

**Adopted
AMENDMENT NO 1 TO COMMITTEE AMENDMENT NO 1 PROPOSED
TO**

Senate Bill No. 2056

BY: Representative Blackmon

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

8 **SECTION 1.** Section 83-48-5, Mississippi Code of 1972, is
9 amended as follows:

10 83-48-5. (1) There is created the Medical Malpractice
11 Insurance Availability Plan that shall be funded by the
12 participants in the plan. The plan shall be administered by the
13 Tort Claims Board created under Section 11-46-18.

14 (2) (a) The plan shall provide coverage for medical
15 malpractice to hospitals, institutions for the aged or infirm, or
16 other health care facilities licensed by the State of Mississippi,
17 physicians, nurses or other personnel who are duly licensed to
18 practice in a hospital or other health care facility licensed by
19 the State of Mississippi. Participation in the plan shall be
20 voluntary for any hospital, institution for the aged or infirm, or
21 other health care facilities licensed by the State of Mississippi,
22 physicians, nurses and any other personnel who are duly licensed
23 to practice in a hospital or other health care facility licensed
24 by the State of Mississippi. However, no state entity may
25 participate in the plan. The term "state" as used in this
26 subsection has the meaning ascribed to that term under Section

27 11-46-1. The plan shall make available tail (extended reporting
28 period) coverage for participants of the plan at an additional
29 premium assessment for such coverage. The board shall encourage
30 participation in the insurance industry market. * * *

31 (b) The limits of coverage under the plan shall be as
32 follows:

33 (i) For participants who are "political
34 subdivisions" and participants who are "employees" of political
35 subdivisions, as such terms are defined under Section 11-46-1, a
36 maximum of Five Hundred Thousand Dollars (\$500,000.00), per single
37 occurrence, and Two Million Dollars (\$2,000,000.00), in the
38 aggregate, per year, for all occurrences;

39 (ii) For all other participants, a maximum of One
40 Million Dollars (\$1,000,000.00), per single occurrence, and Three
41 Million Dollars (\$3,000,000.00), in the aggregate, per year, for
42 all occurrences; and

43 (iii) For tail coverage, the plan shall provide
44 some limits of coverage as designated in subparagraphs (i) and
45 (ii) of this paragraph (b).

46 (3) Policies may be underwritten based on participant
47 history. All rates applicable to the coverage provided herein
48 shall be on an actuarially sound basis and calculated to be
49 self-supporting.

50 (4) Every participant in the plan shall:

51 (a) File with the board a written agreement, the form
52 and substance of which shall be determined by the board, signed by
53 a duly authorized representative of the participant, that the
54 participant will provide services to (i) Medicaid recipients, (ii)
55 State and School Employees Health Insurance Plan participants, and
56 (iii) Children's Health Insurance Program participants. The
57 agreement must provide, among other things, that the participant
58 will provide services to Medicaid recipients, State and School

59 Employees Health Insurance Plan participants, and Children's
60 Health Insurance Program participants in a manner that is
61 comparable to the services provided to all other patients and
62 shall be made without balance billing to the patient; and

63 (b) Pay all assessments and premiums established by the
64 board.

65 (5) This chapter shall not preclude any hospital,
66 institution for the aged or infirm, or other health care
67 facilities licensed by the State of Mississippi, physician, nurse
68 or other personnel who are duly licensed to practice in a hospital
69 or other health care facility licensed by the State of Mississippi
70 from procuring medical malpractice insurance from any source other
71 than the plan.

72 (6) The Tort Claims Board shall have the following powers
73 and duties:

74 (a) To expend money from a loan from the Tort Claims
75 Fund in an amount not to exceed Five Hundred Thousand Dollars
76 (\$500,000.00) for the start-up costs of administering the Medical
77 Malpractice Insurance Availability Plan;

78 (b) To approve and pay claims of participants;

79 (c) To charge and collect assessments and fees from
80 participants in the plan;

81 (d) To contract with accountants, attorneys, actuaries
82 and any other experts deemed necessary to carry out the
83 responsibilities under the plan. The outsourcing of any function
84 of the board shall be provided by Mississippi residents or
85 Mississippi domicile corporations, if available;

86 (e) To employ not more than five (5) persons in
87 time-limited positions to assist the board in the administration
88 of the plan;

89 (f) To contract for administration of the claims and
90 service of the plan to a third party. The outsourcing of any

91 function of the board shall be provided by Mississippi residents
92 or Mississippi domicile corporations, if available;

93 (g) To adopt and promulgate rules and regulations to
94 implement the provisions of the plan. The Tort Claims Board shall
95 adopt such rules and regulations as may be necessary to ensure
96 that the plan remains actuarially sound. The board shall retain
97 the limited liability established by Section 11-46-15; and

98 (h) To submit an annual report on or before March 1
99 each year to the House and Senate Insurance Committees. Such
100 report shall contain:

101 (i) Certification by a qualified actuary that the
102 plan is solvent;

103 (ii) The number of participants in the plan;

104 (iii) The number of claims filed and paid by the
105 plan; and

106 (iv) The amount of all assessments and fees
107 collected from the participants in the plan.

108 (7) Nothing contained in this section shall be construed as
109 repealing, amending or superseding the provisions of any other law
110 and, if the provisions of this section conflict with any other
111 law, then the provisions of such other law shall govern and
112 control to the extent of the conflict.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 83-48-5, MISSISSIPPI CODE OF 1972, TO
2 DELETE THE PROVISION THAT PROVIDES THAT ANY LICENSED QUALIFIED
3 MISSISSIPPI AGENT WHO WRITES A POLICY UNDER THE MEDICAL
4 MALPRACTICE INSURANCE AVAILABILITY PLAN MAY RECEIVE A COMMISSION
5 NOT TO EXCEED FIVE PERCENT OF THE PREMIUM ASSESSMENT AS FULL
6 COMPENSATION; AND FOR RELATED PURPOSES.