

By: Representative Broomfield

To: Public Health and  
Welfare

## HOUSE BILL NO. 432

1 AN ACT TO AMEND SECTIONS 73-27-1, 73-27-3, 73-27-5, 73-27-12,  
2 73-27-13, 73-27-15, 73-27-16, 73-27-19, 73-25-28 AND 73-43-11,  
3 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PRACTITIONERS OF  
4 PODIATRY SHALL BE KNOWN AS PODIATRIC PHYSICIANS; AND FOR RELATED  
5 PURPOSES.

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

7 SECTION 1. Section 73-27-1, Mississippi Code of 1972, is  
8 amended as follows:

9 73-27-1. (1) The practice of podiatric medicine is that  
10 profession concerned with the prevention, diagnosis and treatment  
11 of conditions of the human foot. For the purposes of this  
12 chapter, "foot" means that part of the human anatomy which  
13 consists of the tarsal bones, metatarsal bones, phalanges and all  
14 supportive and/or connective tissue immediately adjacent thereto,  
15 not to extend past the proximal end of the talus; this definition  
16 does not include the ankle or any structures proximal to it.

17 (2) A podiatric physician is a medical care provider who  
18 engages in the practice of podiatric medicine.

19 (3) A podiatric physician may prescribe and administer drugs  
20 and tests, excluding general and spinal anesthesia, that are  
21 essential to the practice of podiatric medicine when used for or  
22 in connection with treatment of disorders of the human foot.

23 (4) The term "podiatrist", when used in any statute, rule or  
24 regulation, shall mean podiatric physician.

25 SECTION 2. Section 73-27-3, Mississippi Code of 1972, is  
26 amended as follows:

27 73-27-3. (1) The State Board of Medical Licensure shall  
28 examine all applicants as hereinafter provided in this chapter.

(2) There is established the Podiatry Advisory Committee to the State Board of Medical Licensure. The advisory committee shall be composed of three (3) licensed and practicing podiatric physicians in the State of Mississippi. The members of the advisory committee shall be appointed by the executive director of the board from a list of six (6) podiatric physicians recommended by the Mississippi Podiatric Medical Association who have practiced in the state for not less than three (3) years immediately before their appointment. The podiatric physicians appointed to the advisory committee shall serve for terms of three (3) years from the time of their appointment. Any vacancy occurring on the advisory committee before the expiration of a term shall be filled by appointment of the executive director of the board from a list of at least two (2) podiatric physicians recommended by the Mississippi Podiatric Medical Association who have practiced in the state for not less than three (3) years immediately before their appointment. Any appointment to fill a vacancy shall be only for the remainder of the unexpired term.

(3) The Podiatry Advisory Committee shall advise and make recommendations to the State Board of Medical Licensure on all podiatry matters that come before the board. The board shall allow the advisory committee sufficient time to adequately prepare any materials or other information that the committee wants to present or deliver to the board on any matter or issue affecting podiatry. The board shall not make any final decision or take any final action on any podiatry matter until the board has reviewed any materials or other information presented or delivered to it by the advisory committee, provided that the information is delivered within the time period prescribed by the board.

SECTION 3. Section 73-27-5, Mississippi Code of 1972, is amended as follows:

73-27-5. (1) All applicants for license shall have attained the age of twenty-one (21) years, and shall be of good moral character; they shall have had at least four (4) years high school

63 and be graduates of same; they shall have at least one (1) year  
64 prepodiatry college education and be graduates of some college of  
65 podiatry recognized as being in good standing by the State Board  
66 of Medical Licensure. No college of podiatry or chiropody shall  
67 be accredited by the board as a college of good standing which  
68 does not require for graduation a course of study of at least four  
69 (4) years (eight and one-half (8-1/2) months each) and be  
70 recognized by the Council on Education of the American Podiatry  
71 Association. \* \* \* However, \* \* \* all podiatrists actively  
72 engaged in the practice of podiatry in the State of Mississippi  
73 before January 1, 1938, whether graduates or not, shall, upon  
74 furnishing proof thereof by displaying their state privilege tax  
75 license to the Secretary of the State Board of Medical Licensure,  
76 and upon payment of fee of Ten Dollars and Twenty-five Cents  
77 (\$10.25) be entitled to a license without an examination, and  
78 applications for the license shall be filed not later than sixty  
79 (60) days after the passage of this chapter. \* \* \*

80 (2) Upon payment of a fee prescribed by the State Board of  
81 Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), a  
82 license without examination may be issued to podiatrists or  
83 podiatric physicians of other states maintaining equal statutory  
84 requirements for the practice of podiatry and extending the same  
85 reciprocal privileges to this state. \* \* \*

86 (3) The State Board of Medical Licensure may affiliate with  
87 the National Board of Chiropody or Podiatry Licensure in granting  
88 licenses to practice podiatry in Mississippi, provided the written  
89 examination covers at least two-thirds (2/3) of the subjects set  
90 forth in Section 73-27-9.

91 (4) Each application or filing made under this section shall  
92 include the Social Security number(s) of the applicant in  
93 accordance with Section 93-11-64.

94 SECTION 4. Section 73-27-12, Mississippi Code of 1972, is  
95 amended as follows:

96 73-27-12. (1) The license of every person licensed to

97 practice podiatry in the State of Mississippi shall be renewed  
98 annually.

99 On or before May 1 of each year, the State Board of Medical  
100 Licensure shall mail an application for renewal of license to  
101 every podiatric physician to whom a license was issued or renewed  
102 during the current licensing year. The applicant shall complete  
103 the application and return it to the board of medical licensure  
104 before June 30 with the renewal fee of an amount established by  
105 the board, but not to exceed One Hundred Dollars (\$100.00). Upon  
106 receipt of the application and fee, the board of medical licensure  
107 shall verify the accuracy of the application and issue to  
108 applicant a certificate of renewal for the ensuing year, beginning  
109 July 1 and expiring June 30 of the succeeding calendar year. Such  
110 renewal shall render the holder thereof a legal practitioner as  
111 stated on the renewal form.

112 (2) Any podiatric physician practicing in Mississippi who  
113 allows his license to lapse by failing to renew the license as  
114 provided in subsection (1) may be reinstated by the board of  
115 medical licensure on satisfactory explanation for such failure to  
116 renew, by completion of a reinstatement form, and upon payment of  
117 the renewal fee for the current year, and shall be assessed a fine  
118 of Twenty-five Dollars (\$25.00) plus an additional fine of Five  
119 Dollars (\$5.00) for each month thereafter that the license renewal  
120 remains delinquent.

121 (3) Any podiatric physician not practicing in Mississippi  
122 who allows his license to lapse by failing to renew the license as  
123 provided in subsection (1) may be reinstated by the board on  
124 satisfactory explanation for such failure to renew, by completion  
125 of a reinstatement form and upon payment of all arrearage and the  
126 renewal fee for the current year.

127 (4) Any podiatric physician who allows his license to lapse  
128 shall be notified by the board of medical licensure within thirty  
129 (30) days of such lapse.

130 (5) Any person practicing as a licensed podiatric physician

during the time his license has lapsed shall be considered an illegal practitioner and shall be subject to penalties set forth in Section 73-27-17, provided he has not submitted the required reinstatement form and fee within fifteen (15) days after notification by the board of medical licensure of such lapse.

(6) Fees collected under the provisions of this section shall be used by the board of medical licensure to defray expenses of administering the licensure provisions of Title 73, Chapter 27, Mississippi Code of 1972.

SECTION 5. Section 73-27-13, Mississippi Code of 1972, is amended as follows:

73-27-13. (1) The State Board of Medical Licensure may refuse to issue, suspend, revoke or otherwise restrict any license provided for in this chapter, with the advice of the advisory committee, based upon the following grounds:

(a) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.

(b) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.

(c) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.

(d) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law.

(e) Performing any medical diagnosis or treatment outside the scope of podiatry as defined in Section 73-27-1.

(f) Conviction of a felony or misdemeanor involving moral turpitude.

(g) Obtaining or attempting to obtain a license by fraud or deception.

(h) Unprofessional conduct, which includes, but is not limited to:

(i) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.

(ii) Knowingly performing any act which in any way assists an unlicensed person to practice podiatry.

(iii) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.

(iv) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.

(v) Obtaining a fee as personal compensation or gain from a person on fraudulent representation a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the board upon request.

(vi) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.

(vii) Failing to identify a podiatric physician's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

(i) The refusal of a licensing authority of another state to issue or renew a license, permit or certificate to practice podiatry in that state or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that state.

(2) Upon the nonissuance, suspension or revocation of a

license to practice podiatry, the board may, in its discretion and with the advice of the advisory committee, reissue a license after a lapse of six (6) months. No advertising shall be permitted except regular professional cards.

(3) In its investigation of whether the license of a podiatric physician should be suspended, revoked or otherwise restricted, the board may inspect patient records in accordance with the provisions of Section 73-25-28.

(4) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order 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. 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 6. Section 73-27-15, Mississippi Code of 1972, is amended as follows:

73-27-15. It shall be unlawful for any person to profess to be a podiatrist or podiatric physician, or to practice or assume the duties incident to podiatry, without first obtaining from the Mississippi State Board of Medical Licensure a license authorizing the practice of podiatry in this state, except as otherwise provided by this chapter.

SECTION 7. Section 73-27-16, Mississippi Code of 1972, is amended as follows:

73-27-16. (1) A person whose license to practice podiatry has been revoked or suspended may petition the Mississippi State Board of Medical Licensure to reinstate this license after a

period of not less than one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(2) The petition shall be accompanied by two (2) or more verified recommendations from podiatric physicians licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the board.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary. Any final action by the board on a petition under this section shall be made with the advice of the advisory committee.

(3) In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

(4) The Secretary-Treasurer of the Board of Medical Licensure shall enter into his records of the case all actions of the Board of Medical Licensure in setting aside a disciplinary penalty under this section and he shall certify notices to the



proper court clerk. The clerk shall make such changes on his records as may be necessary.

SECTION 8. Section 73-27-19, Mississippi Code of 1972, is amended as follows:

73-27-19. This chapter shall not apply to physicians or surgeons licensed to practice medicine or osteopathy in the State of Mississippi, nor to physicians or surgeons of the United States Army, Navy or the United States Public Health Service, when in actual performance of their duties or to legally registered podiatrists or podiatric physicians of another state taking charge of the practice of a locally registered podiatric physician of this state, temporarily during the latter's absence therefrom, by written permission of the Secretary of the State Board of Medical Licensure.

SECTION 9. Section 73-25-28, Mississippi Code of 1972, is amended as follows:

73-25-28. (1) In any case in which disciplinary action against a medical physician, osteopathic physician or podiatric physician is being considered by the State Board of Medical Licensure, the executive officer of the board, or its investigators accompanied by any member of the board or any licensed medical physician, osteopathic physician or podiatric physician appointed to act for the board, upon reasonable cause as defined below, may enter, at a time convenient to all parties, any hospital, clinic, office of a medical physician, osteopathic physician or podiatric physician or emergency care facility to inspect and copy patient records, charts, emergency room records or any other document which would assist the board in its investigation of a medical physician, osteopathic physician or podiatric physician. Reasonable cause shall be demonstrated by allegations of one or more of the following: (a) a single incident of gross negligence; (b) a pattern of inappropriate prescribing of controlled substances; (c) an act of incompetence or negligence causing death or serious bodily injury; (d) a

pattern of substandard medical care; (e) a pattern of unnecessary surgery or unindicated medical procedures; (f) disciplinary action taken against a medical physician, osteopathic physician or podiatric physician by a licensed hospital or by the medical staff of the hospital; (g) voluntary termination by a medical physician, osteopathic physician or podiatric physician of staff privileges or having restrictions placed thereon; or (h) habitual personal use of narcotic drugs or other drugs having addiction-forming or addiction-sustaining liability, or the habitual personal use of intoxicating liquors or alcoholic beverages, to an extent which affects professional competency. Whether reasonable cause exists shall be determined by the executive officer and executive committee of the board, and documentation of that determination shall be provided to the hospital, clinic, office or emergency care facility before entry for inspection and copying hereunder.

(2) A certified copy of any record inspected or copied pursuant to subsection (1) shall be subject to subpoena by the board to be used as evidence before it in a licensure disciplinary proceeding initiated pursuant to the provisions of Sections 73-25-1 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81 through 73-25-95 and 73-27-1 through 73-27-19. All references to a patient's name and address or other information which would identify the patient shall be deleted from the records unless a waiver of the medical privilege is obtained from the patient.

(3) All records of the investigation and all patient charts, records, emergency room records or any other document that may have been copied shall be kept confidential and shall not be subject to discovery or subpoena. If no disciplinary proceedings are initiated within a period of five (5) years after the determination of insufficient cause, then the board shall destroy all records obtained pursuant to this section.

(4) Notwithstanding any right to privacy, confidentiality, privilege or exemption from public access conferred by this section, Section 73-52-1, or otherwise by statute or at law, the

board shall provide to any hospital, as defined in Section 41-9-3, any and all information it may have concerning any physician who has applied for a license, other than information contained in records exempt from the provisions of the Mississippi Public Records Act of 1983 pursuant to Sections 45-29-1 and 45-29-3, upon receipt by the board of a written request from the hospital for such information and documentation that the physician has applied for appointment or reappointment to the medical staff of the hospital or staff privileges at the hospital. The board, any member of the board, and its agents or employees, acting without malice in providing the documents or information hereunder, shall be immune from civil or criminal liability.

SECTION 10. Section 73-43-11, Mississippi Code of 1972, is amended as follows:

73-43-11. The State Board of Medical Licensure shall have the following powers and responsibilities:

(a) Setting policies and professional standards regarding the medical practice of medical physicians, osteopathic physicians and podiatric physicians;

(b) Considering applications for licensure;

(c) Conducting examinations for licensure;

(d) Investigating alleged violations of the medical practice act;

(e) Conducting hearings on disciplinary matters involving violations of state and federal law, probation, suspension and revocation of licenses;

(f) Considering petitions for termination of probationary and suspension periods, and restoration of revoked licenses;

(g) To promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of medicine; and

(h) To enter into contracts with any other state or

369 federal agency, or with any private person, organization or group  
370 capable of contracting, if it finds such action to be in the  
371 public interest and in the furtherance of its responsibilities.

372 SECTION 11. This act shall take effect and be in force from  
373 and after July 1, 1999.