

1 HB320  
2 174689-1  
3 By Representative Johnson (R)  
4 RFD: Health  
5 First Read: 25-FEB-16

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

12 This bill would provide further for such  
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 34-23-92.1 to the Code of Alabama  
24 1975, relating to the powers and duties of the Alabama State  
25 Board of Pharmacy; to clarify rulemaking authority of the  
26 Alabama State Board of Pharmacy regarding state and federal

1 anti-trust laws and to establish that anti-competitive rules  
2 which prioritize patient safety and wellness are permissible.  
3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 34-23-92.1 is added to the Code  
5 of Alabama 1975, to read as follows:

6 §34-23-92.1.

7 (a) The Legislature finds and declares all of the  
8 following:

9 (1) The power to make rules regulating the practice  
10 of pharmacy includes the power to prohibit unlicensed persons  
11 from practicing pharmacy and the power to regulate how  
12 licensed persons practice pharmacy.

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

15 (3) The board is in the best position to determine  
16 the practice of pharmacy that prioritizes patient safety and  
17 wellness.

18 (4) Prioritizing patient safety and wellness may  
19 sometimes be at odds with the goals of state and federal  
20 anti-trust laws, which include prioritizing competition and  
21 efficiency.

22 (5) It is the intent of the Legislature in enacting  
23 this section to immunize the Board of Pharmacy and its members  
24 from liability under state and federal anti-trust laws for the  
25 adoption of a rule that prioritizes patient safety and  
26 wellness but may be anti-competitive.

1                   (b) Subject to subsection (c), rules adopted by the  
2 board may define and regulate the practice of pharmacy in a  
3 way that prioritizes patient safety and wellness, even if the  
4 rule is anti-competitive.

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

8                   Section 2. This act shall become effective  
9 immediately following its passage and approval by the  
10 Governor, or its otherwise becoming law.