HOUSE BILL NO. 992

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

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

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

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

Such notice shall be effected by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days or more than sixty (60) days from the date of such mailing or such
service, at which time the licentiate shall be given an opportunity for a prompt and fair hearing. For the purpose of such hearing the board, acting by and through its executive office, may subpoena persons and papers on its own behalf and on behalf of licentiate, including records obtained pursuant to Section 73-25-28 and Section 73-25-83(c), may administer oaths and such testimony when properly transcribed, together with such papers and exhibits, shall be admissible in evidence for or against the licentiate. At such hearing licentiate may appear by counsel and personally in his own behalf. Any person sworn and examined as a witness in such hearing shall not be held to answer criminally, nor shall any papers or documents produced by such witness be competent evidence in any criminal proceedings against such witness other than for perjury in delivering his evidence.

The Board of Medical Licensure or its designee in the conduct of any hearing will not be bound by strict laws or rules of evidence. The board may adopt rules of discovery and procedure governing all proceedings before it. On the basis of any such hearing, or upon default of the licentiate, the Board of Medical Licensure shall make a determination specifying its findings of fact and conclusions of law.

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

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

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

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

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

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