

By: Senator(s) Dawkins

To: Public Health and
Welfare

SENATE BILL NO. 2762

1 AN ACT TO PROVIDE THAT FROM AND AFTER JULY 1, 2004,
2 APPOINTMENTS TO CERTAIN PUBLIC HEALTH-RELATED EXECUTIVE AGENCY
3 BOARDS AND COMMISSIONS SHALL BE MADE FROM THE FOUR MISSISSIPPI
4 CONGRESSIONAL DISTRICTS ON A PHASED-IN BASIS; TO AMEND SECTIONS
5 41-4-3, 43-13-409, 73-15-9, 73-19-7, 73-31-5, 73-53-8 AND 73-67-9,
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
7 PURPOSES.

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

9 **STATE BOARD OF MENTAL HEALTH**

10 **SECTION 1.** Section 41-4-3, Mississippi Code of 1972, is
11 amended as follows:

12 41-4-3. (1) There is hereby created a State Board of Mental
13 Health, herein referred to as "board," consisting of nine (9)
14 members, to be appointed by the Governor, with the advice and
15 consent of the Senate, each of whom shall be a qualified elector.
16 One (1) member shall be appointed from each congressional district
17 as presently constituted; and four (4) members shall be appointed
18 from the state at large, one (1) of whom shall be a licensed
19 medical doctor who is a psychiatrist, one (1) of whom shall hold a
20 Ph.D. degree and be a licensed clinical psychologist, one (1) of
21 whom shall be a licensed medical doctor, and one (1) of whom shall
22 be a social worker with experience in the mental health field.

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24 Each member of the initial board shall serve for a term of
25 years represented by the number of his congressional district; two
26 (2) state-at-large members shall serve for a term of six (6)
27 years; two (2) state-at-large members shall serve for a term of
28 seven (7) years; subsequent appointments shall be for seven-year
29 terms and the Governor shall fill any vacancy for the unexpired

30 term. The members of the board as constituted on July 1, 2005,
31 whose terms have not expired shall serve the balance of their
32 terms, after which time the membership of the board shall be
33 appointed as follows: There shall be appointed two (2) members of
34 the board from each of the four (4) Mississippi congressional
35 districts as they currently exist, and one (1) from the state at
36 large, to be designated at the time of appointment, and the
37 Governor shall make appointments from the congressional district
38 having the smallest number of board members until the membership
39 includes two (2) members from each congressional district as
40 required.

41 The board shall elect a chairman whose term of office shall
42 be one (1) year and until his successor shall be elected.

43 (2) Each board member shall be entitled to a per diem as is
44 authorized by law and all actual and necessary expenses, including
45 mileage as provided by law, incurred in the discharge of official
46 duties.

47 (3) The board shall hold regular meetings monthly and such
48 special meetings deemed necessary, except that no action shall be
49 taken unless there is present a quorum of at least five (5)
50 members.

51 **HEALTH CARE TRUST FUND AND EXPENDABLE FUND BOARD**

52 **SECTION 2.** Section 43-13-409, Mississippi Code of 1972, is
53 amended as follows:

54 43-13-409. (1) There is established a board of directors to
55 invest the funds in the Health Care Trust Fund and the Health Care
56 Expendable Fund. The board of directors shall consist of thirteen
57 (13) members as follows:

58 (a) Seven (7) voting members as follows: The State
59 Treasurer, or his designee, the Attorney General, or his designee,
60 and one (1) member from each congressional district to be
61 appointed by the Governor with the advice and consent of the
62 Senate. Of the members appointed by the Governor, one (1) member

63 shall be appointed for an initial term that expires on March 1,
64 2000; one (1) member shall be appointed for an initial term that
65 expires on March 1, 2001; one (1) member shall be appointed for an
66 initial term that expires on March 1, 2002; one (1) member shall
67 be appointed for an initial term that expires on March 1, 2003;
68 and one (1) member shall be appointed for an initial term that
69 expires on March 1, 2004. Upon the expiration of any of the
70 initial terms of office, the Governor shall appoint successors by
71 and with the advice and consent of the Senate for terms of five
72 (5) years from the expiration date of the previous term. Any
73 member appointed by the Governor shall be eligible for
74 reappointment. Each member appointed by the Governor shall
75 possess knowledge, skill and experience in business or financial
76 matters commensurate with the duties and responsibilities of the
77 board of directors in administering the Health Care Trust Fund and
78 the Health Care Expendable Fund. The members appointed by the
79 Governor as constituted on July 1, 2005, whose terms have not
80 expired shall serve the balance of their terms, after which time
81 the gubernatorial appointments shall be made as follows: There
82 shall be appointed one (1) member of the board from each of the
83 four (4) Mississippi congressional districts as they currently
84 exist, and one (1) from the state at large, and the Governor shall
85 make appointments from the congressional district having the
86 smallest number of board members until the membership includes one
87 (1) member from each district as required.

88 (b) Two (2) nonvoting, advisory members of the Senate
89 shall be appointed by the Lieutenant Governor, and one (1)
90 nonvoting, advisory representative of the health care community
91 shall be appointed by the Lieutenant Governor, who shall serve for
92 the length of the term of the appointing official and shall be
93 eligible for reappointment.

94 (c) Two (2) nonvoting, advisory members of the House of
95 Representatives shall be appointed by the Speaker of the House,

96 and one (1) nonvoting, advisory representative of the health care
97 community shall be appointed by the Speaker of the House, who
98 shall serve for the length of the term of the appointing official
99 and shall be eligible for reappointment.

100 (d) Any person appointed to fill a vacancy on the board
101 of directors shall be appointed in the same manner as for a
102 regular appointment and shall serve for the remainder of the
103 unexpired term only.

104 (2) Nonlegislative members of the board of directors shall
105 serve without compensation, but shall be reimbursed for each day's
106 official duties of the board at the same per diem as established
107 by Section 25-3-69, and actual travel and lodging expenses as
108 established by Section 25-3-41. Legislative members of the board
109 of directors shall receive the same per diem and expense
110 reimbursement as for attending committee meetings when the
111 Legislature is not in regular session.

112 (3) The State Treasurer shall be the chairman of the board
113 of directors. The board of directors shall annually elect one (1)
114 member to serve as vice chairman of the board. The vice chairman
115 shall act as chairman in the absence of or upon the disability of
116 the chairman or if there is a vacancy in the office of chairman.

117 (4) All expenses of the board of directors in carrying out
118 its duties and responsibilities under this article, including the
119 payment of per diem and expenses of the nonlegislative members of
120 the board, shall be paid from funds appropriated to the State
121 Treasurer's office for that purpose.

122 (5) The board of directors shall invest the funds in the
123 Health Care Trust Fund and the Health Care Expendable Fund in any
124 of the investments authorized for the Mississippi Prepaid
125 Affordable College Tuition Program under Section 37-155-9, and
126 those investments shall be subject to the limitations prescribed
127 by Section 37-155-9.

161 **SECTION 3.** Section 73-15-9, Mississippi Code of 1972, is
162 amended as follows:

163 73-15-9. (1) There is hereby created a board to be known as
164 the Mississippi Board of Nursing, composed of thirteen (13)
165 members, two (2) of whom shall be nurse educators; three (3) of
166 whom shall be registered nurses in clinical practice, two (2) to
167 have as basic nursing preparation an associate degree or diploma
168 and one (1) to have as basic nursing preparation a baccalaureate
169 degree; one (1) of whom shall be a registered nurse at large; one
170 (1) of whom shall be a registered nurse practitioner; four (4) of
171 whom shall be licensed practical nurses; one (1) of whom shall be
172 a licensed physician who shall always be a member of the State
173 Board of Medical Licensure; and one (1) of whom shall represent
174 consumers of health services. There shall be at least one (1)
175 board member from each congressional district in the state;
176 provided, however, that the physician member, the consumer
177 representative member and one (1) registered nurse member shall be
178 at large always. The members of the board as constituted on July
179 1, 2005, whose terms have not expired shall serve the balance of
180 their terms, after which time the membership of the board shall be
181 appointed as follows: There shall be appointed not less than two
182 (2) members and not more than three (3) members of the board from
183 each of the four (4) Mississippi congressional districts as they
184 currently exist, and the Governor shall make appointments from the
185 congressional district having the smallest number of board members
186 until the membership includes at least two (2) members from each
187 congressional district as required, and the nominating
188 organization and/or association shall make nominations to the
189 Governor from the appropriate congressional district.

190 (2) Members of the Mississippi Board of Nursing, excepting
191 the member of the State Board of Medical Licensure, shall be
192 appointed by the Governor, with the advice and consent of the
193 Senate, from lists of nominees submitted by any Mississippi

194 registered nurse organization and/or association chartered by the
195 State of Mississippi whose board of directors is elected by the
196 membership and whose membership includes registered nurses
197 statewide, for the nomination of registered nurses, and by the
198 Mississippi Federation of Licensed Practical Nurses and the
199 Mississippi Licensed Practical Nurses' Association for the
200 nomination of a licensed practical nurse. Nominations submitted
201 by any such registered nurse organization or association to fill
202 vacancies on the board shall be made and voted on by registered
203 nurses only. Each list of nominees shall contain a minimum of
204 three (3) names for each vacancy to be filled. The list of names
205 shall be submitted at least thirty (30) days before the expiration
206 of the term for each position. If such list is not submitted, the
207 Governor is authorized to make an appointment from the group
208 affected and without nominations. Appointments made to fill
209 vacancies for unexpired terms shall be for the duration of such
210 terms and until a successor is duly appointed.

211 (3) Members of the board shall be appointed in staggered
212 terms for four (4) years or until a successor shall be duly
213 qualified. No member may serve more than two (2) consecutive full
214 terms. Members of the board serving on July 1, 1988, shall
215 continue to serve for their appointed terms.

216 (4) Vacancies occurring by reason of resignation, death or
217 otherwise shall be filled by appointment of the Governor upon
218 nominations from a list of nominees from the affected group to be
219 submitted within not more than thirty (30) days after such a
220 vacancy occurs. In the absence of such list, the Governor is
221 authorized to fill such vacancy in accordance with the provisions
222 for making full-term appointments. All vacancy appointments shall
223 be for the unexpired terms.

224 (5) Any member may be removed from the board by the Governor
225 after a hearing by the board and provided such removal is
226 recommended by the executive committee of the affected group.

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STATE BOARD OF OPTOMETRY

SECTION 4. Section 73-19-7, Mississippi Code of 1972, is amended as follows:

73-19-7. The Governor, with the advice and consent of the Senate, shall appoint a State Board of Optometry, consisting of five (5) persons, citizens of Mississippi, each of whom shall be a nonmedical man or woman actually engaged in the practice of optometry for five (5) years next preceding his appointment. Within ninety (90) days after March 25, 1974, the Governor shall appoint: one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years, and one (1) member for a term of five (5) years; and upon the expiration of all such terms their successors shall be appointed by the Governor for a term of five (5) years. From and after July 1, 1983, the appointments to the board shall be made with one (1) member to be appointed from each of the congressional districts as existing on January 1, 1980; provided that the present members of the State Board of Optometry whose terms have not expired by July 1, 1983, shall continue to serve until their terms of office have expired. Each member shall remain in office after the expiration of his term until his successor shall be duly appointed and qualified. The members of the board as constituted on July 1, 2005, whose terms have not expired shall serve the balance of their terms, after which time the membership of the board shall be appointed as follows: There shall be appointed one (1) member of the board from each of the four (4) Mississippi congressional districts as they currently exist, and one (1) from the state at large, and the Governor shall make appointments from the congressional district having the smallest number of board members until the membership includes one (1) member from each congressional district as required; and the Mississippi Optometric

259 Association shall make nominations to the Governor from the
260 appropriate congressional district.

261 No person so appointed shall be a stockholder in or a member
262 of the faculty or of the board of trustees of any school of
263 optometry, or serve to exceed two (2) five-year terms.

264 Vacancies on said board shall be filled by appointment by the
265 Governor, with the advice and consent of the Senate, from a list
266 of names submitted by the Mississippi Optometric Association
267 consisting of three (3) of its members, or by appointment of any
268 qualified member of the association.

269 **MISSISSIPPI BOARD OF PSYCHOLOGY**

270 **SECTION 5.** Section 73-31-5, Mississippi Code of 1972, is
271 amended as follows:

272 73-31-5. (1) There is hereby created a Mississippi Board of
273 Psychology consisting of seven (7) members who are citizens of the
274 United States and residing in the State of Mississippi. One (1)
275 member of the board shall be a person who is not a psychologist or
276 a mental health professional but who has expressed a continuing
277 interest in the field of psychology. Each board member shall
278 otherwise be licensed under this chapter. At all times the board
279 shall be composed of three (3) members who are faculty at
280 institutions of higher learning that grant doctoral degrees, or
281 staff or faculty of an American Psychological Association approved
282 doctoral level internship. Three (3) members of the board shall
283 be engaged in the professional practice of psychology. The
284 membership of the board shall reflect a diversity of practice
285 specialties.

286 (2) When the term of each psychologist member ends the
287 Governor shall, within thirty (30) days, appoint as his successor,
288 for a term of five (5) years, a psychologist who holds a doctoral
289 degree from an institution of higher education and who has been
290 licensed under this chapter. When the term of the member who is
291 not a psychologist ends, the Governor shall, within thirty (30)

292 days, appoint a qualified person as his successor for a term of
293 five (5) years. No board member shall serve for consecutive
294 terms. Any vacancy occurring in the board membership other than
295 by expiration of term shall be filled by the Governor by
296 appointment for the unexpired term of such member. All
297 appointments of psychologist members of the board shall be made
298 from a list containing the names of at least three (3) eligible
299 nominees for each vacancy submitted by the Mississippi
300 Psychological Association. Each board member shall receive a
301 certificate of appointment from the Governor before entering on
302 the discharge of his duties, and within thirty (30) days from the
303 effective date of his appointment shall subscribe an oath for the
304 faithful performance of his official duty before any officer
305 authorized to administer oaths in this state, and shall file the
306 same with the Secretary of State. To enable the board to have
307 regular, planned changes in membership the following one-time
308 changes in length of terms of board members is enacted:

309 (a) One (1) of the two (2) practice members appointed
310 in 1998 will serve a three-year term.

311 (b) The practice member appointed in 2002 will serve a
312 three-year term.

313 (c) One of the two (2) academic members appointed in
314 2002 will serve a four-year term.

315 The members of the board as constituted on July 1, 2005,
316 whose terms have not expired shall serve the balance of their
317 terms, after which time the membership of the board shall be
318 appointed as follows: There shall be appointed one (1) member of
319 the board from each of the four (4) Mississippi congressional
320 districts as they currently exist, and three (3) from the state at
321 large, and the Governor shall make appointments from the
322 congressional district having the smallest number of board members
323 until the membership includes at least one (1) member from each
324 congressional district as required; and the association shall

325 nominate members to the Governor from the appropriate
326 congressional district as required.

327 (3) The Governor may remove any board member for misconduct,
328 incompetency, or neglect of duty after giving the board member a
329 written statement of the charges and an opportunity to be heard
330 thereon.

331 (4) Each board member shall serve without compensation, but
332 shall receive actual traveling and incidental expenses necessarily
333 incurred while engaged in the discharge of official duties.

334 This section shall stand repealed from and after July 1,
335 2011.

336 **SOCIAL WORKER & FAMILY THERAPY BOARD**

337 **SECTION 6.** Section 73-53-8, Mississippi Code of 1972, is
338 amended as follows:

339 73-53-8. (1) There is created the Board of Examiners for
340 Social Workers and Marriage and Family Therapists to license and
341 regulate social workers and marriage and family therapists. The
342 board shall be composed of ten (10) members, six (6) of which
343 shall be social workers and four (4) of which shall be marriage
344 and family therapists.

345 (2) Of the social worker members of the board, two (2) must
346 be licensed social workers, and four (4) must be licensed master
347 social workers or licensed certified social workers or a
348 combination thereof. The marriage and family therapist members of
349 the board must be licensed marriage and family therapists. For at
350 least five (5) years immediately preceding his or her appointment,
351 each marriage and family therapist appointee must have been
352 actively engaged as a marriage and family therapist in rendering
353 professional services in marriage and family therapy, or in the
354 education and training of master's, doctoral or post-doctoral
355 students of marriage and family therapy, or in marriage and family
356 therapy research, and during the two (2) years preceding his or
357 her appointment, must have spent the majority of the time devoted

358 to that activity in this state. The initial marriage and family
359 therapist appointees shall be deemed to be and shall become
360 licensed practicing marriage and family therapists immediately
361 upon their appointment and qualification as members of the board.
362 All subsequent marriage and family therapist appointees to the
363 board must be licensed marriage and family therapists before their
364 appointment.

365 (3) The Governor shall appoint six (6) members of the board,
366 four (4) of which shall be social workers and two (2) of which
367 shall be marriage and family therapists, and the Lieutenant
368 Governor shall appoint four (4) members of the board, two (2) of
369 which shall be social workers and two (2) of which shall be
370 marriage and family therapists. Social worker members of the
371 board shall be appointed from nominations submitted by the
372 Mississippi Chapter of the National Association of Social Workers,
373 and marriage and family therapist members of the board shall be
374 appointed from nominations submitted by the Mississippi Marriage
375 and Family Therapy Association. All appointments shall be made
376 with the advice and consent of the Senate.

377 (4) The initial appointments to the board shall be made as
378 follows: The Governor shall appoint one (1) social worker member
379 for a term that expires on June 30, 1999, one (1) social worker
380 member for a term that expires on June 30, 2001, two (2) social
381 worker members for terms that expire on June 30, 2002, one (1)
382 marriage and family therapist member for a term that expires on
383 June 30, 1998, and one (1) marriage and family therapist member
384 for a term that expires on June 30, 2000. The Lieutenant Governor
385 shall appoint one (1) social worker member for a term that expires
386 on June 30, 1998, one (1) social worker member for a term that
387 expires on June 30, 2000, one (1) marriage and family therapist
388 member for a term that expires on June 30, 1999, and one (1)
389 marriage and family therapist member of the board for a term that
390 expires on June 30, 2001. After the expiration of the initial

391 terms, all subsequent appointments shall be made by the original
392 appointing authorities for terms of four (4) years from the
393 expiration date of the previous term. The members of the board as
394 constituted on July 1, 2005, whose terms have not expired shall
395 serve the balance of their terms, after which time the membership
396 of the board shall be appointed as follows: The appointments to
397 the board made by the Governor shall be made one (1) from each of
398 the four (4) Mississippi congressional districts as they currently
399 exist, and two (2) from the state at large, and the appointments
400 to the board made by the Lieutenant Governor shall be made one (1)
401 from each of the four (4) Mississippi congressional districts as
402 they exist on January 1, 2002, and each appointing officer shall
403 make appointments from the congressional district having the
404 smallest number of board members until the membership includes at
405 least the minimum number from each congressional district as
406 required; and the nominating organization shall submit nominations
407 to the Governor or the Lieutenant Governor from the appropriate
408 congressional district as required. Upon the expiration of his or
409 her term of office, a board member shall continue to serve until
410 his or her successor has been appointed and has qualified. No
411 person may be appointed more than once to fill an unexpired term
412 or more than two (2) consecutive full terms.

413 (5) Any vacancy on the board before the expiration of a term
414 shall be filled by appointment of the original appointing
415 authority for the remainder of the unexpired term. Appointments
416 to fill vacancies shall be made from nominations submitted by the
417 appropriate organization as specified in subsection (2) of this
418 section for the position being filled.

419 (6) The appointing authorities shall give due regard to
420 geographic distribution, race and sex in making all appointments
421 to the board.

422 (7) The board shall select one (1) of its members to serve
423 as chairman during the term of his or her appointment to the

424 board. No person may serve as chairman for more than four (4)
425 years. The board may remove any member of the board or the
426 chairman from his or her position as chairman for (a) malfeasance
427 in office, or (b) conviction of a felony or a crime of moral
428 turpitude while in office, or (c) failure to attend three (3)
429 consecutive board meetings. However, no member may be removed
430 until after a public hearing of the charges against him or her,
431 and at least thirty (30) days' prior written notice to the accused
432 member of the charges against him or her and of the date fixed for
433 such hearing. No board member shall participate in any matter
434 before the board in which he has a pecuniary interest, personal
435 bias or other similar conflict of interest.

436 (8) Board members shall receive no compensation for their
437 services, but shall be reimbursed for their actual and necessary
438 expenses incurred in the performance of official board business as
439 provided in Section 25-3-41.

440 (9) Four (4) social worker members and three (3) marriage
441 and family therapist members of the board shall constitute a
442 quorum of the board. In making its decisions and taking actions
443 affecting the members of one (1) of the professions regulated by
444 the board, the board shall consider the recommendations of the
445 board members who are members of that profession.

446 (10) The principal office of the board shall be in the City
447 of Jackson, but the board may act and exercise all of its powers
448 at any other place. The board shall adopt an official seal, which
449 shall be judicially noticed and which shall be affixed to all
450 licenses issued by the board.

451 (11) The board is authorized to employ, subject to the
452 approval of the State Personnel Board, an executive director and
453 such attorneys, experts and other employees as it may, from time
454 to time, find necessary for the proper performance of its duties
455 and for which the necessary funds are available, and to set the
456 salary of the executive director, subject to the approval of the

457 State Personnel Board. The board is strongly encouraged to employ
458 any employees of the State Department of Health who may be
459 displaced as a result of the enactment of Laws, 1997, Chapter 516.

460 (12) The board, by a majority vote, from time to time may
461 make such provisions as it deems appropriate to authorize the
462 performance by any board member or members, employee or other
463 agent of the board of any function given the board in this chapter
464 or Sections 73-54-1 through 73-54-39.

465 **STATE BOARD OF MASSAGE THERAPY**

466 **SECTION 7.** Section 73-67-9, Mississippi Code of 1972, is
467 amended as follows:

468 73-67-9. (1) There is created the State Board of Massage
469 Therapy.

470 (2) The board shall consist of five (5) members appointed by
471 the Governor, with the advice and consent of the Senate. At least
472 three (3) members shall be appointed from a list submitted by
473 state representatives of one or more nationally recognized
474 professional massage therapy association(s), one (1) to be
475 appointed from each Mississippi Supreme Court District and all of
476 whom must be residents of Mississippi and must have engaged in the
477 practice of massage therapy within the state for at least three
478 (3) years, one (1) member shall be a licensed health professional
479 in a health field other than massage therapy and one (1) member
480 shall be a consumer at large who is not associated with or
481 financially interested in the practice or business of massage
482 therapy. The initial members of the board shall be appointed for
483 staggered terms, as follows: one (1) member shall be appointed
484 for a term that ends on June 30, 2002; one (1) member shall be
485 appointed for a term that ends on June 30, 2003; one (1) member
486 shall be appointed for a term that ends on June 30, 2004; and two
487 (2) members shall be appointed for terms that end on June 30,
488 2005. Appointments shall be made within ninety (90) days from
489 July 1, 2001.

490 (3) All subsequent appointments to the board shall be
491 appointed by the Governor for terms of four (4) years from the
492 expiration date of the previous term. No person shall be
493 appointed for more than two (2) consecutive terms. By approval of
494 the majority of the board, the service of a member may be extended
495 at the completion of a four-year term until a new member is
496 appointed or the current member is reappointed. The board shall
497 elect one (1) of the appointed massage therapists as the chairman
498 of the board.

499 (4) A majority of the board may appoint an executive
500 director and other such individuals, including an attorney, as may
501 be necessary to implement the provisions of this chapter. The
502 board may hold additional meetings at such times and places as it
503 deems necessary. A majority of the board shall constitute a
504 quorum and a majority of the board shall be required to grant or
505 revoke a certificate of registration.

506 **SECTION 8.** This act shall take effect and be in force from
507 and after July 1, 2005.