

By: Representative Moak

To: Public Health and
Welfare

HOUSE BILL NO. 553

1 AN ACT TO BE KNOWN AS THE PAIN RELIEF ACT; TO PROVIDE THAT
2 THE LICENSING BOARDS OF PHYSICIANS, NURSES, DENTISTS, PODIATRISTS
3 AND PHARMACISTS SHALL NOT BRING ANY DISCIPLINARY ACTION AGAINST A
4 LICENSEE, AND STATE CRIMINAL PROSECUTIONS SHALL NOT BE BROUGHT
5 AGAINST THOSE LICENSEES, FOR PRESCRIBING, DISPENSING OR
6 ADMINISTERING TREATMENT FOR THE THERAPEUTIC PURPOSE OF RELIEVING
7 INTRACTABLE PAIN, IF THE LICENSEES CAN DEMONSTRATE THAT THEIR
8 PRACTICE SUBSTANTIALLY COMPLIED WITH AN ACCEPTED GUIDELINE FOR
9 PAIN MANAGEMENT; TO AMEND SECTIONS 73-9-61, 73-15-29, 73-21-97,
10 73-25-29 AND 73-27-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO
11 THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Sections 1 through 6 of this act may be cited as
14 the Pain Relief Act.

15 **SECTION 2.** For the purposes of Sections 1 through 6 of this
16 act:

17 (a) "Board" means the State Board of Medical Licensure,
18 the Mississippi Board of Nursing, the State Board of Dental
19 Examiners or the State Board of Pharmacy.

20 (b) "Physician" means any physician or osteopath
21 licensed by the State Board of Medical Licensure.

22 (c) "Nurse" means any nurse licensed by the Mississippi
23 Board of Nursing, including advanced practice nurses.

24 (d) "Dentist" means any dentist licensed by the State
25 Board of Dental Examiners.

26 (e) "Podiatrist" means any podiatrist licensed by the
27 State Board of Medical Licensure.

28 (f) "Pharmacist" means any pharmacist licensed by the
29 State Board of Pharmacy.



(g) "Intractable pain" means a state of pain, even if temporary, in which reasonable efforts to remove or remedy the cause of the pain have failed or have proven inadequate.

(h) "Clinical expert" means one who by reason of specialized education or substantial relevant experience in pain management has knowledge regarding current standards, practices, and guidelines.

(i) "Accepted guideline" means a practice or care guideline for pain management developed by a nationally recognized clinical or professional association or a specialty society or government sponsored agency that has developed practice or care guidelines based on original research or on review of existing research and expert opinion. If no currently accepted guidelines are available, then rules, regulations, policies or guidelines adopted or issued by the board may serve the function of those guidelines for the purposes of this act. Any such rules, regulations, policies, guidelines of the board must conform to the intent of Sections 1 through 6 of this act. Guidelines established primarily for the purposes of coverage, payment, or reimbursement do not qualify as accepted practice or care guidelines when offered to limit treatment options otherwise covered by Sections 1 through 6 of this act.

(j) "Therapeutic purpose" means the use of pharmaceutical and nonpharmaceutical medical treatment that substantially conforms to accepted guidelines for pain management.

(k) "Disciplinary action" includes both informal and formal, and both remedial and punitive actions taken by the board against a health care provider.

(l) "Health care provider" means a licensed professional defined in paragraph (b), (c), (d), (e) or (f) of this section.

SECTION 3. (1) Disciplinary action or state criminal prosecution shall not be brought against a health care provider



63 for prescribing, dispensing or administering medical treatment for
64 the therapeutic purpose of relieving intractable pain, if the
65 health care provider can demonstrate by reference to an accepted
66 guideline that his or her practice substantially complied with
67 that guideline and with the standards of practice identified in
68 Section 4 of this act. The showing of substantial compliance with
69 an accepted guideline may be rebutted only by clinical expert
70 testimony.

71 (2) If a disciplinary action or criminal prosecution is
72 pursued against a health care provider, the board or prosecutor
73 shall produce clinical expert testimony supporting the finding or
74 charge of violation of disciplinary standards or other legal
75 requirements on the part of the health care provider. Evidence of
76 noncompliance with an accepted guideline is not sufficient alone
77 to support disciplinary or criminal action.

78 (3) The provisions of this section shall apply to health
79 care providers in the treatment of all patients for intractable
80 pain regardless of the patient's prior or current chemical
81 dependency or addiction. The board may develop and adopt or issue
82 rules, regulations, policies or guidelines establishing standards
83 and procedures for the application of Sections 1 through 6 of this
84 act to the care and treatment of chemically dependent individuals.

85 **SECTION 4.** Nothing in Sections 1 through 6 of this act shall
86 prohibit discipline or prosecution of a health care provider for:

87 (a) Failing to maintain complete, accurate and current
88 records documenting the physical examination and medical history
89 of the patient, the basis for the clinical diagnosis of the
90 patient, and the treatment plan for the patient;

91 (b) Writing false or fictitious prescriptions for
92 controlled substances scheduled in the federal Comprehensive Drug
93 Abuse Prevention and Control Act of 1970, 21 USCS 801 et seq. or
94 in the Uniform Controlled Substances Law (41-29-101 et seq.);



(c) Prescribing, administering or dispensing a pharmaceutical in violation of the provisions of the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 USCS 801 et seq. or in the Uniform Controlled Substances Law (41-29-101 et seq.); or

(d) Diverting medication prescribed for a patient to the provider's own personal use.

SECTION 5. The board shall make reasonable efforts to notify health care providers under its jurisdiction of the existence of Sections 1 through 6 of this act. At a minimum, the board shall inform any health care provider investigated in relation to the provider's practices in the management of pain of the existence of Sections 1 through 6 of this act.

SECTION 6. Nothing in Sections 1 through 6 of this act shall be construed as expanding the authorized scope of practice of any health care provider.

SECTION 7. Section 73-9-61, Mississippi Code of 1972, is amended as follows:

73-9-61. (1) Upon satisfactory proof, and in accordance with statutory provisions elsewhere set out for such hearings and protecting the rights of accused as well as the public, the State Board of Dental Examiners may deny the issuance or renewal of a license or may revoke or suspend the license of any licensed dentist or dental hygienist practicing in the State of Mississippi, or take any other action in relation to the license as the board may deem proper under the circumstances, for any of the following reasons:

(a) Misrepresentation in obtaining a license, or attempting to obtain, obtaining, attempting to renew or renewing a license or professional credential by making any material misrepresentation, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.



(b) Willful violation of any of the rules or regulations duly promulgated by the board, or of any of the rules or regulations duly promulgated by the appropriate dental licensure agency of another state or jurisdiction.

(c) Being impaired in the ability to practice dentistry or dental hygiene with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

(d) Administering, dispensing or prescribing any prescriptive medication or drug outside the course of legitimate professional dental practice.

(e) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a 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, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(f) Practicing incompetently or negligently, regardless of whether there is actual harm to the patient.

(g) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of dentistry or dental hygiene, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(h) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a felony in any jurisdiction, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.



(i) Delegating professional responsibilities to a person who is not qualified by training, experience or licensure to perform them.

(j) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice dentistry or dental hygiene in that jurisdiction 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 jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(k) Surrender of a license or authorization to practice dentistry or dental hygiene in another state or jurisdiction when the board has reasonable cause to believe that the surrender is made to avoid or in anticipation of a disciplinary action.

(l) Any unprofessional conduct to be determined by the board on a case-by-case basis, which shall include but not be restricted to the following:

(i) Committing any crime involving moral turpitude.

(ii) Practicing deceit or other fraud upon the public.

(iii) Practicing dentistry or dental hygiene under a false or assumed name.

(iv) Advertising that is false, deceptive or misleading.

(v) Announcing a specialized practice shall be considered advertising that tends to deceive or mislead the public unless the dentist announcing as a specialist conforms to other statutory provisions and the duly promulgated rules or regulations of the board pertaining to practice of dentistry in the State of Mississippi.



(m) Failure to provide and maintain reasonable sanitary facilities and conditions or failure to follow board rules regarding infection control.

(n) Committing any act which would constitute sexual misconduct upon a patient or upon ancillary staff. For purposes of this subsection, the term sexual misconduct means:

(i) Use of the licensee-patient relationship to engage or attempt to engage the patient in sexual activity; or

(ii) Conduct of a licensee that is intended to intimidate, coerce, influence or trick any person employed by or for the licensee in a dental practice or educational setting for the purpose of engaging in sexual activity or activity intended for the sexual gratification of the licensee.

(o) Violation of a lawful order of the board previously entered in a disciplinary or licensure hearing; failure to cooperate with any lawful request or investigation by the board; or failure to comply with a lawfully issued subpoena of the board.

(p) Willful, obstinate and continuing refusal to cooperate with the board in observing its rules and regulations in promptly paying all legal license or other fees required by law.

(q) Practicing dentistry or dental hygiene while such person's license is suspended.

(2) In lieu of revocation of a license as provided for above, the board may suspend the license of the offending dentist or dental hygienist, suspend the sedation permit of the offending dentist, or take any other action in relation to his license as the board may deem proper under the circumstances.

(3) When a license to practice dentistry or dental hygiene is revoked or suspended by the board, the board may, in its discretion, stay such revocation or suspension and simultaneously place the licensee on probation upon the condition that such licensee shall not violate the laws of the State of Mississippi pertaining to the practice of dentistry or dental hygiene and



shall not violate the rules and regulations of the board and shall not violate any terms in relation to his license as may be set by the board.

(4) In a proceeding conducted under this section by the board for the denial, revocation or suspension of a license to practice dentistry or dental hygiene, the board shall have the power and authority for the grounds stated for such denial, revocation or suspension, and in addition thereto or in lieu of such denial, revocation or suspension may assess and levy upon any person licensed to practice dentistry or dental hygiene in the State of Mississippi, a monetary penalty, as follows:

(a) For the first violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

(b) For the second violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

(c) For the third and any subsequent violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00).

(d) For any violation of any of subparagraphs (a) through (q) of subsection (1) of this section, those reasonable costs that are expended by the board in the investigation and conduct of a proceeding for licensure revocation or suspension, including but not limited to the cost of process service, court reporters, expert witnesses and investigators.

(5) The power and authority of the board to assess and levy such monetary penalties hereunder shall not be affected or



diminished by any other proceeding, civil or criminal, concerning the same violation or violations except as provided in this section.

(6) A licensee shall have the right of appeal from the assessment and levy of a monetary penalty as provided in this section under the same conditions as a right of appeal is provided elsewhere for appeals from an adverse ruling, order or decision of the board.

(7) Any monetary penalty assessed and levied under this section shall not take effect until after the time for appeal shall have expired. In the event of an appeal, such appeal shall act as a supersedeas.

(8) A monetary penalty assessed and levied under this section shall be paid to the board by the licensee upon the expiration of the period allowed for appeal of such penalties under this section or may be paid sooner if the licensee elects. With the exception of subsection (4)(d) of this section, monetary penalties collected by the board under this section shall be deposited to the credit of the General Fund of the State Treasury. Any monies collected by the board under subsection (4)(d) of this section shall be deposited into the special fund operating account of the board.

(9) When payment of a monetary penalty assessed and levied by the board against a licensee in accordance with this section is not paid by the licensee when due under this section, the board shall have power to institute and maintain proceedings in its name for enforcement of payment in the chancery court of the county and judicial district of residence of the licensee, and if the licensee be a nonresident of the State of Mississippi, such proceedings shall be in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(10) In addition to the reasons 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.

(11) The board shall not bring any disciplinary action against a dentist for prescribing, dispensing or administering treatment for the therapeutic purpose of relieving intractable pain if the prescribing, dispensing or administering of that treatment is within the scope of practice of the dentist and it is done in accordance with Section 3 of this act.

SECTION 8. Section 73-15-29, Mississippi Code of 1972, is amended as follows:

73-15-29. (1) The board shall have power to revoke, suspend or refuse to renew any license issued by the board, or to revoke or suspend any privilege to practice, or to deny an application for a license, or to fine, place on probation and/or discipline a licensee, in any manner specified in this chapter, upon proof that such person:

(a) Has committed fraud or deceit in securing or attempting to secure such license;

(b) Has been convicted of felony, or a crime involving moral turpitude or has had accepted by a court a plea of nolo contendere to a felony or a crime involving moral turpitude (a certified copy of the judgment of the court of competent jurisdiction of such conviction or pleas shall be prima facie evidence of such conviction);



(c) Has negligently or willfully acted in a manner inconsistent with the health or safety of the persons under the licensee's care;

(d) Has had a license or privilege to practice as a registered nurse or a licensed practical nurse suspended or revoked in any jurisdiction, has voluntarily surrendered such license or privilege to practice in any jurisdiction, has been placed on probation as a registered nurse or licensed practical nurse in any jurisdiction or has been placed under a disciplinary order(s) in any manner as a registered nurse or licensed practical nurse in any jurisdiction, (a certified copy of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action);

(e) Has negligently or willfully practiced nursing in a manner that fails to meet generally accepted standards of such nursing practice;

(f) Has negligently or willfully violated any order, rule or regulation of the board pertaining to nursing practice or licensure;

(g) Has falsified or in a repeatedly negligent manner made incorrect entries or failed to make essential entries on records;

(h) Is addicted to or dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effect, or has misappropriated any medication;

(i) Has a physical, mental or emotional disability that renders the licensee unable to perform nursing services or duties with reasonable skill and safety;

(j) Has engaged in any other conduct, whether of the same or of a different character from that specified in this chapter, that would constitute a crime as defined in Title 97 of the Mississippi Code of 1972, as now or hereafter amended, and



that relates to such person's employment as a registered nurse or licensed practical nurse;

(k) Engages in conduct likely to deceive, defraud or harm the public;

(l) Engages in any unprofessional conduct as identified by the board in its rules; or

(m) Has violated any provision of this chapter.

(2) When the board finds any person unqualified because of any of the grounds set forth in subsection (1) of this section, it may enter an order imposing one or more of the following penalties:

(a) Denying application for a license or other authorization to practice nursing or practical nursing;

(b) Administering a reprimand;

(c) Suspending or restricting the license or other authorization to practice as a registered nurse or licensed practical nurse for up to two (2) years without review;

(d) Revoking the license or other authorization to practice nursing or practical nursing;

(e) Requiring the discipline to submit to care, counseling or treatment by persons and/or agencies approved or designated by the board as a condition for initial, continued or renewed licensure or other authorization to practice nursing or practical nursing;

(f) Requiring the discipline to participate in a program of education prescribed by the board as a condition for initial, continued or renewed licensure or other authorization to practice;

(g) Requiring the discipline to practice under the supervision of a registered nurse for a specified period of time; or

(h) Imposing a fine not to exceed Five Hundred Dollars (\$500.00).



(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license or privilege to practice 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 or privilege to practice for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license or privilege to practice 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.

(4) The board shall not bring any disciplinary action against a nurse for prescribing, dispensing or administering treatment for the therapeutic purpose of relieving intractable pain if the prescribing, dispensing or administering of that treatment is within the scope of practice of the nurse and it is done in accordance with Section 3 of this act.

SECTION 9. Section 73-21-97, Mississippi Code of 1972, is amended as follows:

73-21-97. (1) The board may refuse to issue or renew, or may suspend, reprimand, revoke or restrict the license, registration or permit of any person upon one or more of the following grounds:

(a) Unprofessional conduct as defined by the rules and regulations of the board;

(b) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, confidence and safety to the public;



(c) Being found guilty by a court of competent jurisdiction of one or more of the following:

- (i) A felony;
- (ii) Any act involving moral turpitude or gross immorality; or
- (iii) Violation of pharmacy or drug laws of this state or rules or regulations pertaining thereto, or of statutes, rules or regulations of any other state or the federal government;

(d) Fraud or intentional misrepresentation by a licensee or permit holder in securing the issuance or renewal of a license or permit;

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license;

(f) Violation of any of the provisions of this chapter or rules or regulations adopted pursuant to this chapter;

(g) Failure to comply with lawful orders of the board;

(h) Negligently or willfully acting in a manner inconsistent with the health or safety of the public;

(i) Addiction to or dependence on alcohol or controlled substances or the unauthorized use or possession of controlled substances;

(j) Misappropriation of any prescription drug;

(k) Being found guilty by the licensing agency in another state of violating the statutes, rules or regulations of that jurisdiction; or

(l) The unlawful or unauthorized possession of a controlled substance.

(2) In lieu of suspension, revocation or restriction of a license as provided for above, the board may warn or reprimand the offending pharmacist.

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license, registration or permit of any person for being out of



compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license, registration or permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license, registration or permit 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.

(4) The board shall not bring any disciplinary action against a pharmacist for dispensing or administering treatment for the therapeutic purpose of relieving intractable pain if the dispensing or administering of that treatment is within the scope of practice of the pharmacist and it is done in accordance with Section 3 of this act.

SECTION 10. Section 73-25-29, Mississippi Code of 1972, is amended as follows:

73-25-29. The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

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

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

(3) 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.

(4) 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, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.

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

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

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

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

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

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

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

(e) 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.

(f) 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.

(g) Failing to identify a 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.

(9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction 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 jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.

(11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health and Human Services, Officer of Inspector General or any successor federal agency or office, which implements the exclusion.



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

(13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the board or of any order, stipulation or agreement with the board.

In addition to the grounds specified above, 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.

The board shall not bring any disciplinary action against a physician or osteopath for prescribing, dispensing or administering medical treatment for the therapeutic purpose of relieving intractable pain if the prescribing, dispensing or administering of that treatment is within the scope of practice of the physician or osteopath and it is done in accordance with Section 3 of this act.

SECTION 11. 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:



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

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

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

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

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

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

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

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

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

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

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

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

617 (v) Obtaining a fee as personal compensation or
618 gain from a person on fraudulent representation a disease or
619 injury condition generally considered incurable by competent



620 medical authority in the light of current scientific knowledge and
621 practice can be cured or offering, undertaking, attempting or
622 agreeing to cure or treat the same by a secret method, which he
623 refuses to divulge to the board upon request.

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

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

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

639 (2) Upon the nonissuance, suspension or revocation of a
640 license to practice podiatry, the board may, in its discretion and
641 with the advice of the advisory committee, reissue a license after
642 a lapse of six (6) months. No advertising shall be permitted
643 except regular professional cards.

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

648 (4) In addition to the grounds specified in subsection (1)
649 of this section, the board shall be authorized to suspend the
650 license of any licensee for being out of compliance with an order
651 for support, as defined in Section 93-11-153. The procedure for
652 suspension of a license for being out of compliance with an order



653 for support, and the procedure for the reissuance or reinstatement
654 of a license suspended for that purpose, and the payment of any
655 fees for the reissuance or reinstatement of a license suspended
656 for that purpose, shall be governed by Section 93-11-157 or
657 93-11-163, as the case may be. If there is any conflict between
658 any provision of Section 93-11-157 or 93-11-163 and any provision
659 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
660 as the case may be, shall control.

661 (5) The board shall not bring any disciplinary action
662 against a podiatrist for prescribing, dispensing or administering
663 treatment for the therapeutic purpose of relieving intractable
664 pain if the prescribing, dispensing or administering of that
665 treatment is within the scope of practice of the podiatrist and it
666 is done in accordance with Section 3 of this act.

667 **SECTION 12.** This act shall take effect and be in force from
668 and after July 1, 2002.

