

By: Senator(s) Jackson

To: Public Health and
Welfare; Judiciary

SENATE BILL NO. 2222

1 AN ACT TO PROVIDE FOR MEDICAL PRACTICE DISCLOSURE; TO REQUIRE
2 CERTAIN REPORTS TO BE MADE BY LICENSED PHYSICIANS TO IMPOSE POWERS
3 AND DUTIES ON THE STATE MEDICAL LICENSURE BOARD; TO PROVIDE FOR
4 PUBLIC ACCESS TO REPORTED INFORMATION TO PROVIDE FOR PENALTIES;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1. Short Title.**

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

10 **SECTION 2. Legislative Intent.**

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

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

26 **SECTION 3. Collection of information.**

27 (1) The State Medical Licensure Board shall collect for each
28 physician licensed or otherwise practicing medicine in the State



29 of Mississippi the following information, in a format developed by
30 the department that shall be available for dissemination to the
31 public:

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

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

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

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

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

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



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

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

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

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

74 (j) Graduate medical education.

75 (k) Specialty board certification(s).

76 (l) Number of years in practice.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

178 (a) The physician's competence to practice medicine; or

179 (b) A complaint or allegation regarding any violation
180 of law or regulation, including, but not limited to, the
181 regulations of the department or the Medical Licensure Board or
182 hospital, health care facility or professional medical association
183 bylaws, whether or not the complaint or allegation specifically
184 cites violation of a specified law, regulation or bylaw.

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

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



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

- 193 (a) Final judgment in any amount;
- 194 (b) Settlement in any amount; or
- 195 (c) Final disposition not resulting in payment on
196 behalf of the insured.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

256 **SECTION 10. Rules and Regulations.**



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

263 **SECTION 11.** This act shall take effect and be in force from
264 and after January 1, 2004.

