

By: Representatives Franks, Barbour, Dedeaux To: Judiciary A

HOUSE BILL NO. 1184

1 AN ACT TO CREATE THE MEDICAL MALPRACTICE MEDIATION BOARD AND  
2 PROVIDE FOR ITS MEMBERSHIP; TO PROVIDE FOR MEDIATION IN MEDICAL  
3 MALPRACTICE AND NURSING HOME DISPUTES; TO PROVIDE FOR THE  
4 APPOINTMENT AND CERTIFICATION OF MEDIATORS; TO PROVIDE THAT  
5 MEDIATION SHALL BE NONBINDING UNLESS THE PARTIES AGREE TO MAKE IT  
6 BINDING; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) There is created the Medical Malpractice  
9 Mediation Board which shall be comprised of the following members:

- 10 (a) One (1) person appointed by the Governor;
- 11 (b) One (1) person appointed by the Mississippi Trial  
12 Lawyers Association;
- 13 (c) One (1) person appointed by the Mississippi Bar;
- 14 (d) One (1) person appointed by the Mississippi  
15 Hospital Association; and
- 16 (e) One (1) person appointed by the Mississippi Medical  
17 Association.

18 (2) All Members of the board shall be entitled to per diem  
19 as provided in Section 25-3-69 and travel expenses as provided in  
20 Section 25-3-41 for the performance of their duties as members of  
21 the board.

22 (3) The board shall elect a chairman and other officers it  
23 deems necessary to carry out the purposes of this act.

24 **SECTION 2.** Before any medical malpractice suit or suit  
25 involving a nursing home may be brought, the dispute must be  
26 submitted for mediation. The board shall appoint and certify  
27 mediators for such disputes. Mediators shall be members of the  
28 Mississippi Bar who have been engaged in the active practice of  
29 law for a minimum of five (5) years. The mediator shall make



30 every effort to help parties resolve their dispute in order to  
31 avoid litigation. Mediation shall be informal and rules of Civil  
32 Procedure and Evidence shall be relaxed. Mediation under this act  
33 shall be nonbinding unless the parties agree in writing to make  
34 the mediation binding. Any matter which is submitted for  
35 mediation under this act which is not resolved may not be filed as  
36 civil action until ninety (90) days after the termination of  
37 mediation.

38 **SECTION 3.** This act shall not be construed to take away from  
39 the courts their power over awards, nor to make invalid of any  
40 award good at common law. It shall be liberally construed for the  
41 encouragement of the settlement of disputes and the prevention of  
42 litigation.

43 **SECTION 4.** This act shall take effect and be in force from  
44 and after July 1, 2002.

