MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002

By: Representative Moak

To: Public Health and Welfare

HOUSE BILL NO. 984

AN ACT TO CREATE THE MEDICAL PRACTICE DISCLOSURE ACT; TO PROVIDE LEGISLATIVE INTENT; TO REQUIRE THE COLLECTION OF INFORMATION BY THE STATE BOARD OF MEDICAL LICENSURE; TO REQUIRE THE REPORTING OF CRIMINAL CONVICTIONS; TO REQUIRE CERTAIN REPORTS BY HOSPITALS; TO REQUIRE REPORTS OF DISCIPLINARY ACTIONS; TO REQUIRE INSURERS TO REPORT MALPRACTICE CLAIMS AND ACTIONS; TO REQUIRE PHYSICIANS TO REPORT SETTLEMENTS AND ARBITRATION AWARDS; TO PROVIDE PUBLIC ACCESS TO REPORTED INFORMATION; TO PROVIDE FOR FEES; TO PROVIDE FOR THE PROMULGATION OF RULES AND REGULATIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Medical Practice Disclosure Act."

SECTION 2. The State of Mississippi hereby recognizes the necessity of allowing individuals to make informed and educated choices regarding health care services and the essential need to provide information to facilitate these important decisions. It further recognizes that public disclosure of certain health care information would lower the cost of health care through the use of the most appropriate provider and improve the quality of health care services by mandating the reporting of information regarding health care providers. It is the intention of the Legislature to establish a procedure by which the general public may obtain essential and basic information concerning potential health care providers, while ensuring the accuracy and disclosure of all relevant information that would enable individuals to informatively select their health care provider.

SECTION 3. (1) The State Board of Medical Licensure shall collect for each physician licensed or otherwise practicing medicine in the State of Mississippi the following information, in
a format developed by the department that shall be available for
dissemination to the public:

(a) A description of any criminal convictions for
felonies and violent misdemeanors as determined by the department.
A description of any criminal charges. For purposes of this
paragraph, a person shall be deemed to be convicted of a crime if
that person pleaded guilty or if that person was found or adjudged
guilty by a court of competent jurisdiction.

(b) A description of any charges to which a physician
pleads nolo contendere or where sufficient facts of guilt were
found and the matter was continued without a finding by a court of
competent jurisdiction.

(c) A description of any final disciplinary actions
taken by the State Board of Medical Licensure.

(d) A description of any final disciplinary actions by
licensing boards in other states or reported in the National
Practitioner Data Bank.

(e) A description of revocation or involuntary
restriction of hospital privileges that have been taken by a
hospital's governing body and any other official of a hospital
after procedural due process has been afforded, or the resignation
from or nonrenewal of medical staff membership or the restriction
of privileges at a hospital taken in lieu of or in settlement of a
pending disciplinary case.

(f) Notwithstanding any law to the contrary, all
medical malpractice court judgments and all medical malpractice
arbitration awards in which a payment is awarded to a complaining
party and all settlements of medical malpractice claims in which a
payment is made to a complaining party. Information concerning
all settlements shall be accompanied by the following statements:

"Settlement of a claim may occur for a variety of reasons
which do not necessarily reflect negatively on the professional
competence or conduct of the physician. A payment in settlement
of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

All civil court awards or settlements arising from allegations of sexual misconduct filed by patients, employees or hospital staff shall be provided.

(g) A paragraph describing the malpractice experience of each medical specialty and an explanation that some high risk specialties experience more malpractice claims than less risky specialties. This information shall be updated on an annual basis reflecting the most recent malpractice claims experience of each specialty.

(h) Names of medical schools and dates of graduation.

(i) Graduate medical education.

(j) Specialty board certification(s).

(k) Number of years in practice.

(l) Name of hospitals where the physician has privileges.

(m) Appointments to medical school faculties and indication as to whether the physician has a responsibility for graduate medical education.

(n) Information regarding publications in peer-reviewed medical literature.

(o) Information regarding professional or community service activities and awards.

(p) The location of the physician's primary practice location.

(q) The indication of any translating services that may be available at the physician's primary practice location.

(r) An indication of whether the physician participates in the Medicaid program.

(2) The State Board of Medical Licensure shall provide each physician with a copy of that physician's profile prior to the release to the public.
(3) A physician shall be provided a reasonable time, not to exceed sixty (60) days, to correct factual inaccuracies or omissions that may appear in the profile.

(4) (a) Physician may petition the State Board of Medical Licensure for permission to temporarily omit certain information as described in paragraph (b) of this subsection for a period not to exceed one (1) year.

(b) If the physician demonstrates to the board that disclosure of the information would represent an undue risk of injury to the physician or the property of the physician, the board may grant the request and the information shall be withheld until such time as the situation is resolved, based on the presentation of evidence to the board, for a period not to exceed one (1) year.

(5) The State Board of Medical Licensure shall not disclose any pending malpractice claims to the public, and nothing in this section shall be construed to prohibit the State Board of Medical Licensure from investigating and disciplining a physician on the basis of pending medical malpractice claim information obtained under this act.

SECTION 4. (1) The clerk of any court in which a physician is convicted of any crime or in which any unregistered practitioner is convicted of holding himself out as a practitioner of medicine or of practicing medicine shall, within one (1) week thereafter, report the same to the State Board of Medical Licensure together with a copy of the court proceedings in the case.

(2) For the purposes of this section, a person shall be deemed to be convicted of a crime if he pleaded guilty or was found or adjudged guilty by a court of competent jurisdiction.

(3) Upon review, the State Board of Medical Licensure shall provide the information for purposes consistent with this act.
In the instance where a physician pleads nolo contendere to charges or where sufficient facts of guilt were found and the matter was continued without a finding by a court of competent jurisdiction, the clerk shall, within one (1) week thereafter, report the same to the State Board of Medical Licensure together with a copy of the court proceedings in the case. Upon review, the State Board of Medical Licensure shall provide the information for purposes consistent with this act.

SECTION 5. (1) Each hospital or health care facility licensed under the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act, shall report to the State Board of Medical Licensure if the hospital or facility denies, restricts, revokes or fails to renew staff privileges or accepts the resignation of a physician for any reason related to the physician's competence to practice medicine or for any other reason related to a complaint or allegation regarding any violation of law, regulation, rule or bylaw of the hospital or facility regardless of whether the complaint or allegation specifically states a violation of a specific law, regulation, rule or bylaw. The report shall be filed within thirty (30) days of the occurrence of the reportable action and include details regarding the nature and circumstances of the action, its date and reasons for it.

(2) Each hospital or health care facility licensed under the Health Care Facilities Act shall file an annual disciplinary report with the board no later than January 31 and shall send the report by certified or registered mail. The report shall summarize the action reports submitted for the previous calendar year and shall be signed under oath. If the hospital or facility submitted no action reports for the previous calendar year, then the report required by this subsection shall state that no action reports were required.
(3) No hospital, health care facility or person that reports information to the department under this section shall be liable to the physician referenced in the report for making the report, provided that the report is made in good faith and without malice.

SECTION 6. (1) A professional medical association, society, body, professional standards review organization or similarly constituted professional organization, whether or not such association, society, body or organization is local, regional, state, national or international in scope, shall report to the State Board of Medical Licensure the disciplinary action taken against any physician. Such report of disciplinary action shall be filed with the board within thirty (30) days of such disciplinary action, shall be in writing and shall be mailed to the board by certified or registered mail.

(2) As used in this section, the term "disciplinary action" includes, but is not limited to, revocation, suspension, censure, reprimand, restriction, nonrenewal, denial or restriction of privileges or a resignation shall be reported only when the resignation or the denial or restriction of privileges is related in any way to:

(a) The physician's competence to practice medicine; or

(b) A complaint or allegation regarding any violation of law or regulation, including, but not limited to, the regulations of the State Health Department or the Medical Licensure Board or hospital, health care facility or professional medical association bylaws, whether or not the complaint or allegation specifically cites violation of a specified law, regulation or bylaw.

SECTION 7. Every insurer or risk management organization which provides professional liability insurance to a physician shall report to the State Board of Medical Licensure any claim or action for damages for personal injuries alleged to have been
caused by error, omission or negligence in the performance of the physician's professional services where the claim resulted in:

(a) Final judgment in any amount;
(b) Settlement in any amount; or
(c) Final disposition not resulting in payment on behalf of the insured.

(2) Reports shall be filed with the State Board of Medical Licensure no longer than thirty (30) days following the occurrence of any event listed under this section.

(3) The reports shall be in writing on a form prescribed by the State Board of Medical Licensure and shall contain the following information.

(a) The name, address, specialty coverage and policy number of the physician against whom the claim is made;
(b) The name, address and age of the claimant or plaintiff;
(c) The nature and substance of the claim;
(d) The date when and place where the claim arose;
(e) The amounts paid, if any, and the date, manner of disposition, judgment and settlement;
(f) The date and reason for final disposition, if no judgment or settlement; and
(g) Such additional information as the State Board of Medical Licensure shall require. No insurer or its agents or employees shall be liable in any cause of action arising from reporting to the State Board of Medical Licensure as required in this section.

SECTION 8. (1) A physician who does not possess professional liability insurance shall report to the State Board of Medical Licensure every settlement or arbitration award of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services by the physician. The report
shall be made within thirty (30) days after the settlement agreement has been reduced to writing or thirty (30) days after service of the arbitration award on the parties as long as it is signed by all of the parties.

(2) (a) Exempt as otherwise provided in paragraph (b), a physician who fails to comply with the provisions of this section shall be subject to a civil penalty of not more than Five Hundred Dollars ($500.00).

(b) A physician who makes a knowing or intentional failure to comply with the provisions of this act, or conspires or colludes not to comply with the provisions of this act, or hinders or impedes any other person in such compliance, shall be subject to a civil penalty of not less than Five Thousand Dollars ($5,000.00) nor more than Fifty Thousand Dollars ($50,000.00).

SECTION 9. (1) Effective January 1, 2003, a fee of not more than Twenty Dollars ($20.00) shall be assessed to all physicians, and the fee shall be collected by the State Board of Medical Licensure every two (2) years to offset the costs associated with this act.

(2) The State Board of Medical Licensure shall make available to the public, upon request by any person or entity and upon payment of a reasonable copy charge not to exceed One Dollar ($1.00) per page, the information compiled by the State Board of Medical Licensure as provided in Section 3 of this act.

(3) Each physician shall make available to the public, free of charge, information compiled by the State Board of Medical Licensure in Section 3 of this act. All physicians shall conspicuously post at their primary place of practice a notice stating, "free background information available upon request."

(4) The board shall disseminate information of Section 3 of this act by posting the information on the state's website on the Internet. The fees collected under subsection (1) may be used to pay for the expenses of complying with this subsection.
SECTION 10. The State Board of Medical Licensure shall in the manner provided by law promulgate the rules and regulations necessary to carry out the provisions of this act, including, but not limited to, the exchange of information between the State Board of Medical Licensure and other relevant state agencies, insurance carriers, hospitals and judicial administrative offices.

SECTION 11. This act shall take effect and be in force from and after January 1, 2003.