

By: Representative Eads

To: Public Health and Welfare

HOUSE BILL NO. 605
(As Passed the House)

1 AN ACT TO AMEND SECTION 73-25-27, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE STATE BOARD OF MEDICAL LICENSURE TO ADOPT RULES
3 OF DISCOVERY AND PROCEDURE FOR HEARINGS BEFORE IT; TO PROVIDE FOR
4 APPEALS OF ORDERS OF THE BOARD; TO AUTHORIZE THE BOARD TO ISSUE
5 SUBPOENAS DURING INVESTIGATIONS; TO PROVIDE PROCEDURES FOR
6 DISCIPLINARY PROCEEDINGS BEFORE THE BOARD; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 73-25-27, Mississippi Code of 1972, is
10 amended as follows:

11 73-25-27. The Mississippi State Board of Medical Licensure
12 after notice and opportunity for a hearing to the licentiate, is
13 authorized to suspend or revoke for any cause named herein any
14 license it has issued, or the renewal thereof, that authorizes any
15 person to practice medicine, osteopathy, or any other method of
16 preventing, diagnosing, relieving, caring for, or treating, or
17 curing disease, injury or other bodily condition. The procedure
18 for suspension of a license for being out of compliance with an
19 order for support, and the procedure for the reissuance or
20 reinstatement of a license suspended for that purpose, and the
21 payment of any fees for the reissuance or reinstatement of a
22 license suspended for that purpose, shall be governed by Section
23 93-11-157 or 93-11-163, as the case may be. If there is any
24 conflict between any provision of Section 93-11-157 or 93-11-163
25 and any provision of this chapter, the provisions of Section
26 93-11-157 or 93-11-163, as the case may be, shall control.

27 Such notice shall be effected by registered mail or personal
28 service setting forth the particular reasons for the proposed
29 action and fixing a date not less than thirty (30) days or more



30 than sixty (60) days from the date of such mailing or such
31 service, at which time the licentiate shall be given an
32 opportunity for a prompt and fair hearing. For the purpose of
33 such hearing the board, acting by and through its executive
34 office, may subpoena persons and papers on its own behalf and on
35 behalf of licentiate, including records obtained pursuant to
36 Section 73-25-28 and Section 73-25-83, may administer oaths and
37 such testimony when properly transcribed, together with such
38 papers and exhibits, shall be admissible in evidence for or
39 against the licentiate. At such hearing licentiate may appear by
40 counsel and personally in his own behalf. Any person sworn and
41 examined as a witness in such hearing shall not be held to answer
42 criminally, nor shall any papers or documents produced by such
43 witness be competent evidence in any criminal proceedings against
44 such witness other than for perjury in delivering his evidence.
45 The Board of Medical Licensure or its designee in the conduct of
46 any hearing will not be bound by strict laws or rules of procedure
47 or evidence. The board may adopt rules of discovery and procedure
48 governing all proceedings before it. On the basis of any such
49 hearing, or upon default of the licentiate, the Board of Medical
50 Licensure shall make a determination specifying its findings of
51 fact and conclusions of law.

52 A copy of such determination shall be sent by registered mail
53 or served personally upon the licentiate. The decision of the
54 Board of Medical Licensure revoking or suspending the license
55 shall become final thirty (30) days after so mailed or served
56 unless within said period the licentiate appeals the decision to
57 the chancery court, pursuant to the provisions hereof. The appeal
58 to the chancery court shall be based solely on the record made
59 before the Board of Medical Licensure. A transcript of the
60 proceedings and evidence, together with exhibits, presented at
61 such hearing before the Board of Medical Licensure in the event of
62 appeal shall be a part of the record before the chancery court.



63 The chancery court shall dispose of the appeal and enter its
64 decision promptly. The hearing on the appeal may, in the
65 discretion of the chancellor, be tried in vacation. Appeals may
66 be had to the Supreme Court of the State of Mississippi as
67 provided by law from any final action of the chancery court.

68 For the purpose of conducting investigations, the Board of
69 Medical Licensure, through its executive director, may issue
70 subpoenas to any individual, clinic, hospital, pharmacy or other
71 entity having in its possession papers, documents, medical charts,
72 prescriptions or any other nonfinancial records. Investigatory
73 subpoenas, as provided herein, may be served either by personal
74 process or by registered mail, and upon service shall command
75 production of such papers and documents to the board at the time
76 and place so specified. The Board of Medical Licensure shall be
77 entitled to the assistance of the chancery court or the chancellor
78 in vacation, which, on petition by the board, shall issue
79 ancillary subpoenas and petitions and may punish as for contempt
80 of court in the event of noncompliance herewith.

81 For the purpose of conducting hearings, the Board of Medical
82 Licensure, through its executive director, may subpoena persons
83 and papers on its own behalf and on behalf of the respondent,
84 including records obtained pursuant to Section 73-25-28 and
85 Section 73-25-83, may administer oaths, and may compel the
86 testimony of witnesses. It may issue commissions to take
87 testimony, and testimony so taken and sworn to shall be admissible
88 in evidence for and against the respondent. The Board of Medical
89 Licensure shall be entitled to the assistance of the chancery
90 court or the chancellor in vacation, which, on petition by the
91 board, shall issue ancillary subpoenas and petitions and may
92 punish as for contempt of court in the event of noncompliance
93 therewith.

94 Unless the court otherwise decrees, a license that has been
95 suspended by the Board of Medical Licensure for a stated period of



96 time shall automatically become valid on the expiration of that
97 period and a license that has been suspended for an indefinite
98 period shall become again valid if and when the Board of Medical
99 Licensure so orders, which it may do on its own motion or on the
100 petition of the respondent. A license that has been revoked shall
101 not be restored to validity except: (1) by order of the Board of
102 Medical Licensure, based on petition for reinstatement filed
103 pursuant to Section 73-25-32 or (2) by order of the chancery court
104 or Supreme Court following appeal. Any licentiate whose license
105 becomes again valid after a period of suspension or after it has
106 been restored to validity by order of the board or by an order of
107 the court, shall record it again in the office of the clerk of the
108 circuit court of the county in which he resides in conformity with
109 the requirements of Section 73-25-13. Nothing in this chapter
110 shall be construed as limiting or revoking the authority of any
111 court or of any licensing or registering officer or board, other
112 than the State Board of Medical Licensure, to suspend, revoke and
113 reinstate licenses and to cancel registrations under the
114 provisions of Section 41-29-311.

115 **SECTION 2.** This act shall take effect and be in force from
116 and after July 1, 2003.

