

By: Representative Ryals

To: Public Health and
Welfare; Judiciary A

HOUSE BILL NO. 1445

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; AND FOR RELATED PURPOSES.

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

5 **SECTION 1. Short title.**

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

8 **SECTION 2. Legislative intent.**

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

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

24 **SECTION 3. Collection of information.**

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



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

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

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

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

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

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

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



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

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

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

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

72 (j) Graduate medical education.

73 (k) Specialty board certification(s).

74 (l) Number of years in practice.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

191 (a) Final judgment in any amount;

192 (b) Settlement in any amount; or

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

254 **SECTION 10. Rules and regulations.**



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

261 **SECTION 11.** This act shall take effect and be in force from
262 and after July 1, 2003.

