

By: Representative Brown

To: Public Health and Human Services

HOUSE BILL NO. 966

1 AN ACT TO AMEND SECTION 73-25-29, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT A PHYSICIAN FROM CHARGING A PATIENT FOR ANY CLINICAL
3 LABORATORY SERVICES THAT ARE NOT RENDERED BY THE LICENSEE; TO
4 PROVIDE CERTAIN DISCLOSURE REQUIREMENTS FOR THOSE CHARGES; TO
5 PROHIBIT A PHYSICIAN FROM CHARGING AN AMOUNT FOR A CLINICAL
6 LABORATORY SERVICE GREATER THAN THE AMOUNT CHARGED BY THE
7 PROVIDER; TO PROVIDE THAT THOSE PROHIBITED ACTIONS BY A PHYSICIAN
8 ARE GROUNDS FOR DISCIPLINARY ACTION BY THE BOARD OF MEDICAL
9 LICENSURE; TO AMEND SECTION 73-25-30, MISSISSIPPI CODE OF 1972, TO
10 PRESCRIBE THE PENALTIES THAT THE BOARD SHALL IMPOSE FOR VIOLATIONS
11 OF THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 73-25-29, Mississippi Code of 1972, is
14 amended as follows:

15 73-25-29. The grounds for the nonissuance, suspension,
16 revocation or restriction of a license or the denial of
17 reinstatement or renewal of a license are:

18 (a) Habitual personal use of narcotic drugs, or any
19 other drug having addiction-forming or addiction-sustaining
20 liability.

21 (b) Habitual use of intoxicating liquors, or any
22 beverage, to an extent that affects professional competency.

23 (c) Administering, dispensing or prescribing any
24 narcotic drug, or any other drug having addiction-forming or
25 addiction-sustaining liability otherwise than in the course of
26 legitimate professional practice.

27 (d) Conviction of violation of any federal or state law
28 regulating the possession, distribution or use of any narcotic
29 drug or any drug considered a controlled substance under state or
30 federal law, a certified copy of the conviction order or judgment

31 rendered by the trial court being prima facie evidence thereof,
32 notwithstanding the pendency of any appeal.

33 (e) Procuring, or attempting to procure, or aiding in,
34 an abortion that is not medically indicated.

35 (f) Conviction of a felony or misdemeanor involving
36 moral turpitude, a certified copy of the conviction order or
37 judgment rendered by the trial court being prima facie evidence
38 thereof, notwithstanding the pendency of any appeal.

39 (g) Obtaining or attempting to obtain a license by
40 fraud or deception.

41 (h) Unprofessional conduct, which includes, but is not
42 limited to:

43 (i) Practicing medicine under a false or assumed
44 name or impersonating another practitioner, living or dead.

45 (ii) Knowingly performing any act that in any way
46 assists an unlicensed person to practice medicine.

47 (iii) Making or willfully causing to be made any
48 flamboyant claims concerning the licensee's professional
49 excellence.

50 (iv) Being guilty of any dishonorable or unethical
51 conduct likely to deceive, defraud or harm the public.

52 (v) Obtaining a fee as personal compensation or
53 gain from a person on fraudulent representation a disease or
54 injury condition generally considered incurable by competent
55 medical authority in the light of current scientific knowledge and
56 practice can be cured or offering, undertaking, attempting or
57 agreeing to cure or treat the same by a secret method, which he
58 refuses to divulge to the board upon request.

59 (vi) Use of any false, fraudulent or forged
60 statement or document, or the use of any fraudulent, deceitful,
61 dishonest or immoral practice in connection with any of the
62 licensing requirements, including the signing in his professional

63 capacity any certificate that is known to be false at the time he
64 makes or signs the certificate.

65 (vii) Failing to identify a physician's school of
66 practice in all professional uses of his name by use of his earned
67 degree or a description of his school of practice.

68 (viii) Charging any patient for any clinical
69 laboratory service not actually rendered by the licensee to the
70 patient unless the service is itemized in the charge, bill or
71 other solicitation of payment by identifying the name and address
72 of the provider of the clinical laboratory service and the amount
73 charged by the provider for the clinical laboratory service. The
74 physician shall not charge a fee for referral to a clinical
75 laboratory. This subparagraph shall be satisfied if the required
76 disclosures are made to the third-party payor of the patient.

77 (ix) Charging any patient or third-party payor an
78 amount for a clinical laboratory service not actually rendered by
79 the licensee to the patient that is greater than the amount
80 charged by the provider of the clinical laboratory service to the
81 licensee.

82 (i) The refusal of a licensing authority of another
83 state or jurisdiction to issue or renew a license, permit or
84 certificate to practice medicine in that jurisdiction or the
85 revocation, suspension or other restriction imposed on a license,
86 permit or certificate issued by the licensing authority that
87 prevents or restricts practice in that jurisdiction, a certified
88 copy of the disciplinary order or action taken by the other state
89 or jurisdiction being prima facie evidence thereof,
90 notwithstanding the pendency of any appeal.

91 (j) Surrender of a license or authorization to practice
92 medicine in another state or jurisdiction or surrender of
93 membership on any medical staff or in any medical or professional
94 association or society while under disciplinary investigation by
95 any of those authorities or bodies for acts or conduct similar to

96 acts or conduct that would constitute grounds for action as
97 defined in this section.

98 (k) Final sanctions imposed by the United States
99 Department of Health and Human Services, Office of Inspector
100 General or any successor federal agency or office, based upon a
101 finding of incompetency, gross misconduct or failure to meet
102 professionally recognized standards of health care; a certified
103 copy of the notice of final sanction being prima facie evidence
104 thereof. As used in this paragraph, the term "final sanction"
105 means the written notice to a physician from the United States
106 Department of Health and Human Services, Officer of Inspector
107 General or any successor federal agency or office, that implements
108 the exclusion.

109 (l) Failure to furnish the board, its investigators or
110 representatives information legally requested by the board.

111 (m) Violation of any provision(s) of the Medical
112 Practice Act or the rules and regulations of the board or of any
113 order, stipulation or agreement with the board.

114 In addition to the grounds specified above, the board shall
115 be authorized to suspend the license of any licensee for being out
116 of compliance with an order for support, as defined in Section
117 93-11-153. The procedure for suspension of a license for being
118 out of compliance with an order for support, and the procedure for
119 the reissuance or reinstatement of a license suspended for that
120 purpose, and the payment of any fees for the reissuance or
121 reinstatement of a license suspended for that purpose, shall be
122 governed by Section 93-11-157 or 93-11-163, as the case may be.
123 If there is any conflict between any provision of Section
124 93-11-157 or 93-11-163 and any provision of this chapter, the
125 provisions of Section 93-11-157 or 93-11-163, as the case may be,
126 shall control.

127 **SECTION 2.** Section 73-25-30, Mississippi Code of 1972, is
128 amended as follows:

129 73-25-30. (1) The Mississippi State Board of Medical
130 Licensure, in exercising its authority under the provisions of
131 Section 73-25-29, shall have the power to discipline the holder of
132 a license who has been found by the board in violation of any
133 provision of that section after notice and a hearing as provided
134 by law, and the licensee shall be disciplined as follows:

135 (a) By placing him upon probation, the terms of which
136 may be set by the board, or

137 (b) By suspending his right to practice for a time
138 deemed proper by the board, or

139 (c) By revoking his license, or

140 (d) By taking any other action in relation to his
141 license as the board may deem proper under the circumstances, or

142 (e) In cases of violations of paragraph (h)(viii) or
143 (ix) of Section 73-25-29, by imposition of the following
144 penalties:

145 (i) For the first violation, a monetary penalty of
146 not less than One Hundred Dollars (\$100.00) nor more than Five
147 Hundred Dollars (\$500.00). Charges made by a licensee to more
148 than one (1) patient or third-party payor in violation of
149 paragraph (h)(viii) or (ix) of Section 73-25-29 shall be
150 considered as one (1) violation for the purpose of imposing a
151 penalty for the first violation;

152 (ii) For the second violation, a monetary penalty
153 of not less than Five Hundred Dollars (\$500.00) nor more than One
154 Thousand Dollars (\$1,000.00); and

155 (iii) For the third violation, by revocation of
156 the physician's license.

157 (2) Upon the execution of a disciplinary order by the board,
158 either following a hearing or in lieu of a hearing, the board, in
159 addition to the disciplinary powers specified in subsection (1) of
160 this section, may assess the licensee for those reasonable costs
161 that are expended by the board in the investigation and conduct of

162 a proceeding for licensure disciplinary action, including, but not
163 limited to, the cost of process service, court reporters, witness
164 fees, expert witnesses, investigators, and other related expenses.
165 Money collected by the board under this section shall be deposited
166 to the credit of the special fund of the board to reimburse the
167 existing current year appropriated budget.

168 (3) An assessment of costs under this section shall be paid
169 to the board by the licensee, upon the expiration of the period
170 allowed for appeals under Section 73-25-27, or may be paid sooner
171 if the licensee elects. Costs assessed under this section shall
172 not exceed Three Thousand Dollars (\$3,000.00).

173 (4) When an assessment of costs by the board against a
174 licensee in accordance with this section is not paid by the
175 licensee when due under this section, the licensee shall be
176 prohibited from practicing medicine until the full amount is paid.
177 In addition, the board may institute and maintain proceedings in
178 its name for enforcement of payment in the Chancery Court of the
179 First Judicial District of Hinds County. When those proceedings
180 are instituted, the board shall certify the record of its
181 proceedings, together with all documents and evidence, to the
182 chancery court. The matter shall be heard in due course by the
183 court, which shall review the record and make its determination
184 thereon. The hearing on the matter, in the discretion of the
185 chancellor, may be tried in vacation.

186 **SECTION 3.** This act shall take effect and be in force from
187 and after July 1, 2005.