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Nursing, Board of – Advanced Practice Nursing – Committees – Rules and Regulations

The Joint Committee of the State Board of Medical Examiners and the Board of Nursing for Advanced Practice Nurses ("Joint Committee") cannot exceed its statutory authority. It cannot review, make recommendations about, or act on specific applications for collaborative practice, and it may not exempt specific applicants from otherwise applicable rules from the Alabama State Board of Medical Examiners or the Alabama Board of Nursing.

The Joint Committee's recommendation is a prerequisite for the State Board of Medical Examiners and the Board of Nursing to approve a model practice protocol.

The Joint Committee's recommendation is a condition precedent for the State Board of Medical Examiners and the Board of

Nursing to promulgate rules about the collaborative practice between physicians and certified registered nurse practitioners and certified nurse midwives.

To qualify for appointment to the Joint Committee, a certified registered nurse practitioner or a certified nurse midwife must be actively collaborating with an Alabama physician. That requires an ongoing relationship with regular oversight and direction under a written practice protocol.

The Board of Nursing cannot remove one of its appointees to the Joint Committee even if it later learns that the appointee no longer meets the eligibility criteria for appointment.

Dear Ms. Benson:

This opinion of the Attorney General is issued in response to your request on behalf of the Board of Nursing.

QUESTIONS ONE, TWO, AND THREE

Can the Joint Committee of the State Board of Medical Examiners and the Board of Nursing for Advanced Practice Nurses review and make recommendations about specific applications for collaborative practice?

Can the Joint Committee approve a physician's request to expand the physician's collaborative practice to allow the physician to collaborate with more certified registered nurse practitioners and certified nurse

midwives than the rules of the State Board of Medical Examiners and the Board of Nursing permit?

Can the Joint Committee waive the requirement in the rules of the State Board of Medical Examiners and the Board of Nursing for written verification of physician availability?

FACTS AND ANALYSIS

Advanced practice nursing is "[t]he delivery of health care services by registered nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education[.]" ALA. CODE § 34-21-81(2) (Supp. 2025). Certified registered nurse practitioners and certified nurse midwives are two of the four categories of advanced practice nurses. *Id.* §§ (1), (2). The Joint Committee was born out of the Legislature's recognition that regulation of the collaborative practice between physicians and certified registered nurse practitioners and certified nurse midwives is "essential to protect and maintain the public health and safety." ALA. CODE § 34-21-80 (2025).

The Joint Committee does not directly regulate the physicians, certified registered nurse practitioners, and certified nurse midwives who participate in collaborative practice. The State Board of Medical Examiners establishes "the qualifications for physicians who are engaged in collaborative practice" and "may adopt rules and regulations to accomplish the purposes of this section." ALA. CODE § 34-21-83 (2025). The Board of Nursing "establish[es] the qualifications necessary for a registered nurse to be certified to engage in advanced practice nursing" and may also "adopt rules and regulations establishing" how individuals are certified for advanced practice nursing, the grounds for denying or terminating that certification, and the fees to apply for that certification. ALA. CODE § 34-21-84 (2025). The State Board of Medical Examiners and the Board of Nursing also possess specific powers to act against their respective licensees for violations related to collaborative practice. ALA. CODE §§ 34-21-88, -89, -91 (2025).

Consistent with the ultimate authority of the State Board of Medical Examiners and the Board of Nursing, the Joint Committee's powers are limited. It "shall be the state authority designated to recommend rules and

regulations" to the State Board of Medical Examiners and the Board of Nursing for the purpose of regulating collaborative practice. ALA. CODE § 34-21-85 (2025); *accord id.* ("The joint committee shall recommend to the State Board of Medical Examiners and the Board of Nursing rules and regulations designed to govern the collaborative relationship[.]"). It "shall recommend model practice protocols" for collaborative practice, subject to the approval of the State Board of Medical Examiners and the Board of Nursing. ALA. CODE § 34-21-87 (2025). It "shall recommend . . . a formulary of legend drugs that may be prescribed by these advanced practice nurses, subject to approval by both the State Board of Medical Examiners and the Board of Nursing." *Id.* It "shall also recommend rules and regulations to establish the ratio of physicians to certified registered nurse practitioners and certified nurse midwives" permissible in a protocol. *Id.* It "shall . . . recommend rules and regulations that establish [how] a[n unavailable] collaborating physician may designate a covering physician." *Id.* And it can "consult[] with" the State Board of Medical Examiners on certain medical forms related to collaborative practice. *See* ALA. CODE § 34-21-93.1(b) (2025). You ask about three other powers that the Joint Committee appears to be exercising.

First, you question whether the Joint Committee can review, make recommendations about, or act on specific applications for collaborative practice. You note an example of the Joint Committee denying a physician's request for an exemption from the collaborating-physician-presence requirement. Because the Joint Committee is "purely a creature of the legislature," it has "only those powers conferred upon it by its creator." *Ex parte City of Florence*, 417 So. 2d 191, 194 (Ala. 1982). None of the express powers discussed above involve specific applications for collaborative practice. More specifically, the Joint Committee's authority to "recommend ***model*** practice protocols," ALA. CODE § 34-21-87 (2025) (emphasis added), implies a limitation on authority related to how a protocol is tailored to a specific application for collaborative practice.

Second, you ask whether the Joint Committee can, at the request of a physician, increase the number of certified registered nurse practitioners and certified nurse midwives the physician collaborates with beyond the limits established by the State Board of Medical Examiners and the Board of Nursing. These rules limit a physician from collaborating with certified registered nurse practitioners and certified nurse midwives more than 360 hours (nine full-time equivalents) per week. *E.g.*, ALA. ADMIN. CODE r. 540-X-8-.12(1) (2021). But these rules also permit a physician to exceed this limitation by "request[ing] approval from the Joint Committee for

additional full-time certified registered nurse practitioner positions[.]" *E.g.*, *id.* § (4). As explained above, the Joint Committee's statutory powers are advisory only; nothing in its authority permits it to exempt a physician from the rules of the State Board of Medical Examiners or the Board of Nursing. The Joint Committee can only "recommend rules and regulations" about "***the*** ratio of physicians to certified registered nurse practitioners and certified nurse midwives[.]" ALA. CODE § 34-21-87 (2025) (emphasis added). That language does not call for case-by-case determination. *See* NORMAN J. SINGER & SHAMBIE SINGER, 2A *Sutherland Statutory Construction* § 47:34 (7th ed.) ("A term introduced by the definite article 'the' usually applies to a single subject or object."); *accord N.B. v. J.C.R.*, 222 So. 3d 1160, 1162 (Ala. 2016) (Shaw, J., concurring). Section 34-21-87 of the Code also provides that "rules and regulations" (not the Joint Committee) "shall provide for exceptions" to the ratio. *See Hendon v. White*, 52 Ala. 597, 605 (1875) ("The general rule is, that if a statute limits a thing to be done in a particular form or manner, it excludes every other mode[.]"). And this Office is aware of no statute authorizing the State Board of Medical Examiners or the Board of Nursing, by rule, to expand the Joint Committee's duties beyond its statutory authority. *Cf. Florence*, 417 So. 2d at 193–94.

Third, you ask whether the Joint Committee can waive the requirement of written verification of physician availability for specific applicants. The rules of the State Board of Medical Examiners and the Board of Nursing make "written verification of physician availability" a requirement for collaborative practice but allow the Joint Committee to "waive" those requirements "at its discretion." *See, e.g.*, ALA. ADMIN. CODE r. 540-X-8-.08(7) (2021). The same analysis applies. None of the Joint Committee's powers permit independent action on specific applications for collaborative practice, so a rule cannot authorize the Joint Committee to exempt a collaborative-practice agreement from the rules of the State Board of Medical Examiners and the Board of Nursing.

CONCLUSION

The Joint Committee of the State Board of Medical Examiners and the Board of Nursing for Advanced Practice Nurses cannot exceed its statutory authority. It cannot review, make recommendations about, or act on specific applications for collaborative practice, and it may not exempt specific applicants from otherwise applicable rules from the Alabama State Board of Medical Examiners or the Alabama Board of Nursing.

QUESTION FOUR

Can the State Board of Medical Examiners and the Board of Nursing approve a model protocol without the Joint Committee's initial recommendation?

FACTS AND ANALYSIS

Under section 34-21-87 of the Code, the Joint Committee "shall recommend model practice protocols to be used by certified registered nurse practitioners and certified nurse midwives," ALA. CODE § 34-21-87 (2025), who generally must "practic[e] in collaboration with a physician following [these] protocols." ALA. CODE § 34-21-90 (2025); *accord* ALA. CODE § 34-21-85 (2025). The statute provides for a sequential process: once the Joint Committee recommends a model protocol, it is then "subject to approval by both the State Board of Medical Examiners and the Board of Nursing." ALA. CODE § 34-21-87 (2025). In your request, you note an example where the State Board of Medical Examiners and the Board of Nursing approved separate protocols without the Joint Committee's initial recommendation. You question whether the State Board of Medical Examiners and the Board of Nursing can collaborate to approve model protocols on their own (i.e., whether the Joint Committee's recommendation must happen first).

Answering your question requires considering how the relevant text in section 34-21-87 of the Code situates within the statutory scheme regulating advanced practice nursing. *See Bean Dredging, L.L.C. v. Ala. Dep't of Revenue*, 855 So. 2d 513, 517 (Ala. 2003) ("When interpreting a statute, this Court must read the statute as a whole because statutory language depends on context[.]"). The statutory scheme appears to make the Joint Committee's recommendation, followed by approval from the State Board of Medical Examiners and the Board of Nursing, the sole method for adopting model protocols. As discussed above, the Legislature's provision of this particular method would generally "exclude[] every other" method. *Hendon*, 52 Ala. at 605. This inference (the negative-implication canon) is "most useful" when the statute uses a list. *Ex parte Gartrell*, No. SC-2024-0743, —So. 3d—, 2025 WL 1776392, at *6 (Ala. June 27, 2025). Lists are good examples because they "can reasonably be thought to be an expression of all that shares in the grant or prohibition involved." A. SCALIA & B. GARNER, *Reading Law: The*

Interpretation of Legal Text 107 (2012). But ultimately, the applicability of the canon turns on whether the surrounding context and common sense indicate that the statute has a preclusive effect.

The relevant text in section 34-21-87 of the Code does not use a list, but the whole text establishes a single method for adopting model protocols. First, the broader context. The Joint Committee's purpose is to facilitate cooperation between the State Board of Medical Examiners and the Board of Nursing to regulate the collaborative practice between physicians and certified registered nurse practitioners and certified nurse midwives. *See* ALA. CODE § 34-21-80 (2025). The Joint Committee's name (explicitly referencing the State Board of Medical Examiners and the Board of Nursing) and composition of both physicians and advanced practice nurses both reflect its cooperative structure. *See* ALA. CODE § 34-21-81(7) (Supp. 2025). And neither section 34-21-87 of the Code specifically nor the statutory scheme generally provides for cooperation between the State Board of Medical Examiners and the Board of Nursing without the Joint Committee's involvement.

Second, the text. It imposes a mandatory duty on the Joint Committee. It "***shall*** recommend model practice protocols." ALA. CODE § 34-21-87 (2025) (emphasis added). The text then links the approval authority of the State Board of Medical Examiners and the Board of Nursing to the model protocols recommended by the Joint Committee. *Id.* If the State Board of Medical Examiners and the Board of Nursing could approve model protocols without the Joint Committee's recommendation, that would strip much of the effect given to this mandatory duty imposed on the Joint Committee. *See City of Pinson v. Utils. Bd. of Oneonta*, 986 So. 2d 367, 371 (Ala. 2007) (explaining that the rules of statutory construction require "giv[ing] effect" to each statutory provision if possible).

Third, the cross references. The Legislature defined the word "protocol" to mean "[a] document ***approved in accordance with Section 34-21-87*** establishing the permissible functions and activities to be performed by certified registered nurse practitioners and certified nurse midwives and signed by [the participating providers]." ALA. CODE § 34-21-81(13) (Supp. 2025) (emphasis added). The Legislature's use of "approved in accordance with" hardwires section 34-21-87 of the Code's sequential-approval mechanism into what counts as a "protocol." Section 34-21-86 of the Code does something similar: only certified registered nurse practitioners and certified nurse midwives "engaged in collaborative practice with physicians ***practicing under protocols approved in the***

manner prescribed by this article may prescribe legend drugs." ALA. CODE § 34-21-86(a) (2025) (emphasis added).

To be sure, the context is not one-sided. In another provision, the Legislature specified that the drugs that may be prescribed by collaborating certified registered nurse practitioners and certified nurse midwives "shall be on the formulary recommended by the joint committee and adopted by the State Board of Medical Examiners and the Board of Nursing." *Id.* § (a)(2). That suggests that the Legislature knew how to require the State Board of Medical Examiners and the Board of Nursing to use something recommended by the Joint Committee but deliberately chose not to for model protocols. *See Ex parte Smiths Water & Sewer Auth.*, 982 So. 2d 484, 488 (Ala. 2007) ("As a basic canon of statutory construction, we presume that a difference in wording, especially in provisions within similar statutes, reflects a difference in meaning."). But "this canon is particularly defeasible by context." A. SCALIA & B. GARNER, *supra*, at 171.

The context does so here. To start, section 34-21-86 of the Code is not the source of the Joint Committee's power to recommend the formulary. Section 34-21-87 of the Code is. And it provides that authority in the same sentence that it provides the Joint Committee authority to recommend model protocols. Section 34-21-87 of the Code uses the same "shall recommend . . . subject to approval" language for both duties. Section 34-21-86 of the Code's reference to the Joint Committee's role with the formulary is a cross reference—just as the statute cross references the Joint Committee's role with model protocols. *Compare* ALA. CODE § 34-21-86(a)(2) (2025) ("the formulary recommended by the joint committee and adopted by the State Board of Medical Examiners and the Board of Nursing"), *with id.* § (a) ("under protocols approved in the manner prescribed by this article"). Both reference section 34-21-87 of the Code's sequential process, so there is no difference in language or meaning.

Section 34-21-87 of the Code is thus best read as a procedural requirement (the exclusive means of adopting a protocol), not merely one of multiple pathways. The broader context, text, and cross references provide sufficient basis to conclude that section 34-21-87 of the Code establishes a sequential process that functions as the exclusive method for approving a model practice protocol. The negative-implication canon therefore prevents the State Board of Medical Examiners and the Board of Nursing from approving model protocols without first receiving a recommendation from the Joint Committee.

CONCLUSION

The Joint Committee's recommendation is a prerequisite for the State Board of Medical Examiners and the Board of Nursing to approve a model practice protocol.

QUESTION FIVE

> Can the State Board of Medical Examiners and the Board of Nursing promulgate rules and regulations about the collaborative practice between physicians and certified registered nurse practitioners and certified nurse midwives without the Joint Committee's initial recommendation?

FACTS AND ANALYSIS

The Joint Committee "shall be the state authority designated to recommend rules and regulations to the State Board of Medical Examiners and the Board of Nursing for the purpose of regulating the collaborative practice of physicians and certified registered nurse practitioners and certified nurse midwives." ALA. CODE § 34-21-85 (2025); *accord id.* ("The joint committee shall recommend to the State Board of Medical Examiners and the Board of Nursing rules and regulations designed to govern the collaborative relationship between physicians and certified registered nurse practitioners and certified nurse midwives."). You ask whether the Joint Committee's recommendation is a condition precedent to the abilities of the State Board of Medical Examiners and the Board of Nursing to promulgate rules in this area.

The question is again primarily about whether the negative-implication canon applies. Much of the analysis is the same. The broader context, again, is that (1) the Legislature established the Joint Committee as the mechanism for the State Board of Medical Examiners and the Board of Nursing to cooperate to regulate this collaborative practice and (2) no other provision in the statutory scheme contemplates the State Board of Medical Examiners and the Board of Nursing cooperating without the Joint Committee's involvement. Also, the relevant text again imposes a mandatory duty on the Joint Committee that would not continue to have

effect if the State Board of Medical Examiners and the Board of Nursing could circumvent the process.

The textual evidence generally signals that the statute operates with a preclusive effect. The text again establishes a sequential process where the Joint Committee "recommend[s] . . . rules and regulations designed to govern the collaborative relationship" to the State Board of Medical Examiners and the Board of Nursing, which the State Board of Medical Examiners and the Board of Nursing "finally adopt[]." ALA. CODE § 34-21-85 (2025). The text also makes the Joint Committee "***the*** state authority designated to recommend rules and regulations to the State Board of Medical Examiners and the Board of Nursing." ALA. CODE § 34-21-85 (2025) (emphasis added). The rest of the text is about the rulemaking process, which the Legislature connected to "***[t]hese*** rules and regulations"—those the Joint Committee has recommended. ALA. CODE § 34-21-85 (2025) (emphasis added).

But the counter argument from before about consistent usage applies with a bit more force. Again, section 34-21-86(a)(2) of the Code shows that the Legislature knew how to specifically require the Joint Committee's recommendation. And other more implicit examples exist that are specific to rulemaking. The Joint Committee's authority to recommend rules establishing "***the*** ratio of physicians to certified registered nurse practitioners and certified nurse midwives" and "***the*** manner in which a collaborating physician may designate a covering physician," ALA. CODE § 34-21-87 (2025) (emphasis added), both imply that no other ratio or manner could originate from another source. But it is important to remember that the presumption of consistent usage "assumes a perfection of drafting that, as an empirical matter, is not often achieved." A. SCALIA & B. GARNER, *supra*, at 170. The Legislature did not need to use language like that used in section 34-21-86 of the Code to signal intent to preclude because section 34-21-85 of the Code provides sufficient textual evidence showing that the Legislature established the sequential process as the exclusive mechanism to adopt "these rules and regulations." And the more specific rulemaking provisions contemplating one source can just as easily be read as examples of section 34-21-85 of the Code's mandatory sequential process.

Even without any textual evidence of preclusion, the State Board of Medical Examiners and the Board of Nursing—as statutory creatures—would need residual statutory authority to adopt rules governing the collaborative relationship. *Florence*, 417 So. 2d at 194. Section 34-21-85 of the Code does not provide that authority; it contemplates only the State

Board of Medical Examiners and the Board of Nursing's "final[] adopt[ion]." The provisions in the statutory scheme concerning the rulemaking authority of the State Board of Medical Examiners and the Board of Nursing also do not provide any residual authority. The State Board of Medical Examiners can adopt rules only about "the qualifications for physicians who are engaged in collaborative practice." ALA. CODE § 34-21-83 (2025). And the Board of Nursing can adopt rules only for nurses' certification to engage in advanced practice nursing. *See* ALA. CODE § 34-21-84 (2025). This Office is aware of no statutory authority allowing the State Board of Medical Examiners and the Board of Nursing to regulate the collaborative relationship between physicians and certified registered nurse practitioners and certified nurse midwives without the Joint Committee's initial recommendation of a rule.

CONCLUSION

The Joint Committee's recommendation is a condition precedent for the State Board of Medical Examiners and the Board of Nursing to promulgate rules about the collaborative practice between physicians and certified registered nurse practitioners and certified nurse midwives.

QUESTION SIX

> How does the 2025 amendment to section 34-21-81(7) of the Code affect the eligibility criteria for the certified registered nurse practitioners and certified nurse midwife members of the Joint Committee?

FACTS AND ANALYSIS

At its inception, the Joint Committee was composed of (a) two physicians, (b) one registered nurse, (c) one physician engaged in collaborative practice, (d) one certified registered nurse practitioner engaged in collaborative practice, and (e) one certified nurse midwife engaged in collaborative practice. 1995 Ala. Acts No. 1995-263. The State Board of Medical Examiners appoints the physician members, while the Board of Nursing appoints the nurse members. ALA. CODE § 34-21-82(a)(1)-(2) (Supp. 2025).

In 2025, the Governor signed Act 2025-378 into law, which amended the composition of and eligibility criteria for the Board of Nursing appointees to the Joint Committee. 2025 Ala. Acts No. 2025-378. The act replaced the registered-nurse member with a second certified registered nurse practitioner member. *Id.* at 5. And the act revised the eligibility criteria for the certified registered nurse practitioners and certified nurse midwife appointees from "engaged in advanced practice with a physician in the State of Alabama" to "engaged in an active collaborative practice with a physician in this state." *Id.*; ALA. CODE § 34-21-81(7) (Supp. 2025). You question the impact of the latter change, and your request contemplates someone who has a signed collaborative practice protocol but is not regularly performing the duties listed in the protocol.

When the Legislature materially changes an unambiguous statute, courts presume that the Legislature intended to change the law. *Pinigis v. Regions Bank*, 977 So. 2d 446, 452 (Ala. 2007). The Legislature changed section 34-21-81(7) of the Code in two ways. First, the certified registered nurse practitioners and certified nurse midwife appointees must be engaged in "collaborative practice" instead of "advanced practice." The statute defines variations of both terms. "Advanced practice nursing" is defined as "[t]he delivery of health care services by registered nurses who have gained additional knowledge and skills." ALA. CODE § 34-21-81(2) (Supp. 2025). Being a certified registered nurse practitioner or certified nurse midwife qualifies as advanced practice nursing, and the practice of those professions is further defined. *Id.* "Collaboration" is defined as "[a] formal relationship" between a certified registered nurse practitioner or certified nurse midwife and a physician where the nurse "engage[s] in advanced practice nursing" under a written protocol as further defined in the statute. *Id.* § (5). It includes "professional oversight and direction." *Id.*

Second, that collaborative practice must be "active." The online version of the Cambridge Dictionary defines "active" as "busy with a particular activity." *Active*, CAMBRIDGE DICTIONARY, https://dictionary.cambridge.org/us/dictionary/english/active (last visited May 26, 2026). This definition does not apply where context indicates that the word "active" has a different meaning. For example, the Board of Medical Examiners uses the phrase "active license" to differentiate licensees that have been surrendered, placed on probation, or become inactive because of nonpayment of fees. *See, e.g.*, ALA. CODE § 34-24-337(d)(1) (2025); ALA. ADMIN. CODE r. 540-X-19-.05(2) (2019).

These changes appear to clarify rather than materially change the eligibility criteria. But both changes strengthen them. The use of the word "collaborative" focuses the eligibility criteria on the practice protocol agreement between the certified registered nurse practitioners or certified nurse midwife and the physician. And the modifier "active" builds on the "engage[ment]" requirement to clearly mandate an ongoing relationship with regular oversight and direction from a physician. Your contemplated person who has a signed collaborative practice protocol but follows the protocol only occasionally or in a *de minimis* way does not satisfy these requirements. That practice would not be active because it is not regular, and that practice likely would not involve the regular oversight and direction required for collaboration with a physician. The previous eligibility criteria likely lead to the same result, but the recent amendment mandates it.

CONCLUSION

To qualify for appointment to the Joint Committee, a certified registered nurse practitioner or a certified nurse midwife must be engaged in an active collaboration with an Alabama physician. That requires an ongoing relationship with regular oversight and direction pursuant to a written practice protocol.

QUESTION SEVEN

> If the Board of Nursing learns that one of its appointees no longer meets the eligibility criteria for appointment, can the Board of Nursing remove that member?

FACTS AND ANALYSIS

The Board of Nursing "has only those powers conferred upon it by its creator." *Florence*, 417 So. 2d at 194. Section 34-21-82 of the Code authorizes the Board of Nursing to appoint three members to the Joint Committee, but it is silent as to the authority to remove those members. ALA. CODE § 34-21-82 (Supp. 2025). Contrast that silence with the explicit removal mechanism provided for members of the Board of Nursing itself. *See* ALA. CODE § 34-21-2(c) (Supp. 2025) ("The Governor

may remove any member from the board for neglect of duty of the board, incompetency, or unprofessional or dishonorable conduct.").

There are two ways that removal can occur without that textual grounding. First, this Office has explained that "the power to appoint an officer carries with it, as an incident, in the absence of constitutional or statutory restraint, the right to remove the appointee." Opinion to Honorable Bob Riley, Governor, dated Feb. 12, 2004, A.G. No. 2004-070 *citing Touart v. State*, 56 So. 211 (Ala. 1911). But appointment for a "term . . . fixed by law" provides that statutory restraint. *See id.*; *cf. Touart*, 56 So. at 216 ("The appellant in this case, not being appointed for any fixed term, could have no right to hold longer than at the will and pleasure of the appointing power, or of the Governor, and consequently was not deprived of any right."). This circumstance does not apply because the Board of Nursing appointees "shall serve a term"—two or three years depending on the position. ALA. CODE § 34-21-82(a)(2)-(3) (Supp. 2025).

Second, removal can occur if the appointee did not meet the qualifications at the time of appointment. Such appointments are void ab initio. *Norris v. Fayette Cnty. Comm'n*, 143 So. 3d 659, 667 (Ala. 2013). This circumstance also does not apply because your question states that the appointee "no longer" meets the eligibility criteria, which implies that the appointee was qualified at the time of appointment.

A quo warranto action under section 6-6-591 of the Code is thus the "exclusive remedy to determine whether a party is usurping public office." *Hudson v. Ivey*, 383 So. 3d 636, 641 (Ala. 2023) *quoting Riley v. Hughes*, 17 So. 3d 643, 646 (Ala. 2009). This Office is aware of no statute providing the Board of Nursing general authority to file litigation or specific authority to institute a quo warranto action against an appointee. The Board of Nursing may "institute any legal proceedings necessary to effect compliance with this chapter" against its licensees. ALA. CODE § 34-21-25(a) (2025). It may "apply to any court of competent jurisdiction for an injunction to enjoin" unlicensed practice. ALA. CODE § 34-21-26 (2025). And it "may commence and maintain in [its] own name[]" an "action in the nature of quo warranto" against "any person within this state who is unlawfully engaging in advanced practice nursing" as a certified registered nurse practitioner or certified nurse midwife. ALA. CODE § 34-21-91 (2025). Because the Legislature provided defined avenues for the Board of Nursing to sue—including one specifically about quo warranto in the statutory scheme at issue—it follows that the Board of

Nursing cannot initiate a quo warranto action to remove a now-unqualified appointee.

CONCLUSION

The Board of Nursing cannot remove one of its appointees to the Joint Committee even if it later learns that the appointee no longer meets the eligibility criteria for appointment.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ben Seiss of my staff.

Sincerely,

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By:

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