

By: Representative Ryals

To: Public Health and Welfare

HOUSE BILL NO. 1061

1 AN ACT TO PROVIDE FOR MEDICAL PRACTICE DISCLOSURE; TO IMPOSE  
2 POWERS AND DUTIES ON THE STATE MEDICAL LICENSURE BOARD; TO PROVIDE  
3 FOR PENALTIES; TO PROVIDE FOR THE TESTING OF CERTAIN PHYSICIANS  
4 FOR UNLAWFUL DRUG USE; AND FOR RELATED PURPOSES.

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

6 **SECTION 1. Short title.**

7 This act shall be known and may be cited as the Medical  
8 Practice Disclosure Act.

9 **SECTION 2. Legislative intent.**

10 The State of Mississippi hereby recognizes the necessity of  
11 allowing individuals to make informed and educated choices  
12 regarding health care services and the essential need to provide  
13 information to facilitate these important decisions. It further  
14 recognizes that public disclosure of certain health care  
15 information would lower the cost of health care through the use of  
16 the most appropriate provider and improve the quality of health  
17 care services by mandating the reporting of information regarding  
18 health care providers.

19 It is the intention of the Legislature to establish a  
20 procedure by which the general public may obtain essential and  
21 basic information concerning potential health care providers,  
22 while ensuring the accuracy and disclosure of all relevant  
23 information that would enable individuals to informatively select  
24 their health care provider.

25 **SECTION 3. Collection of information.**

26 (1) The State Medical Licensure Board shall collect for each  
27 physician licensed or otherwise practicing medicine in the State  
28 of Mississippi the following information, in a format developed by



29 the department that shall be available for dissemination to the  
30 public:

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

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

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

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

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

53 (f) Notwithstanding any law to the contrary, all  
54 medical malpractice court judgments and all medical malpractice  
55 arbitration awards in which a payment is awarded to a complaining  
56 party and all settlements of medical malpractice claims in which a  
57 payment is made to a complaining party. Settlement of a claim may  
58 occur for a variety of reasons which do not necessarily reflect  
59 negatively on the professional competence or conduct of the  
60 physician. A payment in settlement of a medical malpractice



61 action or claim should not be construed as creating a presumption  
62 that medical malpractice has occurred.

63 (g) All civil court awards or settlements arising from  
64 allegations of sexual misconduct filed by patients, employees or  
65 hospital staff.

66 (h) A paragraph describing the malpractice experience  
67 of each medical specialty and an explanation that some high risk  
68 specialties experience more malpractice claims than less risky  
69 specialties. This information shall be updated on an annual basis  
70 to reflect the most recent malpractice claims experience of each  
71 specialty.

72 (i) Names of medical schools and dates of graduation.

73 (j) Graduate medical education.

74 (k) Specialty board certification(s).

75 (l) Number of years in practice.

76 (m) Name of hospitals where the physician has  
77 privileges.

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

81 (o) Information regarding publications in peer-reviewed  
82 medical literature.

83 (p) Information regarding professional or community  
84 service activities and awards.

85 (q) The location of the physician's primary practice  
86 location.

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

89 (s) An indication of whether the physician participates  
90 in the Medicaid program.

91 (2) The department shall provide each physician with a copy  
92 of that physician's profile prior to the release to the public.



93 (3) A physician shall be provided a reasonable time, not to  
94 exceed sixty (60) days, to correct factual inaccuracies or  
95 omissions that may appear in the profile.

96 (4) (a) A physician may petition the Medical Licensure  
97 Board for permission to temporarily omit certain information for a  
98 period not to exceed one (1) year.

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

106 (5) The department shall not disclose any pending  
107 malpractice claims to the public, and nothing in this section  
108 shall be construed to prohibit the department from investigating  
109 and disciplining a physician on the basis of pending medical  
110 malpractice claim information obtained under this act.

111 **SECTION 4. Report of criminal convictions and pleas of nolo**  
112 **contendere.**

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

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

122 (3) Upon review, the State Board of Medicine shall provide  
123 the information to the department for purposes consistent with  
124 this act.



125           (4) If a physician pleads nolo contendere to charges or  
126 where sufficient facts of guilt were found and the matter was  
127 continued without a finding by a court of competent jurisdiction,  
128 the clerk shall, within one (1) week thereafter, report the same  
129 to the Medical Licensure Board, together with a copy of the court  
130 proceedings in the case. Upon review, the Medical Licensure Board  
131 shall provide the information to the department for purposes  
132 consistent with this act.

133           **SECTION 5. Reports to hospitals and health care facilities.**

134           (1) Each licensed hospital or health care facility shall  
135 report to the department if the hospital or facility denies,  
136 restricts, revokes or fails to renew staff privileges or accepts  
137 the resignation of a physician for any reason related to the  
138 physician's competence to practice medicine or for any other  
139 reason related to a complaint or allegation regarding any  
140 violation of law, regulation, rule or bylaw of the hospital or  
141 facility regardless of whether the complaint or allegation  
142 specifically states a violation of a specific law, regulation,  
143 rule or bylaw. The report shall be filed within thirty (30) days  
144 of the occurrence of the reportable action and include details  
145 regarding the nature and circumstances of the action, its date and  
146 the reasons for it.

147           (2) Each licensed hospital or health care facility shall  
148 file an annual disciplinary report with the board no later than  
149 January 31 and shall send the report by certified or registered  
150 mail. The report shall summarize the action reports submitted for  
151 the previous calendar year and shall be signed under oath. If the  
152 hospital or facility submitted no action reports for the previous  
153 calendar year, then the report required by this subsection shall  
154 state that no action reports were required.

155           (3) No hospital, health care facility or person reporting  
156 information to the department under this section shall be liable



157 to the physician referenced in the report for making the report,  
158 provided that the report is made in good faith and without malice.

159 **SECTION 6. Reports of disciplinary action by professional**  
160 **medical organizations.**

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

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

- 177 (a) The physician's competence to practice medicine; or  
178 (b) A complaint or allegation regarding any violation  
179 of law or regulation, including, but not limited to, the  
180 regulations of the department or the Medical Licensure Board or  
181 hospital, health care facility or professional medical association  
182 bylaws, whether or not the complaint or allegation specifically  
183 cites violation of a specified law, regulation or bylaw.

184 **SECTION 7. Reports by insurers of malpractice claims or**  
185 **actions.**

186 (1) Every insurer or risk management organization which  
187 provides professional liability insurance to a physician shall  
188 report to the department any claim or action for damages for  
189 personal injuries alleged to have been caused by error, omission



190 or negligence in the performance of the physician's professional  
191 services where the claim resulted in:

192 (a) Final judgment in any amount;

193 (b) Settlement in any amount; or

194 (c) Final disposition not resulting in payment on  
195 behalf of the insured.

196 (2) Reports shall be filed with the board no later than  
197 thirty (30) days following the occurrence of any event listed  
198 under this section.

199 (3) The reports shall be in writing on a form prescribed by  
200 the department and shall contain the following information.

201 (a) The name, address, specialty coverage and policy  
202 number of the physician against whom the claim is made.

203 (b) The name, address and age of the claimant or  
204 plaintiff.

205 (c) The nature and substance of the claim.

206 (d) The date when and place where the claim arose.

207 (e) The amounts paid, if any, and the date, manner of  
208 disposition, judgment and settlement.

209 (f) The date and reason for final disposition, if no  
210 judgment or settlement.

211 (g) Such additional information as the department shall  
212 require. No insurer or its agents or employees shall be liable in  
213 any cause of action arising from reporting to the department as  
214 required in this section.

215 **SECTION 8. Reports by physicians of settlements or**  
216 **arbitration awards.**

217 (1) A physician who does not possess professional liability  
218 insurance shall report to the department every settlement or  
219 arbitration award of a claim or action for damages for death or  
220 personal injury caused by negligence, error or omission in  
221 practice, or the unauthorized rendering of professional services  
222 by the physician. The report shall be made within thirty (30)



223 days after the settlement agreement has been reduced to writing or  
224 thirty (30) days after service of the arbitration award on the  
225 parties as long as it is signed by all the parties.

226 (2) (a) Except as otherwise provided in this section, a  
227 physician who fails to comply with the provisions of this section  
228 shall be subject to a civil penalty of not more than Five Hundred  
229 Dollars (\$500.00).

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

237 **SECTION 9. Public access to information.**

238 (1) Effective July 1, 2003, a fee of not more than Twenty  
239 Dollars (\$20.00) shall be assessed to all physicians, and the fee  
240 shall be collected by the board every two (2) years to offset the  
241 costs associated with this act.

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

246 (3) Each physician shall make available to the public, free  
247 of charge, information compiled by the board in Section 3 of this  
248 act. All physicians shall conspicuously post at their primary  
249 place of practice a notice stating, "free background information  
250 available upon request."

251 (4) The board shall disseminate information of Section 3 of  
252 this act by posting the information on the state's website on the  
253 Internet. The fees collected under subsection (1) may be used to  
254 pay for the expenses of complying with this subsection.

255 **SECTION 10. Rules and regulations.**





256           The board shall in the manner provided by law promulgate the  
257 rules and regulations necessary to carry out the provisions of  
258 this act, including, but not limited to, the exchange of  
259 information between the Medical Licensure Board and other relevant  
260 state agencies, insurance carriers, hospitals and judicial  
261 administrative offices.

262           **SECTION 11.** (1) Every physician who specializes as a  
263 surgeon, neurosurgeon, obstetrician, gynecologist, cardiologist or  
264 in any other specialized medical practice shall be tested annually  
265 to determine whether unlawful drugs are present in the system of  
266 such person. The Bureau of Narcotics, in conjunction with the  
267 State Board of Health, shall establish and administer a testing  
268 program with such standards and procedures as deemed necessary to  
269 accomplish the requirements of this section.

270           (2) All testing required pursuant to this section shall be  
271 performed by the Mississippi Crime Laboratory or at a laboratory  
272 approved by the Director of the Mississippi Crime Laboratory.

273           (3) The results of such testing shall be disclosed to the  
274 State Board of Medical Licensure and the State Health Officer.  
275 The State Board of Medical Licensure shall take appropriate  
276 disciplinary action if unlawful drugs are present in any physician  
277 tested.

278           (4) Each individual tested shall pay a reasonable fee to  
279 defray the costs of the testing.

280           **SECTION 12.** This act shall take effect and be in force from  
281 and after July 1, 2003.

