

By: Representative Evans

To: Public Health and  
Welfare

## HOUSE BILL NO. 665

1 AN ACT TO PROVIDE FOR THE LICENSURE AND REGULATION OF  
2 PHYSICIAN ASSISTANTS BY THE BOARD OF MEDICAL LICENSURE; TO DEFINE  
3 CERTAIN TERMS; TO AUTHORIZE THE BOARD OF MEDICAL LICENSURE TO  
4 PROMULGATE RULES AND REGULATIONS TO CARRY OUT THE PURPOSES OF THIS  
5 ACT; TO DEFINE THE SCOPE OF PRACTICE OF A PHYSICIAN ASSISTANT; TO  
6 PRESCRIBE QUALIFICATIONS FOR APPLICANTS; TO PROVIDE FOR RENEWAL OF  
7 LICENSES; TO PROVIDE FOR SUPERVISING PHYSICIANS; TO PROVIDE  
8 IDENTIFICATION REQUIREMENTS; TO PROVIDE FOR VIOLATIONS OF THIS ACT  
9 AND DISCIPLINARY ACTIONS AND PENALTIES THEREFOR; TO PROVIDE FOR  
10 ADMINISTRATIVE AND FISCAL SUPPORT; TO AMEND SECTION 73-43-11,  
11 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
12 ACT; AND FOR RELATED PURPOSES.

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

14 SECTION 1. As used in this act:

15 (a) "Board" means the Mississippi State Board of  
16 Medical Licensure.

17 (b) "Physician assistant" means a person who has  
18 graduated from a physician assistant or surgeon assistant program  
19 accredited by the American Medical Association's Committee on  
20 Allied Health Education and Accreditation or its successor, or has  
21 passed the certifying examination administered by the National  
22 Commission on Certification of Physician Assistants, or both.

23 (c) "Supervising physician" means a doctor of medicine  
24 or a doctor of osteopathic medicine who holds an unrestricted  
25 license from the board, who is in the full-time practice of  
26 medicine and who has been approved by the board to supervise  
27 physician assistants.

28 (i) The "primary supervising physician" is the  
29 physician who, by signing the application to the board, accepts  
30 full responsibility for the physician assistant's medical services  
31 at all times when the physician personally is providing

32 supervision or when supervision is being provided by a back-up  
33 supervising physician.

34 (ii) The "back-up supervising physician" is the  
35 physician who, by signing the application to the board, accepts  
36 the responsibility to supervise the physician assistant's medical  
37 services in the absence of the primary supervising physician.

38 (d) "Supervision" means overseeing and accepting  
39 responsibility for the medical services rendered by a physician  
40 assistant in a manner approved by the board.

41 SECTION 2. The board may promulgate and publish reasonable  
42 rules and regulations necessary to enable it to discharge its  
43 functions and to enforce the provisions of law regulating the  
44 practice of physician assistants.

45 SECTION 3. (1) Notwithstanding any other provisions of law,  
46 a physician assistant may perform medical services within his  
47 education, training and experience when such services are  
48 delegated and supervised by a licensed physician approved by the  
49 board as a primary supervising physician or back-up supervising  
50 physician. A physician assistant may perform only those medical  
51 services that are within the scope of practice of his supervising  
52 physician.

53 (2) Medical services rendered by physician assistants may  
54 include, but are not limited to:

55 (a) Obtaining patient histories and performing physical  
56 examination;

57 (b) Ordering and/or performing diagnostic and  
58 therapeutic procedures, or both;

59 (c) Formulating a diagnosis;

60 (d) Developing and implementing a treatment plan;

61 (e) Monitoring the effectiveness of therapeutic  
62 interventions;

63 (f) Assisting at surgery;

64 (g) Offering counseling and education to meet patient  
65 needs; and

66 (h) Recommending referrals to the supervising physician  
67 and facilitating the referrals of the supervising physician as  
68 directed.

69 (3) The services listed above may be performed in any  
70 setting authorized by the supervising physician, including but not  
71 limited to, clinics, hospitals, ambulatory surgical centers,  
72 patient homes, nursing homes and other institutional settings.

73 SECTION 4. (1) A person must be licensed by the board  
74 before he may practice as a physician assistant.

75 (2) The board may license as a physician assistant an  
76 applicant who:

77 (a) Submits an application on forms approved by the  
78 board;

79 (b) Pays the appropriate fee as determined by the  
80 board;

81 (c) Has successfully completed an educational program  
82 for physician assistants or surgeon assistants accredited by the  
83 Committee on Allied Health Education and Accreditation or its  
84 successor;

85 (d) Has passed the Physician Assistant National  
86 Certifying Examination administered by the National Commission on  
87 Certification of Physician Assistants;

88 (e) Certifies that he is mentally and physically able  
89 to engage safely in practice as a physician assistant;

90 (f) Has no licensure, certification, or registration as  
91 a physician assistant under current discipline, revocation,  
92 suspension, restriction or probation for cause resulting from the  
93 applicant's practice as a physician assistant, unless the board  
94 considers such condition and agrees to licensure;

95 (g) Submits to the board any other information the  
96 board deems necessary to evaluate the applicant's qualifications;  
97 and

98 (h) Has been approved by the board.

99 SECTION 5. Each person who holds a license as a physician  
100 assistant in this state shall, upon notification from the board,  
101 renew the license by:

102           (a) Submitting the appropriate fee as determined by the  
103 board;

104           (b) Completing the appropriate forms; and

105           (c) Meeting any other requirements set forth by the  
106 board.

107       SECTION 6. Any doctor of medicine or osteopathic medicine  
108 with an unrestricted license and in the full-time practice of  
109 medicine in this state may apply to the board for permission to  
110 supervise a physician assistant. The application shall include a  
111 signed statement from the physician indicating that he will  
112 exercise supervision over the physician assistant in accordance  
113 with any rules adopted by the board and that he will retain  
114 professional and legal responsibility for the care rendered by the  
115 physician assistant. The board may approve or reject such  
116 applications.

117       SECTION 7. (1) Any person other than one who has been  
118 licensed by the board who holds himself out as a physician  
119 assistant or who uses any other term indicating or implying that  
120 he is a physician assistant is guilty of a misdemeanor and shall  
121 be subject to penalties applicable to the unlicensed practice of  
122 medicine as stipulated in Section 97-23-43.

123       (2) An unlicensed physician shall not be permitted to use  
124 the title of "physician assistant" or to practice as a physician  
125 assistant unless he fulfills the requirements of this act.

126       SECTION 8. (1) Licensed physician assistants shall keep  
127 proof of current licensure for inspection at their primary place  
128 of practice and shall, when engaged in their professional  
129 activities, wear a name tag identifying themselves as a "physician  
130 assistant."

131       (2) Any physician's office, clinic or hospital which  
132 utilizes physician assistants shall post a notice to that effect  
133 in a prominent place.

134       SECTION 9. The grounds for disciplinary action as described

135 in Section 10 of this act are:

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

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

142           (c) Administering or dispensing any legend drug, any  
143 narcotic drug, or any other drug having addiction-forming or  
144 addiction-sustaining liability without proper order of the  
145 supervising physician documented in the patient chart.

146           (d) Prescribing any legend drug, any narcotic drug, or  
147 any other drug having addiction-forming or addiction-sustaining  
148 liability.

149           (e) Conviction of violation of any federal or state law  
150 regulating the possession, distribution or use of any narcotic  
151 drug or any drug considered a controlled substance under state or  
152 federal law, a certified copy of the conviction order or judgment  
153 rendered by the trial court being prima facie evidence thereof,  
154 notwithstanding the pendency of any appeal.

155           (f) Conviction of a felony or misdemeanor involving  
156 moral turpitude, a certified copy of the conviction order or  
157 judgment rendered by the trial court being prima facie evidence  
158 thereof, notwithstanding the pendency of any appeal.

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

161           (h) Professional incompetence.

162           (i) In addition to any other investigators the  
163 board employs, the board shall appoint one or more licensed  
164 physician assistants to act for the board in investigating the  
165 conduct relating to the competency of a physician assistant  
166 whenever disciplinary action is being considered for professional  
167 incompetence.

168                   (ii) Any investigator employed by the board or any  
169 licensed physician assistant appointed to act for the board may  
170 inspect patient records in accordance with the provisions of  
171 Section 73-25-28.

172                   (i) Unprofessional conduct, which includes but is not  
173 limited to:

174                   (i) Practicing as a physician assistant under a  
175 false or assumed name or impersonating another practitioner,  
176 living or dead.

177                   (ii) Knowingly performing any act which in any way  
178 assists an unlicensed person to practice medicine or to practice  
179 as a physician assistant.

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

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

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

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

198                   (vii) Practicing under the supervision of a  
199 physician other than a board approved supervising physician.

200                   (j) The refusal of a licensing authority of another

201 state or jurisdiction to issue or renew a license, permit, or  
202 certificate to practice in that jurisdiction or the revocation,  
203 suspension or other restriction imposed on a license, permit or  
204 certificate issued by the licensing authority which prevents or  
205 restricts practice in that jurisdiction, a certified copy of the  
206 disciplinary order or action taken by the other state or  
207 jurisdiction being prima facie evidence thereof, notwithstanding  
208 the pendency of any appeal.

209 (k) Surrender of a license or authorization to practice  
210 as a physician assistant in another state or jurisdiction or  
211 surrender of membership on any medical staff or in any  
212 professional association or society while under disciplinary  
213 investigation by any of those authorities or bodies for acts or  
214 conduct similar to acts or conduct which would constitute grounds  
215 for action as defined in this section.

216 (l) Having disciplinary action taken by his peers  
217 within any physician assistant professional association or  
218 society, whether the association or society is local, regional,  
219 state or national in scope, or being disciplined by a licensed  
220 hospital or medical staff of the hospital. Any body taking action  
221 set forth in this paragraph shall report such action to the board  
222 within thirty (30) days of its occurrence.

223 (m) Failure to furnish the board, its investigators or  
224 representatives information legally requested by the board.

225 (n) Representing himself as a physician.

226 (o) Violation of any provision of this act or the rules  
227 and regulations of the board or of any order, stipulation or  
228 agreement with the board.

229 SECTION 10. (1) Whenever the board finds any person  
230 unqualified because of any of the grounds set forth in Section 9  
231 of this act, it may impose one or more of the following measures:

232 (a) Deny his application for initial licensure or  
233 renewal of a license to practice as a physician assistant.

234           (b) Administer a public or private reprimand.

235           (c) Limit or restrict his license to practice as a  
236 physician assistant.

237           (d) Suspend or revoke his license to practice as a  
238 physician assistant. All actions taken by the board to suspend or  
239 revoke the license of a physician assistant are subject to the  
240 requirements described in Section 73-25-27. The board has the  
241 right to obtain medical records to pursue disciplinary proceedings  
242 against a physician assistant identical to its right to examine  
243 records as described in Section 73-25-28 when investigating a  
244 physician licensee.

245           (e) Impose a period of probation, the terms of which  
246 may be set by the board.

247           (f) Require him to submit to care, counseling or  
248 treatment by physicians designated by the board.

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

251           (h) Take any other action in relation to his license as  
252 the board may deem proper under the circumstances.

253           (2) If the board determines that evidence in its possession  
254 indicates that a physician assistant's continuation in practice or  
255 unrestricted practice would constitute an immediate danger to the  
256 public, the board may take any of the same actions on a temporary  
257 basis, without a hearing. In the event of such temporary action  
258 without a hearing, a hearing must be held within fifteen (15) days  
259 of such action.

260           (3) Any person or any entity or organization or its members,  
261 including the board, any member of the board, its agents or  
262 employees, acting without malice in making any report or other  
263 information available to the board pursuant to law, or who assists  
264 in the organization, investigation or preparation of such report  
265 or information, or assists the board in carrying out any of its  
266 duties or functions provided by law shall be immune from civil or



267 criminal liability, except that unlawful disclosure of  
268 confidential information possessed by the board may be a  
269 misdemeanor if otherwise so provided by law.

270 (4) Any person against whom disciplinary action is taken  
271 shall have the right to judicial appeal. No such person shall be  
272 allowed to deliver health care services in violation of any  
273 disciplinary order or action of the board while any such appeal is  
274 pending.

275 SECTION 11. (1) A person whose license to practice as a  
276 physician assistant has been revoked or suspended may petition the  
277 board to reinstate the license after a period of not less than one  
278 (1) year has elapsed from the date of the revocation or  
279 suspension.

280 (2) The petition shall be accompanied by two (2) or more  
281 verified recommendations from physicians or osteopaths licensed by  
282 the board to which the petition is addressed and by two (2) or  
283 more recommendations from citizens each having personal knowledge  
284 of the activities of the petitioner since the disciplinary penalty  
285 was imposed and such facts as may be required by the board. The  
286 petition may be heard at the next regular meeting of the board but  
287 not earlier than thirty (30) days after the petition was filed.  
288 No petition shall be considered while the petitioner is under  
289 sentence for any criminal offense, including any period during  
290 which he is under probation or parole. The hearing may be  
291 continued from time to time as the board finds necessary.

292 (3) In determining whether the disciplinary penalty should  
293 be set aside and the terms and conditions, if any, which should be  
294 imposed if the disciplinary penalty is set aside, the board may  
295 investigate and consider all activities of the petitioner since  
296 the disciplinary action was taken against him, the offense for  
297 which he was disciplined, his activity during the time his  
298 certification was in good standing, his general reputation for  
299 truth, professional ability and good character; and it may require

300 the petitioner to pass an oral examination.

301 (4) The secretary-treasurer of the board shall enter into  
302 his records of the case all actions of the board in setting aside  
303 a disciplinary penalty under this section and he shall certify  
304 notices to the proper court clerk. The clerk shall make such  
305 changes on his records as may be necessary.

306 SECTION 12. The Legislature shall appropriate a sufficient  
307 amount to allow physician assistants to be licensed and regulated  
308 by the board. This amount shall be sufficient to cover all  
309 administrative costs and the costs of any necessary investigation  
310 and disciplinary actions undertaken by the board. This section  
311 shall stand repealed when licensure fees are sufficient to cover  
312 the costs incurred by the board for all aspects of licensure of  
313 physician assistants.

314 SECTION 13. Section 73-43-11, Mississippi Code of 1972, is  
315 amended as follows:

316 73-43-11. The State Board of Medical Licensure shall have  
317 the following powers and responsibilities:

318 (a) Setting policies and professional standards  
319 regarding the medical practice of physicians, osteopaths and  
320 podiatrists;

321 (b) Considering applications for licensure;

322 (c) Conducting examinations for licensure;

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

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

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

331 (g) To promulgate and publish reasonable rules and  
332 regulations necessary to enable it to discharge its functions and

333 to enforce the provisions of law regulating the practice of  
334 medicine; \* \* \*

335 (h) To enter into contracts with any other state or  
336 federal agency, or with any private person, organization or group  
337 capable of contracting, if it finds such action to be in the  
338 public interest and in the furtherance of its responsibilities;  
339 and

340 (i) Perform the duties prescribed by Sections 1 through  
341 12 of this act.

342 SECTION 14. This act shall take effect and be in force from  
343 and after July 1, 1999.