

By: Senator(s) Canon

To: Public Health and
Welfare

SENATE BILL NO. 3016
(As Passed the Senate)

1 AN ACT TO CODIFY SECTION 73-6-18, MISSISSIPPI CODE OF 1972,
2 TO PRESCRIBE RECORD KEEPING STANDARDS FOR CHIROPRACTORS AND
3 CHIROPRACTIC ASSISTANTS; TO AMEND SECTION 73-6-19, MISSISSIPPI
4 CODE OF 1972, TO PROVIDE THAT IMPROPER RECORD KEEPING BY A
5 CHIROPRACTOR IS UNPROFESSIONAL CONDUCT; AND FOR RELATED PURPOSES.

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

7 SECTION 1. The following provision shall be codified as
8 Section 73-6-18, Mississippi Code of 1972:

9 73-6-18. These standards apply to all licensed chiropractors
10 and chiropractic assistants. These standards also apply to those
11 consultations and examinations advertised as a reduced fee or free
12 (no charge) service:

13 (a) The chiropractor shall maintain records for
14 patients which accurately, legibly and completely reflect the
15 evaluation and treatment of the patient.

16 (b) All patient records shall include patient history,
17 symptomatology, examination, diagnosis, prognosis and treatment.
18 If abbreviations or symbols are used in daily record keeping, a
19 key must be provided.

20 (c) In the event that the board takes disciplinary
21 action against a chiropractor for any reason, these minimum record
22 keeping standards will apply. It is understood that these
23 procedures are the accepted standard(s) and anything less than
24 this shall be considered unprofessional conduct in the practice of
25 chiropractic.

26 SECTION 2. Section 73-6-19, Mississippi Code of 1972, is
27 amended as follows:

28 73-6-19. (1) The board shall refuse to grant a certificate

of licensure to any applicant or may cancel, revoke or suspend the certificate upon the finding of any of the following facts regarding the applicant or licensed practitioner:

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

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

(c) Fraud or deceit in obtaining a license;

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

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

(f) Unprofessional and unethical conduct;

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

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

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

(j) Professional incompetency in the practice of chiropractic;

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

(l) Offering to accept or accepting payment for services rendered by assignment from any third-party payor after offering to accept or accepting whatever the third-party payor covers as payment in full, if the effect of the offering or

63 acceptance is to eliminate or give the impression of eliminating
64 the need for payment by an insured of any required deductions
65 applicable in the policy of the insured;

66 (m) Associating his practice with any chiropractor who
67 does not hold a valid chiropractic license in Mississippi, or
68 teach chiropractic manipulation to non-qualified persons under
69 Section 73-6-13; * * *

70 (n) Failure to make payment on chiropractic student
71 loans; or

72 (o) Failure to follow record keeping requirements
73 prescribed in Section 73-6-18.

74 (2) Any holder of such certificate or any applicant therefor
75 against whom is preferred any of the designated charges shall be
76 furnished a copy of the complaint and shall receive a formal
77 hearing in Jackson, Mississippi, before the board, at which time
78 he may be represented by counsel and examine witnesses. The board
79 is authorized to administer oaths as may be necessary for the
80 proper conduct of any such hearing. In addition, the board is
81 authorized and empowered to issue subpoenas for the attendance of
82 witnesses and the production of books and papers. The process
83 issued by the board shall extend to all parts of the state. Where
84 in any proceeding before the board any witness shall fail or
85 refuse to attend upon subpoena issued by the board, shall refuse
86 to testify, or shall refuse to produce any books and papers, the
87 production of which is called for by the subpoena, the attendance
88 of such witness and the giving of his testimony and the production
89 of the books and papers shall be enforced by any court of
90 competent jurisdiction of this state in the manner provided for
91 the enforcement of attendance and testimony of witnesses in civil
92 cases in the courts of this state.

93 (3) In addition to any other investigators the board
94 employs, the board shall appoint one or more licensed
95 chiropractors to act for the board in investigating the conduct
96 relating to the competency of a chiropractor, whenever

disciplinary action is being considered for professional incompetence and unprofessional conduct.

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

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

(b) Administer a public or private reprimand;

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

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

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

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

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

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

131 appeal to the Supreme Court as provided by law from any decision
132 of the circuit court.

133 (6) In a proceeding conducted under this section by the
134 board for the revocation, suspension or cancellation of a license
135 to practice chiropractic, after a hearing has been conducted as
136 prescribed by this section, the board shall have the power and
137 authority for the grounds stated in subsection (1) of this
138 section, with the exception of paragraph (c) thereof, to assess
139 and levy upon any person licensed to practice chiropractic in the
140 state a monetary penalty in lieu of such revocation, suspension or
141 cancellation, as follows:

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

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

149 The power and authority of the board to assess and levy such
150 monetary penalties under this section shall not be affected or
151 diminished by any other proceeding, civil or criminal, concerning
152 the same violation or violations. A licensee shall have the right
153 of appeal from the assessment and levy of a monetary penalty as
154 provided in this section to the circuit court under the same
155 conditions as a right of appeal is provided for in this section
156 for appeals from an adverse ruling, or order, or decision of the
157 board. Any monetary penalty assessed and levied under this
158 section shall not take effect until after the time for appeal has
159 expired, and an appeal of the assessment and levy of such a
160 monetary penalty shall act as a supersedeas.

161 (7) In addition to the grounds specified in subsection (1)
162 of this section, the board shall be authorized to suspend the
163 license of any licensee for being out of compliance with an order
164 for support, as defined in Section 93-11-153. The procedure for

suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 3. This act shall take effect and be in force from and after July 1, 1999.