

By: Senator(s) Huggins, Burton

To: Judiciary

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2654

1 AN ACT TO AMEND SECTION 15-1-36, MISSISSIPPI CODE OF 1972, TO
2 ESTABLISH A STATUTE OF LIMITATIONS FOR ACTIONS AGAINST A LONG-TERM
3 CARE FACILITY; TO AMEND SECTION 43-11-19, MISSISSIPPI CODE OF
4 1972, TO PROVIDE THAT MEDICAL RECORDS MAINTAINED IN NURSING HOMES
5 SHALL NOT BE DISCLOSED BY ANY PERSON OTHER THAN THE PERSON TO WHOM
6 THE RECORDS PERTAIN; AND FOR RELATED PURPOSES.

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

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

10 15-1-36. (1) For any claim accruing on or before June 30,
11 1998, and except as otherwise provided in this section, no claim
12 in tort may be brought against a licensed physician, osteopath,
13 dentist, hospital, nurse, pharmacist, podiatrist, optometrist or
14 chiropractor for injuries or wrongful death arising out of the
15 course of medical, surgical or other professional services unless
16 it is filed within two (2) years from the date the alleged act,
17 omission or neglect shall or with reasonable diligence might have
18 been first known or discovered.

19 (2) (a) For any claim accruing on or after July 1, 1998,
20 and except as otherwise provided in this section, no claim in tort
21 may be brought against a licensed physician, osteopath, dentist,
22 hospital, nurse, pharmacist, podiatrist, optometrist or
23 chiropractor for injuries or wrongful death arising out of the
24 course of medical, surgical or other professional services unless
25 it is filed within two (2) years from the date the alleged act,
26 omission or neglect shall or with reasonable diligence might have
27 been first known or discovered, and, except as described in * * *
28 subsection (3), in no event more than seven (7) years after the
29 alleged act, omission or neglect occurred.



30 (b) Except as otherwise provided in this section, no
31 claim in tort may be brought against a nursing home or other
32 long-term care provider for injuries or wrongful death arising out
33 of the course of medical, surgical or other professional services
34 unless it is filed within two (2) years from the date the alleged
35 act, omission or neglect shall or with reasonable diligence might
36 have been first known or discovered, and, except as described in
37 subsection (3), in no event more than seven (7) years after the
38 alleged act, omission or neglect occurred.

39 (3) (a) In the event a foreign object introduced during a
40 surgical or medical procedure has been left in a patient's body,
41 the cause of action shall be deemed to have first accrued at, and
42 not before, the time at which the foreign object is, or with
43 reasonable diligence should have been, first known or discovered
44 to be in the patient's body.

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

50 (4) Except as otherwise provided in subsection (5) of this
51 section, if at the time at which the cause of action shall or with
52 reasonable diligence might have been first known or discovered,
53 the person to whom such claim has accrued shall be six (6) years
54 of age or younger, then such minor or the person claiming through
55 such minor may, notwithstanding that the period of time limited
56 pursuant to subsections (1) and (2) of this section shall have
57 expired, commence action on such claim at any time within two (2)
58 years next after the time at which the minor shall have reached
59 his sixth birthday, or shall have died, whichever shall have first
60 occurred.

61 (5) If at the time at which the cause of action shall or
62 with reasonable diligence might have been first known or



63 discovered, the person to whom such claim has accrued shall be a
64 minor without a parent or legal guardian, then such minor or the
65 person claiming through such minor may, notwithstanding that the
66 period of time limited pursuant to subsections (1) and (2) of this
67 section shall have expired, commence action on such claim at any
68 time within two (2) years next after the time at which the minor
69 shall have a parent or legal guardian or shall have died,
70 whichever shall have first occurred; provided, however, that in no
71 event shall the period of limitation begin to run prior to such
72 minor's sixth birthday unless such minor shall have died.

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

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

90 (8) For the purposes of subsection (4) of this section, and
91 only for the purposes of such subsection, the disability of
92 infancy or minority shall be removed from and after a person has
93 reached his sixth birthday.

94 (9) For the purposes of subsection (5) of this section, and
95 only for the purposes of such subsection, the disability of



96 infancy or minority shall be removed from and after a person has
97 reached his sixth birthday or from and after such person shall
98 have a parent or legal guardian, whichever occurs later, unless
99 such disability is otherwise removed by law.

100 (10) The limitation established by this section as to a
101 licensed physician, osteopath, dentist, hospital or nurse shall
102 apply only to actions the cause of which accrued on or after July
103 1, 1976.

104 (11) The limitation established by this section as to
105 pharmacists shall apply only to actions the cause of which accrued
106 on or after July 1, 1978.

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

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

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

116 **SECTION 2.** Section 43-11-19, Mississippi Code of 1972, is
117 amended as follows:

118 43-11-19. Information received by the licensing agency
119 through filed reports, inspection, or as otherwise authorized
120 under this chapter, shall not be disclosed publicly in such manner
121 as to identify individuals, except in a proceeding involving the
122 questions of licensure; however, the licensing agency may utilize
123 statistical data concerning types of services and the utilization
124 of those services for institutions for the aged or infirm in
125 performing the statutory duties imposed upon it by Section
126 41-7-171 et seq. and by Section 43-11-21.

127 Medical records, or reports that contain medical records or
128 information, received or caused to be maintained or collected by



129 the licensing agency shall not be disclosed by any person or party
130 other than the person to whom the records pertain. "Medical
131 records" mean, without restriction, those medical histories,
132 records, incident reports, summaries, diagnoses and prognoses,
133 records of treatment and medication ordered and given, notes,
134 entries, x-rays and other written or graphic data prepared, kept,
135 made or maintained in institutions for the aged or infirm that
136 pertain to residency in, or services rendered to residents of, an
137 institution for the aged or infirm.

138 **SECTION 3.** This act shall take effect and be in force from
139 and after its passage.

