

1 HB272
2 180485-1
3 By Representatives Davis and Faust
4 RFD: Boards, Agencies and Commissions
5 First Read: 21-FEB-17

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8 SYNOPSIS: Under existing law, the State Board of
9 Chiropractic Examiners is authorized to adopt rules
10 necessary to carry into effect certain duties and
11 powers related to the practice of chiropractic.

12 This bill would provide further for that
13 authority in relation to state and federal
14 anti-trust laws as well as establish that the
15 Legislature recognizes that anti-competitive rules
16 which prioritize patient safety and wellness are
17 permissible.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
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23 To add Section 34-24-140.1 to the Code of Alabama
24 1975, relating to the powers and duties of the State Board of
25 Chiropractic Examiners; to clarify rulemaking authority of the
26 State Board of Chiropractic Examiners regarding state and
27 federal anti-trust laws and to establish that anti-competitive

1 rules which prioritize patient safety and wellness are
2 permissible.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 34-24-140.1 is added to the Code
5 of Alabama 1975, to read as follows:

6 §34-24-140.1.

7 (a) The Legislature finds and declares all of the
8 following:

9 (1) A primary goal of the provision of health care
10 is to prioritize patient safety and wellness.

11 (2) The board is in the best position to determine
12 the practice of chiropractic that prioritizes patient safety
13 and wellness.

14 (3) The power to make rules regulating the practice
15 of chiropractic includes the power to prohibit unlicensed
16 persons from practicing chiropractic and the power to regulate
17 how licensed persons practice chiropractic.

18 (4) It is the intent of the Legislature in enacting
19 this section to immunize the State Board of Chiropractic
20 Examiners and its members from liability under state and
21 federal anti-trust laws for the adoption of a rule that
22 prioritizes patient safety and wellness but may be
23 anti-competitive when the effect on public safety and wellness
24 is clearly demonstrated and documented by the State Board of
25 Chiropractic Examiners.

26 (b) Subject to subsection (c), a rule adopted by the
27 board may define and regulate the practice of chiropractic in

1 a way that prioritizes patient safety and wellness, even if
2 the rule is anti-competitive when the effect on public safety
3 and wellness is clearly demonstrated and documented by the
4 State Board of Chiropractic Examiners.

5 (c) A rule adopted by the board may supplement or
6 clarify any statutory definition but may not conflict with any
7 statute that defines the practice of chiropractic.

8 Section 2. Nothing in this act shall be construed to
9 constrict or expand the current rights and privileges of any
10 individual governed by the State Board of Chiropractic
11 Examiners beyond that which existed prior to the ruling in the
12 United States Supreme Court decision *N.C. State Bd. of Dental
13 Examiners v. FTC*, 135 S.Ct 1101(2015).

14 Section 3. Nothing in this act shall be construed to
15 constrict or expand the current duties or responsibilities of
16 the members of the State Board of Chiropractic Examiners in
17 any context outside of federal or state anti-trust immunity
18 beyond that which existed prior to the ruling in the United
19 States Supreme Court decision *N.C. State Bd. of Dental
20 Examiners v. FTC*, 135 S.Ct 1101(2015).

21 Section 4. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.