

**\*\*\*Not Germane\*\*\***

**AMENDMENT No. 2 TO AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2628**

**By Representative(s) Ryals**

1           **AMEND** after line 299 by inserting the following as new  
2 Sections 4 through 14 and by renumbering succeeding sections:

3           **SECTION 4. Short title.**

4           This act shall be known and may be cited as the Medical  
5 Practice Disclosure Act.

6           **SECTION 5. Legislative intent.**

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

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

22           **SECTION 6. Collection of information.**

23           (1) The State Medical Licensure Board shall collect for each

24 physician licensed or otherwise practicing medicine in the State  
25 of Mississippi the following information, in a format developed by  
26 the department that shall be available for dissemination to the  
27 public:

28 (a) A description of any criminal convictions for  
29 felonies and violent misdemeanors as determined by the department.

30 For the purposes of this paragraph, a person shall be deemed to  
31 be convicted of a crime if that person pleaded guilty or if that  
32 person was found or adjudged guilty by a court of competent  
33 jurisdiction.

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

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

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

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

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

59 that medical malpractice has occurred.

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

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

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

70 (j) Graduate medical education.

71 (k) Specialty board certification(s).

72 (l) Number of years in practice.

73 (m) Name of hospitals where the physician has  
74 privileges.

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

78 (o) Information regarding publications in peer-reviewed  
79 medical literature.

80 (p) Information regarding professional or community  
81 service activities and awards.

82 (q) The location of the physician's primary practice  
83 location.

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

86 (s) An indication of whether the physician participates  
87 in the Medicaid program.

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

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

93 (4) (a) A physician may petition the Medical Licensure

94 Board for permission to temporarily omit certain information for a  
95 period not to exceed one (1) year.

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

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

108 **SECTION 7. Report of criminal convictions and pleas of nolo**  
109 **contendere.**

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

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

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

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

129 consistent with this act.

130 **SECTION 8. Reports to hospitals and health care facilities.**

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

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

152 (3) No hospital, health care facility or person reporting  
153 information to the department under this section shall be liable  
154 to the physician referenced in the report for making the report,  
155 provided that the report is made in good faith and without malice.

156 **SECTION 9. Reports of disciplinary action by professional**  
157 **medical organizations.**

158 (1) A professional medical association, society, body,  
159 professional standards review organization or similarly  
160 constituted professional organization, whether or not such  
161 association, society, body or organization is local, regional,  
162 state, national or international in scope, shall report to the  
163 Medical Licensure Board the disciplinary action taken against any

164 physician. Such report of disciplinary action shall be filed with  
165 the board within thirty (30) days of such disciplinary action,  
166 shall be in writing and shall be mailed to the board by certified  
167 or registered mail.

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

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

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

181 **SECTION 10. Reports by insurers of malpractice claims or**  
182 **actions.**

183 (1) Every insurer or risk management organization which  
184 provides professional liability insurance to a physician shall  
185 report to the department any claim or action for damages for  
186 personal injuries alleged to have been caused by error, omission  
187 or negligence in the performance of the physician's professional  
188 services where the claim resulted in:

189 (a) Final judgment in any amount;

190 (b) Settlement in any amount; or

191 (c) Final disposition not resulting in payment on  
192 behalf of the insured.

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

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

198 (a) The name, address, specialty coverage and policy

199 number of the physician against whom the claim is made.

200 (b) The name, address and age of the claimant or  
201 plaintiff.

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

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

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

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

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

212 **SECTION 11. Reports by physicians of settlements or**  
213 **arbitration awards.**

214 (1) A physician who does not possess professional liability  
215 insurance shall report to the department every settlement or  
216 arbitration award of a claim or action for damages for death or  
217 personal injury caused by negligence, error or omission in  
218 practice, or the unauthorized rendering of professional services  
219 by the physician. The report shall be made within thirty (30)  
220 days after the settlement agreement has been reduced to writing or  
221 thirty (30) days after service of the arbitration award on the  
222 parties as long as it is signed by all the parties.

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

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

234           **SECTION 12. Public access to information.**

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

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

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

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

252           **SECTION 13. Rules and regulations.**

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

259           **SECTION 14.** (1) Every physician who specializes as a  
260 surgeon, neurosurgeon, obstetrician, gynecologist, cardiologist or  
261 in any other specialized medical practice shall be tested annually  
262 to determine whether unlawful drugs are present in the system of  
263 such person. The Bureau of Narcotics, in conjunction with the  
264 State Board of Health, shall establish and administer a testing  
265 program with such standards and procedures as deemed necessary to  
266 accomplish the requirements of this section.

267           (2) All testing required pursuant to this section shall be  
268 performed by the Mississippi Crime Laboratory or at a laboratory



269 approved by the Director of the Mississippi Crime Laboratory.

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

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

277 **AMEND further** the title to conform.