

1 HB17
2 179348-1
3 By Representative Johnson (R)
4 RFD: Boards, Agencies and Commissions
5 First Read: 07-FEB-17
6 PFD: 10/13/2016

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8 SYNOPSIS: Under existing law, the Alabama State Board
9 of Physical Therapy is authorized to adopt rules
10 necessary to carry into effect certain duties and
11 powers related to the practice of physical therapy.

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 34-24-193.1 to the Code of Alabama
24 1975, relating to the powers and duties of the Alabama State
25 Board of Physical Therapy; to clarify rulemaking authority of
26 the Alabama State Board of Physical Therapy regarding state
27 and federal anti-trust laws and to establish that

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 34-24-193.1 is added to the Code
5 of Alabama 1975, to read as follows:

6 §34-24-193.1.

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 physical therapy that prioritizes patient
13 safety and wellness.

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

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

25 (b) Subject to subsection (c), a rule adopted by the
26 board may define and regulate the practice of physical therapy
27 in a way that prioritizes patient safety and wellness, even if

1 the rule is anti-competitive when the effect on public safety
2 and wellness is clearly demonstrated and documented by the
3 Board of Physical Therapy.

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

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

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

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