

By: Senator(s) Dearing

To: Public Health and Welfare

SENATE BILL NO. 2148

1 AN ACT TO AMEND SECTION 73-6-19, MISSISSIPPI CODE OF 1972, TO
2 ALLOW THE STATE BOARD OF CHIROPRACTIC EXAMINERS TO ENTER INTO
3 CONSENT DECREES WITH CHIROPRACTORS AND ISSUE ADVISORY LETTERS TO
4 CHIROPRACTORS WHO ARE THE SUBJECTS OF COMPLAINTS WHOSE CONDUCT
5 DOES NOT CONSTITUTE A VIOLATION OF THE RULES OF THE BOARD OR THE
6 LAWS OF THE STATE; AND FOR RELATED PURPOSES.

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

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

10 73-6-19. (1) The board shall refuse to grant a certificate
11 of licensure to any applicant or may cancel, revoke or suspend the
12 certificate upon the finding of any of the following facts
13 regarding the applicant or licensed practitioner:

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

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

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

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

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

27 (f) Unprofessional and unethical conduct;

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

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

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

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

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

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

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

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

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

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

59 (2) Any holder of such certificate or any applicant therefor
60 against whom is preferred any of the designated charges shall be
61 furnished a copy of the complaint and shall receive a formal
62 hearing in Jackson, Mississippi, before the board, at which time

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

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

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

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

91 (b) Administer a public or private reprimand;

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

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

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

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

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

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

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

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

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

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

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

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

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

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