

1 SB104  
2 172351-3  
3 By Senators Dial and McClendon  
4 RFD: Health and Human Services  
5 First Read: 02-FEB-16

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8 SYNOPSIS: Under existing law, the Alabama State Board  
9 of Medical Examiners and the Medical Licensure  
10 Commission are authorized to adopt rules necessary  
11 to carry into effect certain duties and powers  
12 related to the practice of medicine.

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

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT  
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24 To add Section 34-24-53.1 to the Code of Alabama  
25 1975, relating to the powers and duties of the Board of  
26 Medical Examiners and the Medical Licensure Commission; to  
27 clarify rulemaking authority of the Board of Medical Examiners

1 and the Medical Licensure Commission regarding state and  
2 federal anti-trust laws and to establish that anti-competitive  
3 rules which prioritize patient safety and wellness are  
4 permissible.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 34-24-53.1 is added to the Code  
7 of Alabama 1975, to read as follows:

8 §34-24-53.1.

9 (a) The Legislature finds and declares all of the  
10 following:

11 (1) The power to make rules regulating the practice  
12 of medicine or osteopathy includes the power to prohibit  
13 unlicensed persons from practicing medicine or osteopathy and  
14 the power to regulate how licensed persons practice medicine  
15 or osteopathy.

16 (2) A primary goal of the provision of health care  
17 is to prioritize patient safety and wellness.

18 (3) The State Board of Medical Examiners and the  
19 Medical Licensure Commission are in the best position to  
20 determine the medical practices that prioritize patient safety  
21 and wellness.

22 (4) Prioritizing patient safety and wellness may  
23 sometimes be at odds with the goals of state and federal  
24 anti-trust laws, which include prioritizing competition and  
25 efficiency.

26 (5) It is the intent of the Legislature in enacting  
27 this section to immunize the Board of Medical Examiners and

1 its members and the Medical Licensure Commission and its  
2 members from liability under state and federal anti-trust laws  
3 for the adoption of a rule that prioritize patient safety and  
4 wellness but may be anti-competitive.

5 (b) Subject to subsection (c), rules adopted under  
6 Sections 34-24-53 and 34-24-311 may define and regulate the  
7 practice of medicine or osteopathy in a way that prioritizes  
8 patient safety and wellness, even if the rule is  
9 anti-competitive.

10 (c) A rule adopted under Section 34-24-53 or  
11 34-24-311 may supplement or clarify any statutory definition  
12 but may not conflict with any statute that defines the  
13 practice of medicine or osteopathy.

14 Section 2. This act shall become effective  
15 immediately following its passage and approval by the  
16 Governor, or its otherwise becoming law.