           "(b) When the issue is whether or not a psychologist  
5 or psychological technician is physically or mentally capable  
6 of practicing as a psychologist or psychological technician  
7 with reasonable skill and safety to patients or clients, then,  
8 upon a showing of probable cause to the board that the  
9 psychologist or psychological technician is not capable of  
10 practicing psychology with reasonable skill and safety to  
11 patients, the board may petition a court of competent  
12 jurisdiction to order the psychologist or psychological  
13 technician in question to submit to a psychological  
14 examination by a psychologist to determine psychological  
15 status and/or a physical examination by a physician to  
16 determine physical condition. The psychologist and/or  
17 physician is to be designated by the court. The expense of the  
18 examination shall be borne by the board. Where the  
19 psychologist or psychological technician raises the issue of  
20 mental or physical competence or appeals a decision regarding  
21 his or her mental or physical competence, the psychologist or  
22 psychological technician shall be permitted to obtain his or  
23 her own evaluation at his or her own expense. If the  
24 objectivity or adequacy of the examination is suspect, the  
25 board may complete an examination by its designated  
26 practitioners at its own expense. When mental or physical  
27 capacity to practice is at issue, every psychologist or

1 psychological technician licensed to practice in the state  
2 shall be deemed to have given consent to submit to a mental or  
3 physical examination or to any combination of such  
4 examinations and to waive all objections to the admissibility  
5 of the examination, or to previously adjudicated evidence of  
6 mental incompetence.

7           "~~(c) The~~ In addition to any penalties referenced in  
8 subsection (d), the board may assess the cost of any  
9 investigation, legal service, legal proceeding, or  
10 disciplinary action against any applicant or licensee found to  
11 be in violation of this chapter.

12           "(d) In determining the amount of any penalty, which  
13 may not exceed one thousand dollars (\$1,000) per violation or  
14 a total of five thousand dollars (\$5,000), the board shall  
15 consider the seriousness of the violation, including any  
16 threat to the health, safety, or welfare of the public, the  
17 unlawful gain or economic benefit gained from the violation,  
18 the history of previous violations by the person, and the  
19 efforts of the person to mitigate and comply with this  
20 chapter.

21           "(e) Judicial review of an order entered by the  
22 board under this section shall be conducted in accordance with  
23 those provisions providing for the judicial review of  
24 contested cases of the Alabama Administrative Procedure Act.

25           "(f) The board shall exercise its jurisdiction for  
26 disciplinary oversight of licensees for any psychological  
27 services, regardless of how or where those services are



1 rendered, even if those services are rendered in another  
2 state, federal facility, or foreign country during the  
3 licensure period. The board may not accept the voluntary  
4 surrender of a license on the part of a licensee in an effort  
5 to avoid possible disciplinary actions by the board. Inactive  
6 status does not negate the jurisdiction of the board over the  
7 actions of a license during any period of active licensure. If  
8 a former licensee or a licensee on inactive status is found to  
9 be in violation of a state law or administrative rule, a  
10 public announcement of the decision of the board shall be  
11 proffered in a manner to be determined by rule of the board.

12           "~~(d)~~(g) The Board of Examiners in Psychology may  
13 refuse to grant a ~~certificate~~ license, or may recommend  
14 suspension of any license for a definite period not to exceed  
15 three years. The board may, upon satisfactory proof that any  
16 applicant or licentiate has been guilty of any of the above  
17 offenses, refuse to grant a ~~certificate~~ license to the  
18 applicant or may recommend revocation of a license of the  
19 licentiate upon a vote of at least four members of the board.  
20 After three years from the date of a revocation, an  
21 application for reinstatement may be made to the board, and it  
22 may, upon favorable action by four of its members, recommend  
23 reinstatement.

24           "§34-26-47.

25           "(a) The board may not recommend suspension or  
26 revocation of licensure or refuse to issue or to renew any  
27 ~~certificate~~ license for any cause listed in Section 34-26-46

1 unless the person accused has been given at least ~~20~~ 30 days'  
2 notice in writing of the charge against him or her and a  
3 public hearing by the board. The written notice shall be  
4 mailed to the person's last known address, but the  
5 nonappearance of the person shall not prevent such a hearing.  
6 Upon such a hearing the board may administer oath and procure  
7 by its subpoenas the attendance of witness and the production  
8 of relevant books and papers.

9 "(b) At least one member of the board shall be  
10 present at all times during a hearing, deliberation, and  
11 action thereon. A board member who has assisted with an  
12 investigation of a complaint may not vote on the disciplinary  
13 action to be taken relating to the complaint. A hearing  
14 officer appointed by the Attorney General shall act as the  
15 hearing officer for the purpose of ruling on motions,  
16 evidence, and other like matters."

17 Section 2. All laws or parts of laws which conflict  
18 with this act are repealed, specifically Section 34-26-45,  
19 Code of Alabama 1975, providing for the waiver of examination  
20 for persons licensed in other states.

21 Section 3. This act shall become effective on the  
22 first day of the ninth month following its passage and  
23 approval by the Governor, or its otherwise becoming law.