

By: Representatives Stevens, Frierson,
Clarke

To: Public Health and Human
Services

HOUSE BILL NO. 589

1 AN ACT TO AMEND SECTION 73-6-19, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE STATE BOARD OF CHIROPRACTIC EXAMINERS TO ENTER INTO
3 CONSENT DECREES WITH CHIROPRACTORS WHO ARE WILLING TO DO THAT AS
4 AN ALTERNATIVE TO A FORMAL HEARING ON VIOLATIONS OF THE LICENSURE
5 LAW; TO AUTHORIZE THE BOARD TO ISSUE ADVISORY LETTERS TO
6 CHIROPRACTORS ADDRESSING MATTERS THAT DO NOT NECESSITATE FORMAL
7 DISCIPLINARY ACTION; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 73-6-19, Mississippi Code of 1972, is
10 amended as follows:

11 73-6-19. (1) The board shall refuse to grant a certificate
12 of licensure to any applicant or may cancel, revoke or suspend the
13 certificate upon the finding of any of the following facts
14 regarding the applicant or licensed practitioner:

15 (a) Failure to comply with the rules and regulations
16 adopted by the State Board of Chiropractic Examiners;

17 (b) Violation of any of the provisions of this chapter
18 or any of the rules and regulations of the State Board of Health
19 pursuant to this chapter with regard to the operation and use of
20 x-rays;

21 (c) Fraud or deceit in obtaining a license;

22 (d) Addiction to the use of alcohol, narcotic drugs, or
23 anything which would seriously interfere with the competent
24 performance of his professional duties;

25 (e) Conviction by a court of competent jurisdiction of
26 a felony, other than manslaughter or any violation of the United
27 States Revenue Code;

28 (f) Unprofessional and unethical conduct;

29 (g) Contraction of a contagious disease which may be
30 carried for a prolonged period;

31 (h) Failure to report to the Mississippi Department of
32 Human Services or the county attorney any case wherein there are
33 reasonable grounds to believe that a child has been abused by its
34 parent or person responsible for such child's welfare;

35 (i) Advising a patient to use drugs, prescribing or
36 providing drugs for a patient, or advising a patient not to use a
37 drug prescribed by a licensed physician or dentist;

38 (j) Professional incompetency in the practice of
39 chiropractic;

40 (k) Having disciplinary action taken by his peers
41 within any professional chiropractic association or society;

42 (l) Offering to accept or accepting payment for
43 services rendered by assignment from any third-party payor after
44 offering to accept or accepting whatever the third-party payor
45 covers as payment in full, if the effect of the offering or
46 acceptance is to eliminate or give the impression of eliminating
47 the need for payment by an insured of any required deductions
48 applicable in the policy of the insured;

49 (m) Associating his practice with any chiropractor who
50 does not hold a valid chiropractic license in Mississippi, or
51 teach chiropractic manipulation to nonqualified persons under
52 Section 73-6-13;

53 (n) Failure to make payment on chiropractic student
54 loans;

55 (o) Failure to follow record keeping requirements
56 prescribed in Section 73-6-18; or

57 (p) If the practitioner is certified to provide animal
58 chiropractic treatment, failure to follow guidelines approved by
59 the Mississippi Board of Veterinary Medicine.

60 (2) Any holder of such certificate or any applicant therefor
61 against whom is preferred any of the designated charges shall be

62 furnished a copy of the complaint and shall receive a formal
63 hearing in Jackson, Mississippi, before the board, at which time
64 he may be represented by counsel and examine witnesses. The board
65 is authorized to administer oaths as may be necessary for the
66 proper conduct of any such hearing. In addition, the board is
67 authorized and empowered to issue subpoenas for the attendance of
68 witnesses and the production of books and papers. The process
69 issued by the board shall extend to all parts of the state. Where
70 in any proceeding before the board any witness shall fail or
71 refuse to attend upon subpoena issued by the board, shall refuse
72 to testify, or shall refuse to produce any books and papers, the
73 production of which is called for by the subpoena, the attendance
74 of such witness and the giving of his testimony and the production
75 of the books and papers shall be enforced by any court of
76 competent jurisdiction of this state in the manner provided for
77 the enforcement of attendance and testimony of witnesses in civil
78 cases in the courts of this state.

79 (3) In addition to any other investigators the board
80 employs, the board shall appoint one or more licensed
81 chiropractors to act for the board in investigating the conduct
82 relating to the competency of a chiropractor, whenever
83 disciplinary action is being considered for professional
84 incompetence and unprofessional conduct.

85 (4) Whenever the board finds any person unqualified to
86 practice chiropractic because of any of the grounds set forth in
87 subsection (1) of this section, after a hearing has been conducted
88 as prescribed by this section, the board may enter an order
89 imposing one or more of the following:

90 (a) Deny his application for a license or other
91 authorization to practice chiropractic;

92 (b) Administer a public or private reprimand;

93 (c) Suspend, limit or restrict his license or other
94 authorization to practice chiropractic for up to five (5) years;

95 (d) Revoke or cancel his license or other authorization
96 to practice chiropractic;

97 (e) Require him to submit to care, counseling or
98 treatment by physicians or chiropractors designated by the board,
99 as a condition for initial, continued or renewal of licensure or
100 other authorization to practice chiropractic;

101 (f) Require him to participate in a program of
102 education prescribed by the board; or

103 (g) Require him to practice under the direction of a
104 chiropractor designated by the board for a specified period of
105 time.

106 (5) Any person whose application for a license or whose
107 license to practice chiropractic has been cancelled, revoked or
108 suspended by the board within thirty (30) days from the date of
109 such final decision shall have the right of a de novo appeal to
110 the circuit court of his county of residence or the Circuit Court
111 of the First Judicial District of Hinds County, Mississippi. If
112 there is an appeal, such appeal may, in the discretion of and on
113 motion to the circuit court, act as a supersedeas. The circuit
114 court shall dispose of the appeal and enter its decision promptly.
115 The hearing on the appeal may, in the discretion of the circuit
116 judge, be tried in vacation. Either party shall have the right of
117 appeal to the Supreme Court as provided by law from any decision
118 of the circuit court.

119 (6) In a proceeding conducted under this section by the
120 board for the revocation, suspension or cancellation of a license
121 to practice chiropractic, after a hearing has been conducted as
122 prescribed by this section, the board shall have the power and
123 authority for the grounds stated in subsection (1) of this
124 section, with the exception of paragraph (c) thereof, to assess
125 and levy upon any person licensed to practice chiropractic in the
126 state a monetary penalty in lieu of such revocation, suspension or
127 cancellation, as follows:

128 (a) For the first violation, a monetary penalty of not
129 less than Five Hundred Dollars (\$500.00) nor more than One
130 Thousand Dollars (\$1,000.00) for each violation.

131 (b) For the second and each subsequent violation, a
132 monetary penalty of not less than One Thousand Dollars (\$1,000.00)
133 nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for
134 each violation.

135 The power and authority of the board to assess and levy such
136 monetary penalties under this section shall not be affected or
137 diminished by any other proceeding, civil or criminal, concerning
138 the same violation or violations. A licensee shall have the right
139 of appeal from the assessment and levy of a monetary penalty as
140 provided in this section to the circuit court under the same
141 conditions as a right of appeal is provided for in this section
142 for appeals from an adverse ruling, or order, or decision of the
143 board. Any monetary penalty assessed and levied under this
144 section shall not take effect until after the time for appeal has
145 expired, and an appeal of the assessment and levy of such a
146 monetary penalty shall act as a supersedeas.

147 (7) In addition to the grounds specified in subsection (1)
148 of this section, the board shall be authorized to suspend the
149 license of any licensee for being out of compliance with an order
150 for support, as defined in Section 93-11-153. The procedure for
151 suspension of a license for being out of compliance with an order
152 for support, and the procedure for the reissuance or reinstatement
153 of a license suspended for that purpose, and the payment of any
154 fees for the reissuance or reinstatement of a license suspended
155 for that purpose, shall be governed by Section 93-11-157 or
156 93-11-163, as the case may be. Actions taken by the board in
157 suspending a license when required by Section 93-11-157 or
158 93-11-163 are not actions from which an appeal may be taken under
159 this section. Any appeal of a license suspension that is required
160 by Section 93-11-157 or 93-11-163 shall be taken in accordance

161 with the appeal procedure specified in Section 93-11-157 or
162 93-11-163, as the case may be, rather than the procedure specified
163 in this section. If there is any conflict between any provision
164 of Section 93-11-157 or 93-11-163 and any provision of this
165 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
166 case may be, shall control.

167 (8) The board may enter into a consent decree or decrees
168 with any chiropractor who is willing to do that as an alternative
169 to a formal hearing on a violation of any provision of this
170 chapter or any rule or regulation adopted under this chapter. In
171 addition, the board may issue advisory letters to chiropractors
172 addressing matters that do not necessitate formal disciplinary
173 action.

174 **SECTION 2.** This act shall take effect and be in force from
175 and after July 1, 2004.