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COMMITTEE REPORT

May 15, 2012

**S. 1127**

Introduced by Senator Peeler

S. Printed 5/15/12--H.

Read the first time February 29, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1127) to amend Section 1‑30‑10, as amended, Code of Laws of South Carolina, 1976, relating, among other things, to the creation of the departments, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 1‑30‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, AMONG OTHER THINGS, TO THE CREATION OF THE DEPARTMENTS OF STATE GOVERNMENT AND THEIR GOVERNING AUTHORITY, SO AS TO ELIMINATE THE SPECIFIC NUMBER OF BOARD MEMBERS THAT MUST BE APPOINTED TO GOVERN A DEPARTMENT; TO AMEND SECTIONS 40‑9‑30 AND 40‑9‑37, BOTH RELATING TO MEMBERSHIP ON THE BOARD OF CHIROPRACTIC EXAMINERS, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE NEWLY CREATED SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 40‑15‑20, RELATING TO MEMBERSHIP ON THE STATE BOARD OF DENTISTRY, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND BY ADDING AN ADDITIONAL LAY MEMBER; TO AMEND SECTION 40‑33‑10, RELATING TO MEMBERSHIP ON AND DUTIES OF THE STATE BOARD OF NURSING, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND TO DELETE THE PROVISION AUTHORIZING THE BOARD TO ESTABLISH A FEE SCHEDULE IN REGULATIONS; TO AMEND SECTION 40‑43‑40, RELATING TO MEMBERSHIP ON THE STATE BOARD OF PHARMACY, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 40‑45‑10, RELATING TO MEMBERSHIP ON THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND BY ADDING AN ADDITIONAL MEMBER FROM THE GENERAL PUBLIC; TO AMEND SECTION 40‑47‑10, RELATING TO MEMBERSHIP ON AND DUTIES OF THE STATE BOARD OF MEDICAL EXAMINERS, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND TO DELETE THE PROVISION AUTHORIZING THE BOARD TO ESTABLISH AN INITIAL FEE SCHEDULE IN REGULATIONS; TO AMEND SECTION 40‑47‑11, RELATING TO MEMBERSHIP ON THE MEDICAL DISCIPLINARY COMMISSION, SO AS TO DECREASE COMMISSION PHYSICIAN MEMBERSHIP FROM THIRTY‑SIX TO THIRTY‑FIVE BY CONTINUING TO APPOINT FIVE PHYSICIAN COMMISSIONERS FROM EACH CONGRESSIONAL DISTRICT, BY ELIMINATING THE SIX AT‑LARGE PHYSICIAN COMMISSIONERS, AND BY DECREASING LAY COMMISSION MEMBERSHIP FROM TWELVE TO SEVEN BY APPOINTING ONE, RATHER THAN TWO, LAY COMMISSIONERS FROM EACH CONGRESSIONAL DISTRICT; TO AMEND SECTION 40‑75‑10, RELATING TO MEMBERSHIP ON THE BOARD OF EXAMINERS FOR THE LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND PSYCHO‑EDUCATIONAL SPECIALIST, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 44‑1‑20, RELATING TO MEMBERSHIP ON THE BOARD OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 44‑9‑30 AND SECTIONS 44‑20‑210 AND 44‑20‑225, BOTH AS AMENDED, RELATING, RESPECTIVELY, TO MEMBERSHIP ON THE SOUTH CAROLINA MENTAL HEALTH COMMISSION, MEMBERSHIP ON THE SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS, AND MEMBERSHIP ON CONSUMER ADVISORY BOARDS TO THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, SO AS TO MAINTAIN THE SEVEN MEMBER MENTAL HEALTH COMMISSION, THE SEVEN MEMBER COMMISSION ON DISABILITIES AND SPECIAL NEEDS, AND THE SEVEN MEMBER CONSUMER ADVISORY BOARDS BY PROVIDING THAT ONE MEMBER MUST BE APPOINTED FROM EACH CONGRESSIONAL DISTRICT AND BY ELIMINATING THE ONE STATE AT LARGE MEMBER FROM EACH COMMISSION AND FROM EACH BOARD; BY ADDING SECTION 1‑1‑1320 SO AS TO PROVIDE FOR THE CONTINUATION OF THE TERM OF A PERSON WHO REPRESENTS A CONGRESSIONAL DISTRICT ON A BOARD, COMMISSION, OR COMMITTEE WHOSE RESIDENCY IS TRANSFERRED TO ANOTHER CONGRESSIONAL DISTRICT BY A CHANGE IN THE COMPOSITION OF THE DISTRICT; TO PROVIDE FOR THE APPOINTMENT OF AN ADDITIONAL MEMBER TO REPRESENT THE CONGRESSIONAL DISTRICT FOR WHICH THE TRANSFERRED MEMBER WOULD HAVE SERVED IF THAT DISTRICT IS UNSERVED BY A RESIDENT MEMBER; AND TO PROVIDE FOR THE EXPIRATION OF TERMS AND VACANCIES OCCURRING IN THE AFFECTED DISTRICTS; AND TO DELETE OBSOLETE LANGUAGE AND MAKE CHANGES NECESSARY TO CONFORM TO THE PROVISIONS OF THIS ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑30‑10(B)(1)(ii) of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

“(ii) a ~~seven member~~ board to be appointed and constituted in a manner provided for by law;”

SECTION 2. Section 40‑9‑30 of the 1976 Code is amended to read:

“Section 40‑9‑30. (A) There is ~~hereby~~ created the South Carolina Board of Chiropractic Examiners consisting of ~~eight~~ nine members. One licensed chiropractor must be appointed by the Governor from each congressional district and must be a chiropractor residing and practicing in the district the chiropractor represents. The board shall certify in writing to the Governor the names of the two nominees who received the highest number of votes in each district’s election conducted pursuant to Section 40‑9‑37. The Governor may reject any or all of the nominees upon satisfactory showing of the unfitness of those rejected. If the Governor declines to appoint any of the nominees submitted, additional nominees must be submitted in the same manner. One member of the board, who must be a licensed and practicing chiropractor, must be appointed by the Governor from the State at large, and one member, who may not be a member of the chiropractic or medical profession, must be appointed by the Governor from the State at large. The conduct of the balloting for the nominees for the board from the respective congressional districts is the responsibility of the Board of Chiropractic Examiners. Each chiropractic member must be a licensed and practicing chiropractor in South Carolina in good standing for a period of five years preceding the date of appointment to the board.

(B) All terms are for four years and until their successors are appointed and qualify. The Governor may remove a member of the board who is guilty of continued neglect of board duties, guilty of a misdemeanor or a felony, or who is found to be incompetent. No member may be removed without first giving the member an opportunity to refute the charges filed against that member who must be given a copy of the charges at the time they are filed.

(C) The South Carolina Board of Chiropractic Examiners shall meet at least twice a year at a time and place as determined by the board. The board shall hold elections for its officers each year. The board may call additional meetings when necessary for the transaction of board business. The board shall adopt regulations for its government, for judging the professional and ethical competence of chiropractors, including compliance with the code of chiropractic ethics, and for the discipline of chiropractors. A majority of the board constitutes a quorum for the transaction of business.

(D) The board may:

(1) establish suitable procedures for carrying out its duties pursuant to this chapter;

(2) execute certificates which must be accepted in the courts of this State and by an administrative law judge as provided under Article 5 ~~of~~, Chapter 23 ~~of~~, Title 1 as the best evidence of the minutes of the board and the best evidence of whether a person is registered under the requirements of this chapter;

(3) ~~adopt and revise~~ promulgate regulations not inconsistent with the law as may be necessary to carry out this chapter including, but not limited to, regulations concerning patient care and treatment, solicitation of patients, and advertising; however, the board may not prohibit or discriminate against advertising in any particular media;

(4) conduct investigations and cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for this;

(5) keep a record of all its proceedings;

(6) ~~(reserved);~~

~~(7)~~ fix the time for holding its meetings;

~~(8)~~(7) examine, license, and renew the licenses of qualified applicants and certify applicants as to their ability and as to the degree of their practice of chiropractic as authorized under the laws of this State; however, the nonchiropractic member of the board may not participate in the examination of a license applicant on matters of technical or professional nature; the board shall use the National Board Examination of the National Board of Chiropractic Examiners in lieu of the state written examination for persons graduating from an approved chiropractic college pursuant to Section 40‑9‑40 after July 1, 1982;

~~(9)~~(8) judge the professional and ethical competence of chiropractors, establish a code of chiropractic ethics, and provide for the discipline of chiropractors;

~~(10)~~(9) order the revocation, suspension, or restriction of the license of a licensee to practice chiropractic or take other disciplinary action, including assessing a civil fine for a violation of this chapter;

~~(11)~~(10) assess and collect costs from a licensee for investigating a complaint and conducting proceedings pursuant to this chapter.”

SECTION 3. Section 40‑9‑37 of the 1976 Code is amended to read:

“Section 40‑9‑37. Each chiropractor, licensed pursuant to Title 40, Chapter 9, Code of Laws of South Carolina, 1976, and residing within the congressional district from which the appointment is to be made, shall be entitled to vote in the advisory election. A ballot shall be sent by certified mail to each licensed chiropractor residing in that congressional district from which the appointment is to be made. The ballot shall contain the name of each chiropractor licensed pursuant to this chapter and residing within the congressional district from which the appointment is to be made, as indicated by the records of the Board of Chiropractic Examiners or its predecessor. ~~For the initial election the records used shall be the records of the South Carolina Board of Chiropractic Examiners on May 10, 1978.~~ A space shall be provided for write‑in votes for qualified candidates whose names do not appear on the ballot. The ballot shall specify the date by which the returned ballot must be received by the agency conducting the advisory election. The ballots shall be opened at 9:00 A.M. on the day following the date specified for the receipt of the ballots and the results shall be tabulated. The tabulated results shall be immediately forwarded to the Governor.”

SECTION 4. Section 40‑15‑20 of the 1976 Code is amended to read:

“Section 40‑15‑20. (A) There is created the State Board of Dentistry (board) to be composed of ~~nine~~ eleven members, one of whom shall be a lay member from the State at large, one of whom shall be a dentist from the State at large, one of whom shall be a dental hygienist from the State at large, one of whom shall be a dental hygienist from the State at large nominated pursuant to subsection (C) and ~~six~~ seven of whom shall be dentists representing each ~~of six congressional districts~~ congressional district. Dentists shall be licensed, practicing dentists and residents of the State and of the congressional district which they represent. The dental ~~hygienist~~ hygienists shall be ~~a~~ licensed, practicing dental hygienists and residents of the State. The terms of the members shall be for six years and until successors are appointed and qualify. No member shall be allowed successive terms of office.

(B) The dentist at large, a dental hygienist at large and lay member shall be appointed by the Governor. All appointments to the board of the ~~six~~ seven members of the board representing the congressional districts shall be made upon the recommendation of the board, which recommendation shall be based upon an annual election conducted by the board. This election shall be conducted on a rotating basis in the ~~six~~ seven congressional districts in numerical order so that each year the licensed dentists residing in the subject district shall elect from among themselves a member of the board. The board at its regular annual meeting shall certify in writing to the Governor the name of the person winning the election and the name of the person the nominee replaces on the board. The Governor may reject any or all of the nominees upon satisfactory showing as to the unfitness of those rejected. If the Governor declines to appoint any of such nominees so submitted, additional nominees shall be submitted in the same manner. Vacancies shall be filled in a like manner by appointment by the Governor for the unexpired portion of the term.

(C) The board shall conduct an election to nominate ~~the~~ a dental hygienist when such seat shall be vacant. ~~Such~~ This election shall provide for participation by all dental hygienists currently licensed and residing in South Carolina. The name of the nominee shall be forwarded to the Governor for appointment. The Governor may reject the nominee upon satisfactory showing as to the unfitness of the nominee. If the Governor declines to appoint any nominee so submitted, additional nominees shall be submitted in the same manner. Vacancies shall be filled in a like manner by appointment by the Governor for the unexpired portion of the term. No person shall be eligible for appointment who has a financial interest or serves as an officer in a business organized under the laws of this State to sell dental supplies, equipment, or appurtenances or who is officially connected with a school of dentistry or dental hygiene.

(D) Vacancies shall be filled in a like manner by appointment by the Governor for the unexpired portion of the term.

(E) All members of the board have full voting rights except that the lay member is exempt from voting on examinations for licensure and the dental ~~hygienist is~~ hygienists are exempt from voting on examination for licensure for dentists.

(F) The Governor may remove any member of the board who has been guilty of continued neglect of his duties or who is found to be incompetent, unprofessional, or dishonorable. No member shall be removed without first giving him an opportunity to refute the charges filed against him. He shall be given a copy of the charges at the time they are filed.

~~The present members of the State Board of Dentistry shall continue to serve until expiration of their terms and until successors are appointed. The present board shall plan and implement the changes in as practical a manner as its deems feasible so as to accomplish the changes at least by December 31, 1984, and to provide for board membership to expire on a rotating basis so that no more than two seats expire in any one year. The Governor shall appoint the lay member by December 31, 1982. The present members of the State Board of Dentistry shall be eligible for nomination to a new term if the board deems this to be feasible in implementing the terms of this chapter.~~”

SECTION 5. Section 40‑33‑10 of the 1976 Code is amended to read:

“Section 40‑33‑10. (A) There is created the State Board of Nursing composed of ~~ten~~ eleven members. Two must be licensed practical nurses from the State at large, and two must be lay members from the State at large. ~~Six~~ Seven must be registered nurses, each representing one congressional district, and at least one must be employed in a hospital setting and at least one must be licensed as an advanced practice registered nurse. ~~Two must be licensed practical nurses, and one shall represent Region I, which includes Congressional Districts 1, 2, and 3, and one shall represent Region II, which includes Congressional Districts 4, 5, and 6.~~ When appointing members to the board, consideration should be given to including a diverse representation of principal areas of nursing including, but not limited to, hospital, acute care, advanced practice, community health, and nursing education. Registered nurse and licensed practical nurse members must be licensed in South Carolina, must be employed in nursing, must have at least three years of practice in their respective professions immediately preceding their appointment, and shall reside in the district they represent. Lay members must not be licensed or employed as a health care provider but shall represent the public at large as a consumer of nurse services. No member may serve as an officer of a professional health related state association. The chairman or designee of the State Board of Medical Examiners shall serve as an advisory nonvoting member to the board to provide consultation on matters requested by the Board of Nursing.

(B) Members shall serve terms of four years and until their successors are appointed and qualify. Board members must be appointed by the Governor with the advice and consent of the Senate. An individual, group, or association may nominate qualified persons and submit them to the Governor for consideration. Vacancies must be filled for the unexpired portion of a term by appointment of the Governor.

(C) The Governor may remove members pursuant to Section 1‑3‑240(C) or members who have been guilty of continued neglect of their duties or members who are found to be incompetent, unprofessional, or dishonorable. No members may be removed without first giving them the opportunity to refute the charges filed against them. The member must be given copies of the charges at the time they are filed.

(D) A board member, or person authorized and approved by the board, engaged in business for the board may receive for board service the usual per diem, mileage, and subsistence as provided by law. These expenses must be paid from the fees received by the board under this chapter.

(E) The board may have and use an official seal bearing the words: ‘State Board of Nursing for South Carolina’. The board may promulgate regulations as it considers necessary for the purposes of carrying out the provisions of this chapter.

(F) The board shall meet at least quarterly for the purpose of transacting business. A majority of the members of the board constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum. A board member is required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the board as provided in Section 1‑3‑245.

(G) A chairman, a vice chairman, and a secretary comprise the officers of the board. The election of the chairman must be from the registered nurse members of the board, and the vice chairman and secretary must be elected from the members. Officers shall serve terms of one year and until their successors are elected. The administrator shall certify to the Governor the names of the officers elected for regular and unexpired terms.

(H) The Chairman of the State Board of Nursing, or the chairman’s designee, shall serve as an advisory nonvoting member of the State Board of Medical Examiners to provide consultation on matters requested by the State Board of Medical Examiners. The Board of Medical Examiners shall send written notice at least ten days before meetings that the Board of Medical Examiners wants the chairman or designee of the State Board of Nursing to attend. The Chairman of the State Board of Nursing, or the chairman’s designee, and the State Board of Medical Examiners shall meet at least twice a year and more often as necessary.

(I) In addition to the powers and duties enumerated in Section 40‑1‑70, the board may:

(1) publish advisory opinions and position statements relating to nursing practice procedures or policies authorized or acquiesced to by any agency, facility, institution, or other organization that employs persons authorized to practice under this chapter to comply with acceptable standards of nursing practice;

(2) develop minimum standards for continued competency of licensees continuing in or returning to practice;

(3) conduct surveys of educational enrollments and licensure and report to the public;

(4) conduct investigations and hearings concerning alleged violations of this chapter;

(5) develop minimum standards for nursing education programs;

(6) approve nursing education programs that meet the prescribed standards;

(7) deny or withdraw approval or limit new student admissions of nursing education programs that fail to meet the prescribed standards;

(8) use minimum standards as a basis for evaluating safe and effective nursing practice;

(9) examine, license, and renew the authorizations to practice of qualified applicants;

(10) join organizations that develop and regulate the national nursing licensure examinations and promote the improvement of the practice of nursing for the protection of the public;

(11) collect any information the board considers necessary, including social security numbers or alien identification numbers, in order to report disciplinary actions to national databanks of disciplinary information;

(12) establish guidelines to assist employers of nurses when errors in nursing practice can be handled through corrective action in the employment setting~~;~~

~~(13)~~ ~~establish a fee schedule in regulations~~.”

SECTION 6. Section 40‑43‑40 of the 1976 Code is amended to read:

“Section 40‑43‑40. (A) There is created the State Board of Pharmacy to be composed of ~~eight~~ nine members, appointed by the Governor with advice and consent of the Senate, one of whom must be a lay member from the State at large, one of whom must be a pharmacist from the State at large, and ~~six~~ seven of whom must be pharmacists representing each of the ~~six~~ seven congressional districts. ~~Provided,~~ However, if no hospital pharmacist is selected to represent any of the ~~six~~ seven congressional districts, the Governor shall appoint a hospital pharmacist as the pharmacist at large.

(B) The pharmacist at large and the lay member shall serve coterminously with the appointing Governor and until their successors are appointed and qualify. The board shall conduct an election to nominate three pharmacists from each congressional district to be submitted to the Governor for consideration for appointment. The Governor shall appoint one pharmacist to represent each congressional district from among the nominees submitted for that district. The election shall provide for participation by all pharmacists currently licensed and residing in the congressional district for which the nomination is being made. The pharmacists must be residents of the congressional district they represent, licensed, in good standing to practice pharmacy in this State, and actively engaged in the practice of pharmacy in this State. The members of the board representing the ~~six~~ seven congressional districts shall serve terms of six years and until their successors are appointed and qualify. No member may serve more than two successive terms of office except that a member serving an unexpired term may be reelected and reappointed for two successive terms.

(C) Before December first in the year in which the term expires for a member representing a congressional district, a qualified pharmacist desiring to be a candidate for the board shall submit to the administrator of the board a biography and a petition bearing the signatures of a minimum of fifteen pharmacists practicing in that pharmacist’s congressional district. The administrator shall prepare ballots for mailing to all pharmacists licensed and residing in the congressional district for which the nomination is being made. The ballots must be in a form so as to make tabulation quick and easy and shall contain the names of the nominees in alphabetical order. Enclosures to accompany the ballots shall include the envelope in which the ballot is to be sealed and an envelope addressed to the secretary of the board. The addressed envelope shall contain a statement headed ‘information required’ on which must be typed or printed the name of the voter and a space for the voter’s signature certifying that the voter:

(1) is the person whose name appears on the statement;

(2) is eligible to vote in this election;

(3) has personally cast the ballot.

(D) All ballots must be mailed by the administrator before January fifteenth to the last known mailing address of all pharmacists residing in the congressional district for which the nomination is being made and must be returned to the administrator postmarked before February fifteenth and received by the office before February twenty‑fifth. The administrator of the board shall certify these ballots to be true and valid.

(E) Before March first, the board shall certify in writing to the Governor the name of the three persons winning the election and the name of the person the nominee replaces on the board, and the member, when appointed by the Governor, takes office the first of July of that year.

(F) Notwithstanding subsection (B), if a nominee is judged unfit by the Governor, the board must be informed and other nominees must be submitted in like manner.

(G) Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(H) The Governor may remove a member of the board who is guilty of continued neglect of board duties or who is found to be incompetent, unprofessional, or dishonorable. No member may be removed without first giving the member an opportunity to refute the charges filed against that member.”

SECTION 7. Section 40‑45‑10 of the 1976 Code is amended to read:

“Section 40‑45‑10. (A) There is created the State Board of Physical Therapy Examiners to license physical therapists and physical therapist assistants under the administration of the Department of Labor, Licensing and Regulation. The purpose of this board is to protect the public through regulation of professionals who identify, assess, and provide treatment for individuals with physical disabilities through the administration and enforcement of this chapter and any regulations promulgated under the chapter.

(B) The board consists of ~~nine~~ eleven members appointed by the Governor, ~~six~~ seven of whom must be licensed physical therapists, with one from each congressional district, two of whom must be physical therapist assistants, and ~~one~~ two from the general public. The South Carolina Physical Therapy Association, Inc., shall submit recommendations to the Governor of at least two names for each physical therapist and physical therapist assistant member. The Governor also shall consider nominations from any other individual, group, or association. The physical therapist and the physical therapist assistant member each must have had at least three years’ experience before being appointed and while serving on the board be actively practicing in this State. Members shall serve terms of four years and until their successors are appointed and qualify. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.”

SECTION 8. Section 40‑47‑10 of the 1976 Code is amended to read:

“Section 40‑47‑10. (A)(1) There is created the State Board of Medical Examiners to be composed of ~~twelve~~ thirteen members, three of whom must be lay members, one of whom must be a doctor of osteopathic medicine, two of whom must be physicians from the State at large, and ~~six~~ seven of whom must be physicians, each representing one of the ~~six~~ seven congressional districts. All members of the board must be residents of this State, and each member representing a congressional district shall reside in the district the member represents. All physician members of the board must be licensed by the board, must be without prior disciplinary action or conviction of a felony or other crime of moral turpitude, and must be practicing their profession in this State. All lay members of the board must hold a baccalaureate degree or higher, must not have been convicted of a felony or a crime of moral turpitude, and must not be employed or have a member of their immediate family employed in a health or medically related field.

(2) The members of the board shall serve for terms of four years or until their successors are appointed and qualify. Members of the board may only serve three consecutive terms.

(3) All members of the board have full voting rights.

(4) The one lay member and one physician from the State at large must be appointed by the Governor, with the advice and consent of the Senate. Two lay members must be appointed by the Governor, with the advice and consent of the Senate, one upon the recommendation of the President Pro Tempore of the Senate and one upon the recommendation of the Speaker of the House of Representatives.

(5) The board shall conduct an election to nominate one physician from the State at large. The election must provide for participation by all physicians currently permanently licensed and residing in South Carolina. To nominate the physicians who will represent the ~~six~~ seven congressional districts, the board shall conduct an election within each district. These elections must provide for participation by all permanently licensed physicians residing in the particular district. The board shall conduct an election to nominate the doctor of osteopathic medicine from the State at large, and this election must provide for participation by any physician currently permanently licensed in this State as a doctor of osteopathic medicine. The board shall certify in writing to the Governor the results of each election. The Governor may reject any or all of the nominees upon satisfactory showing of the unfitness of those rejected. If the Governor declines to appoint any of the nominees submitted, additional nominees must be submitted in the same manner following another election. Vacancies must be filled in the same manner of the original appointment for the unexpired portion of the term.

(6) Vacancies that occur when the General Assembly is not in session may be filled by an interim appointment of the Governor in the manner provided by Section 1‑3‑210.

(B) Public and lay members of boards and panels must be appointed in accordance with Section 40‑1‑45.

(C) Board members and persons authorized by the board to engage in business for the board must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members or persons acting on behalf of the board.

(D) The board annually shall elect from among its members a chairman, vice chairman, secretary, and other officers as the board determines necessary. The board may ~~adopt rules and~~ promulgate regulations reasonably necessary for the performance of its duties and the governance of its operations and proceedings, for the practice of medicine, for judging the professional and ethical competence of physicians, including a code of medical ethics, and for the discipline of persons licensed or otherwise authorized to practice pursuant to this chapter.

(E) The board shall meet at least four times a year and at other times upon the call of the chair or a majority of the board.

(F) A majority of the members of the board constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum.

(G) A board member is required to attend meetings or to provide proper notice and justification of inability to do so. The Governor may remove members from the board for absenteeism, as well as for other grounds provided for in Section 1‑3‑240.

(H) The Chairman of the State Board of Medical Examiners, or the chairman’s designee, shall serve as an advisory nonvoting member of the State Board of Nursing to provide consultation on matters requested by the State Board of Nursing. The Board of Nursing shall send written notice at least ten days before meetings that the Board of Nursing wants the Chairman of the State Board of Medical Examiners, or the chairman’s designee, to attend. The Chairman of the State Board of Medical Examiners, or the chairman’s designee, and the State Board of Nursing shall meet at least twice a year and more often as necessary.

(I) In addition to the powers and duties enumerated in Section 40‑1‑70, the board may:

(1) publish advisory opinions and position statements relating to practice procedures or policies authorized or acquiesced to by any agency, facility, institution, or other organization that employs persons authorized to practice under this chapter to comply with acceptable standards of practice;

(2) develop minimum standards for continued competency of licensees continuing in or returning to practice;

(3) adopt rules governing the proceedings of the board and may promulgate regulations for the practice of medicine and as necessary to carry out the provisions of this chapter;

(4) conduct hearings concerning alleged violations of this chapter;

(5) use minimum standards as a basis for evaluating safe and effective medical practice;

(6) license and renew the authorizations to practice of qualified applicants;

(7) approve temporary licenses, limited licenses, and other authorizations to practice in its discretion as it considers in the public interest;

(8) join organizations that develop and regulate the national medical licensure examinations and promote the improvement of the practice of medicine for the protection of the public;

(9) collect any information the board considers necessary, including social security numbers or alien identification numbers, in order to report disciplinary actions to national databanks of disciplinary information as otherwise required by law;

(10) establish guidelines to assist employers of licensees when errors in practice can be handled through corrective action in the employment setting~~;~~

~~(11)~~ ~~establish an initial fee schedule in regulations~~.”

SECTION 9. Section 40‑47‑11 of the 1976 Code is amended to read:

“Section 40‑47‑11. (A) There is created the Medical Disciplinary Commission of the State Board of Medical Examiners to be composed of ~~thirty‑six~~ thirty‑five physician members appointed by the board and ~~twelve~~ seven lay members appointed by the Governor. The physician members of the commission must be licensed physicians practicing their profession, and they must be without prior disciplinary action or conviction of a felony or other crime of moral turpitude. Five physician commissioners must be appointed from each of the ~~six~~ seven congressional districts and must reside in the district, which they are appointed to represent~~, and six physician members of the commission must be appointed from the State at large. At‑large members must be currently licensed and actively practicing medicine in this State and must reside within the State at the time of appointment and throughout their terms. One physician commissioner initially appointed from each congressional district shall serve a term of one year and until a successor is appointed and qualified. One physician commissioner initially appointed from each congressional district shall serve a term of two years and until a successor is appointed and qualified. One physician commissioner initially appointed from each congressional district shall serve a term of three years and until a successor is appointed and qualified. The successors of the initial physician commissioners shall serve terms of three years or until their successors are appointed and qualified~~. The members of the commission are limited to three consecutive terms. A member of the Board of Medical Examiners may not simultaneously serve as a commissioner. In case of a vacancy by way of death, resignation, or otherwise, the board shall appoint a successor to serve for the unexpired portion of the term. Where justice, fairness, or other circumstances so require, the board may appoint past commissioners to hear complaints in individual cases.

(B) All lay commissioners must hold a baccalaureate degree or higher, must not have been convicted of a felony or other crime of moral turpitude, and must not be employed or have a member of their immediate family employed in a health or medically related field. ~~Two~~ One lay ~~commissioners~~ commissioner must be appointed by the Governor from each of the ~~six~~ seven congressional districts, with the advice and consent of the Senate. Each lay commissioner must be a registered voter and reside in the congressional district he represents throughout his term. Each lay commissioner initially appointed from each district shall serve for a term of three years and until his successor is appointed and qualified. Vacancies must be filled in the manner of the original appointment for the remainder of the unexpired portion of the term. The Governor may appoint a lay commissioner to serve a full term; however, a lay commissioner may not serve more than three consecutive terms.

(C) The commission is empowered to hear those formal complaints filed against practitioners authorized to practice under this chapter, unless otherwise provided in this chapter. These hearings must be conducted in accordance with the Administrative Procedures Act and with regulations promulgated by the Board of Medical Examiners and must be before a panel composed of not more than three physician commissioners and one lay commissioner. The panel is empowered to hear the matters complained of and to recommend findings of fact and conclusions of law to the board. The panel shall submit a certified report of its proceedings, including its findings of fact, conclusions of law, and mitigating and aggravating circumstances, for consideration by the board in rendering a final decision and shall file this report with the department.

(D) The physician members of the commission may serve as expert reviewers and witnesses in investigations and proceedings pursuant to this chapter. A physician commissioner who serves as an expert reviewer or witness in an investigation or proceeding may not serve on the hearing panel for that particular matter or related matters.”

SECTION 10. Section 40‑75‑10 of the 1976 Code is amended to read:

“Section 40‑75‑10. (A) There is created the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho‑Educational Specialists composed of nine members appointed by the Governor. Of the nine members, ~~six~~ seven must be professional members, one from each congressional district in the State. Of the professional members, three must be licensed professional counselors, one of whom must be a certified addictions counselor, ~~and~~ three must be marriage and family therapists, and one must be a psycho‑educational specialist. ~~One member must be a psycho‑educational specialist.~~  The remaining two members must be at large from the general public and must not be associated with, or financially interested in, the practice of professional counseling, marriage and family therapy, or psycho‑educational services.

(B) The membership must be representative of race, ethnicity, and gender. The ~~six~~ seven professional members ~~and the licensed psycho‑educational specialist~~ must have been actively engaged in the practice of their respective professions or in the education and training of professional counselors, marriage and family therapists, or psycho‑educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor and a marriage and family therapist. Members are eligible for reappointment. Vacancies must be filled in the same manner as the original appointment for the unexpired portion of the term. Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations.”

SECTION 11. Section 44‑1‑20 of the 1976 Code is amended to read:

“Section 44‑1‑20.There is ~~hereby~~ created the South Carolina Department of Health and Environmental Control which shall be administered under the supervision of the South Carolina Board of Health and Environmental Control. The board shall consist of ~~seven~~ eight members, one from each congressional district, and one from the State at large to be appointed by the Governor, upon the advice and consent of the Senate. The member who is appointed at large shall serve as the chairman of the board. The Governor may remove the chairman of the board pursuant to Section 1‑3‑240(B); however, the Governor may only remove the other board members pursuant to Section 1‑3‑240(C). The terms of the members shall be for four years and until their successors are appointed and qualify~~, except that of the original appointees, three shall be appointed for two years and four shall be appointed for four years~~. All vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. In making these appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.”

SECTION 12. Section 44‑9‑30 of the 1976 Code is amended to read:

“Section 44‑9‑30. (A)(1) There is created the governing board for the State Department of Mental Health known as the South Carolina Mental Health Commission. The commission ~~consists~~ shall consist of seven members, one from each congressional district, appointed by the Governor, upon the advice and consent of the Senate~~, as follows:~~

~~(a)~~ ~~one member from each of the six congressional districts;~~

~~(b)~~ ~~one member from the State at large~~.

(2) The Governor shall consider consumer and family representation when appointing members.

(B) The members serve for terms of five years and until their successors are appointed and qualify. The terms of no more than two members may expire in one year. The Governor may remove a member pursuant to the provisions of Section 1‑3‑240. A vacancy must be filled by the Governor for the unexpired portion of the term.

(C) The commission shall determine policies and promulgate regulations governing the operation of the department and the employment of professional and staff personnel.

(D) The members shall receive the same subsistence, mileage, and per diem provided by law for members of state boards, committees, and commissions.”

SECTION 13. Section 44‑20‑210 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑20‑210. ~~(A)~~ There is created the South Carolina Commission on Disabilities and Special Needs. The commission consists of seven members. One member must be a resident of each congressional district, ~~and one must be from the State at large to be~~ appointed by the Governor upon the advice and consent of the Senate. They shall serve for four years and until their successors are appointed and qualify. Members of the commission are subject to removal by the Governor pursuant to the provisions of Section 1‑3‑240. A vacancy may be filled by the Governor for the unexpired portion of the term.

~~(B)~~ ~~On July 1, 1993, the Commission on Mental Retardation becomes the Commission on Disabilities and Special Needs. The commissioners continue to serve until their terms expire and their successors are appointed and qualify.~~”

SECTION 14. Section 44‑20‑225 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑20‑225. (A) The Governor shall appoint a seven‑member consumer advisory board with the advice and consent of the Senate for each of the following divisions: the Intellectual Disability Division, the Autism Division, and the Head and Spinal Cord Injury Division. One member must be a resident of each congressional district~~, and one must be from the State at large~~. The membership of each advisory board must consist of persons with knowledge and expertise in the subject area of that division. In making such appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

(B) The members of the commission shall receive subsistence, mileage, and per diem as may be provided by law for members of state boards, committees, and commissions.

(C) Terms of the members shall be for four years and until their successors are appointed and qualify~~, except that of the original appointees, two shall be appointed for a period of two years, two shall be appointed for a period of three years, and three shall be appointed for a period of four years~~.”

SECTION 15. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires.

SECTION 16. This act takes effect upon approval by the Governor.

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