

By: Representative Barnett

To: Public Health and Human Services; Judiciary A

HOUSE BILL NO. 263

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

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

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

10 73-25-27. The Mississippi State Board of Medical Licensure
11 after notice and opportunity for a hearing to the licentiate, is
12 authorized to suspend or revoke for any cause named herein any
13 license it has issued, or the renewal thereof, that authorizes any
14 person to practice medicine, osteopathy, or any other method of
15 preventing, diagnosing, relieving, caring for, or treating, or
16 curing disease, injury or other bodily condition. The procedure
17 for suspension of a license for being out of compliance with an
18 order for support, and the procedure for the reissuance or
19 reinstatement of a license suspended for that purpose, and the
20 payment of any fees for the reissuance or reinstatement of a
21 license suspended for that purpose, shall be governed by Section
22 93-11-157 or 93-11-163, as the case may be. If there is any
23 conflict between any provision of Section 93-11-157 or 93-11-163
24 and any provision of this chapter, the provisions of Section
25 93-11-157 or 93-11-163, as the case may be, shall control.

26 Such notice shall be effected by registered mail or personal
27 service setting forth the particular reasons for the proposed
28 action and fixing a date not less than thirty (30) days or more
29 than sixty (60) days from the date of such mailing or such

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

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

63 decision promptly. The hearing on the appeal may, in the
64 discretion of the chancellor, be tried in vacation. Appeals may
65 be had to the Supreme Court of the State of Mississippi as
66 provided by law from any final action of the chancery court. No
67 such person shall be allowed to practice medicine in violation of
68 any action of the chancery court affirming, in whole or in part,
69 the determination of the Board of Medical Licensure, while any
70 such appeal to the Supreme Court is pending.

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

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

95 punish as for contempt of court in the event of noncompliance
96 therewith.

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

118 **SECTION 2.** This act shall take effect and be in force from
119 and after its passage.