HOUSE BILL NO. 365

AN ACT TO AMEND SECTION 15-1-36, MISSISSIPPI CODE OF 1972, TO REDUCE THE PERIOD FOR COMMENCING A MALPRACTICE ACTION AGAINST A NURSING HOME; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 15-1-36, Mississippi Code of 1972, is amended as follows:

15-1-36. (1) For any claim accruing on or before June 30, 1998, and except as otherwise provided in this section, no claim in tort may be brought against a licensed physician, osteopath, dentist, hospital, nursing home, nurse, pharmacist, podiatrist, optometrist or chiropractor for injuries or wrongful death arising out of the course of medical, surgical or other professional services unless it is filed within two (2) years from the date the alleged act, omission or neglect shall or with reasonable diligence might have been first known or discovered.

(2) For any claim accruing on or after July 1, 1998, and except as otherwise provided in this section, no claim in tort may be brought against a licensed physician, osteopath, dentist, hospital, nursing home, nurse, pharmacist, podiatrist, optometrist or chiropractor for injuries or wrongful death arising out of the course of medical, surgical or other professional services unless it is filed within two (2) years from the date the alleged act, omission or neglect shall or with reasonable diligence might have been first known or discovered, and, except as described in paragraphs (a) and (b) of this subsection, in no event more than seven (7) years after the alleged act, omission or neglect occurred.
(a) In the event a foreign object introduced during a surgical or medical procedure has been left in a patient's body, the cause of action shall be deemed to have first accrued at, and not before, the time at which the foreign object is, or with reasonable diligence should have been, first known or discovered to be in the patient's body.

(b) In the event the cause of action shall have been fraudulently concealed from the knowledge of the person entitled thereto, the cause of action shall be deemed to have first accrued at, and not before, the time at which such fraud shall be, or with reasonable diligence should have been, first known or discovered.

(3) Except as otherwise provided in subsection (4) of this section, if at the time at which the cause of action shall or with reasonable diligence might have been first known or discovered, the person to whom such claim has accrued shall be six (6) years of age or younger, then such minor or the person claiming through such minor may, notwithstanding that the period of time limited pursuant to subsections (1) and (2) of this section shall have expired, commence action on such claim at any time within two (2) years next after the time at which the minor shall have reached his sixth birthday, or shall have died, whichever shall have first occurred.

(4) If at the time at which the cause of action shall or with reasonable diligence might have been first known or discovered, the person to whom such claim has accrued shall be a minor without a parent or legal guardian, then such minor or the person claiming through such minor may, notwithstanding that the period of time limited pursuant to subsections (1) and (2) of this section shall have expired, commence action on such claim at any time within two (2) years next after the time at which the minor shall have a parent or legal guardian or shall have died, whichever shall have first occurred; provided, however, that in no
event shall the period of limitation begin to run prior to such minor's sixth birthday unless such minor shall have died.

(5) If at the time at which the cause of action shall or with reasonable diligence might have been first known or discovered, the person to whom such claim has accrued shall be under the disability of unsoundness of mind, then such person or the person claiming through him may, notwithstanding that the period of time hereinbefore limited shall have expired, commence action on such claim at any time within two (2) years next after the time at which the person to whom the right shall have first accrued shall have ceased to be under the disability, or shall have died, whichever shall have first occurred.

(6) When any person who shall be under the disabilities mentioned in subsections (3), (4) and (5) of this section at the time at which his right shall have first accrued, shall depart this life without having ceased to be under such disability, no time shall be allowed by reason of the disability of such person to commence action on the claim of such person beyond the period prescribed under Section 15-1-55, Mississippi Code of 1972.

(7) For the purposes of subsection (3) of this section, and only for the purposes of such subsection, the disability of infancy or minority shall be removed from and after a person has reached his sixth birthday.

(8) For the purposes of subsection (4) of this section, and only for the purposes of such subsection, the disability of infancy or minority shall be removed from and after a person has reached his sixth birthday or from and after such person shall have a parent or legal guardian, whichever occurs later, unless such disability is otherwise removed by law.

(9) The limitation established by this section as to a licensed physician, osteopath, dentist, hospital or nurse shall apply only to actions the cause of which accrued on or after July 1, 1976.
(10) The limitation established by this section as to pharmacists shall apply only to actions the cause of which accrued on or after July 1, 1978.

(11) The limitation established by this section as to podiatrists shall apply only to actions the cause of which accrued on or after July 1, 1979.

(12) The limitation established by this section as to optometrists and chiropractors shall apply only to actions the cause of which accrued on or after July 1, 1983.

(13) The limitation established by this section as to actions commenced on behalf of minors shall apply only to actions the cause of which accrued on or after July 1, 1989.

(14) The limitation established by this section as to nursing homes shall apply only to actions the cause of which accrued after June 30, 2001.

SECTION 2. This act shall take effect and be in force from and after July 1, 2001.