MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Senator(s) Dearing

To: Public Health and Welfare

SENATE BILL NO. 2078

1 AN ACT TO CREATE THE "MISSISSIPPI PATIENT SAFETY ACT"; TO
2 REQUIRE THE DEVELOPMENT OF A PATIENT SAFETY PROGRAM FOR HOSPITALS,
3 AMBULATORY SURGICAL CENTERS AND MENTAL HOSPITALS; TO REQUIRE
4 HOSPITALS, AMBULATORY SURGICAL CENTERS AND MENTAL HOSPITALS TO
5 ANNUALLY REPORT TO THE STATE HEALTH OFFICER A LISTING OF CERTAIN
6 ERRORS OR OCCURRENCES; TO PROVIDE WHISTLE-BLOWER PROTECTION TO
7 CERTAIN EMPLOYEES; TO REQUIRE HOSPITALS TO MAINTAIN A PROGRAM
8 CAPABLE OF IDENTIFYING AND TRACKING HOSPITAL-ACQUIRED INFECTIONS;
9 TO PRESCRIBE PENALTIES FOR VIOLATIONS OF THE ACT; TO AMEND
10 SECTIONS 41-9-15, 41-75-11 AND 41-9-63, MISSISSIPPI CODE OF 1972,
11 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** This act shall be known and may be cited as the
14 "Mississippi Patient Safety Act."

15 **SECTION 2.** (1) The department shall develop a patient
16 safety program for hospitals. The program must:

17 (a) Be administered by the hospital licensing program
18 within the department; and

19 (b) Serve as an information clearinghouse for hospitals
20 concerning best practices and quality improvement strategies.

21 (2) The department shall group hospitals by size for the
22 reports required by this act as follows:

23 (a) Less than fifty (50) beds;

24 (b) Fifty (50) to ninety-nine (99) beds;

25 (c) One hundred (100) to one hundred ninety-nine (199)
26 beds;

27 (d) Two hundred (200) to three hundred ninety-nine
28 (399) beds; and

29 (e) Four hundred (400) beds or more.

30 (3) The department shall combine two (2) or more categories
31 described by subsection (2) if the number of hospitals in any
32 category falls below forty (40).
33 (4) On renewal of a license under this act, a hospital shall
34 submit to the department an annual report that lists the number of
35 occurrences at the hospital or at an outpatient facility owned or
36 operated by the hospital of each of the following events during
37 the preceding year:
38 (a) A medication error resulting in a patient's
39 unanticipated death or major permanent loss of bodily function in
40 circumstances unrelated to the natural course of the illness or
41 underlying condition of the patient;
42 (b) A perinatal death unrelated to a congenital
43 condition in an infant with a birth weight greater than two
44 thousand five hundred (2,500) grams;
45 (c) The suicide of a patient in a setting in which the
46 patient received care twenty-four (24) hours a day;
47 (d) The abduction of a newborn infant patient from the
48 hospital or the discharge of a newborn infant patient from the
49 hospital into the custody of an individual in circumstances in
50 which the hospital knew, or in the exercise of ordinary care
51 should have known, that the individual did not have legal custody
52 of the infant;
53 (e) The sexual assault of a patient during treatment or
54 while the patient was on the premises of the hospital or facility;
55 (f) A hemolytic transfusion reaction in a patient
56 resulting from the administration of blood or blood products with
57 major blood group incompatibilities;
58 (g) A surgical procedure on the wrong patient or on the
59 wrong body part of a patient;
60 (h) A foreign object accidentally left in a patient
61 during a procedure; and

62 (i) A patient's death or serious disability associated
63 with the use or function of a device designed for patient care
64 that is used or functions other than as intended.
65 (5) The department may not require the annual report to
66 include any information other than the number of occurrences of
67 each event listed in subsection (4) of this section.
68 **SECTION 3.** (1) The department shall develop a patient
69 safety program for ambulatory surgical centers. The program must:
70 (a) Be administered by the ambulatory surgical center
71 licensing program within the department; and
72 (b) Serve as an information clearinghouse for
73 ambulatory surgical centers concerning best practices and quality
74 improvement strategies.
75 (2) On renewal of a license under this chapter, an
76 ambulatory surgical center shall submit to the department an
77 annual report that lists the number of occurrences at the center
78 or at an outpatient facility owned or operated by the center of
79 each of the following events during the preceding year:
80 (a) A medication error resulting in a patient's
81 unanticipated death or major permanent loss of bodily function in
82 circumstances unrelated to the natural course of the illness or
83 underlying condition of the patient;
84 (b) The suicide of a patient;
85 (c) The sexual assault of a patient during treatment or
86 while the patient was on the premises of the center or facility;
87 (d) A hemolytic transfusion reaction in a patient
88 resulting from the administration of blood or blood products with
89 major blood group incompatibilities;
90 (e) A surgical procedure on the wrong patient or on the
91 wrong body part of a patient;
92 (f) A foreign object accidentally left in a patient
93 during a procedure; and

94 (g) A patient's death or serious disability associated
95 with the use or function of a device designed for patient care
96 that is used or functions other than as intended.
97 (3) The department may not require the annual report to
98 include any information other than the number of occurrences of
99 each event listed in subsection (2).
100 **SECTION 4.** (1) The department shall develop a patient
101 safety program for mental hospitals licensed by the department.
102 The program must:
103 (a) Be administered by the licensing program within the
104 department; and
105 (b) Serve as an information clearinghouse for hospitals
106 concerning best practices and quality improvement strategies.
107 (2) On renewal of a license under this chapter, a mental
108 hospital shall submit to the department an annual report that
109 lists the number of occurrences at the hospital or at an
110 outpatient facility owned or operated by the hospital of each of
111 the following events during the preceding year:
112 (a) A medication error resulting in a patient's
113 unanticipated death or major permanent loss of bodily function in
114 circumstances unrelated to the natural course of the illness or
115 underlying condition of the patient;
116 (b) The suicide of a patient in a setting in which the
117 patient received care twenty-four (24) hours a day;
118 (c) The sexual assault of a patient during treatment or
119 while the patient was on the premises of the hospital or facility;
120 (d) A hemolytic transfusion reaction in a patient;
121 resulting from the administration of blood or blood products with
122 major blood group incompatibilities; and
123 (e) A patient's death or serious disability associated
124 with the use or function of a device designed for patient care
125 that is used or functions other than as intended.

126 (3) The department may not require the annual report to
127 include any information other than the number of occurrences of
128 each event listed in subsection (2) of this section.
129 **SECTION 5.** (1) In this section, "root-cause analysis" means
130 the process that identifies basic or causal factors underlying a
131 variation in performance leading to an event listed in subsection
132 (2) of Section 2, 3 or 4 of this act and that:
133 (a) Focuses primarily on systems and processes;
134 (b) Progresses from special causes in clinical
135 processes to common causes in organizational processes; and
136 (c) Identifies potential improvements in processes or
137 systems.
138 (2) Not later than the forty-fifth day after the date a
139 hospital, ambulatory surgical center or mental hospital becomes
140 aware of an event listed in subsection (2) of Section 2, 3 or 4 of
141 this act, the facility shall:
142 (a) Conduct a root-cause analysis of the event; and
143 (b) Develop an action plan that identifies strategies
144 to reduce the risk of a similar event occurring in the future.
145 (3) The department may review a root-cause analysis or
146 action plan related to an event listed in subsection (2) of
147 Section 2, 3 or 4 of this act during a survey, inspection or
148 investigation of a hospital, ambulatory surgical center or
149 mental hospital.
150 (4) The department may not require a root-cause analysis or
151 action plan to be submitted to the department.
152 (5) The department, or an employee or agent of the
153 department, may not in any form, format or manner remove, copy,
154 reproduce, redact or dictate from all or any part of a root-cause
155 analysis or action plan.
156 **SECTION 6.** The department annually shall compile and make
157 available to the public a summary of the events reported by mental
158 hospitals as required by subsection (2) of Section 2, 3 or 4 of

159 this act. The summary shall identify events by specific hospital,
160 ambulatory surgical center or mental hospital but shall not
161 directly or indirectly identify:
162 (a) An individual, or
163 (b) A specific reported event or the circumstances or
164 individuals surrounding the event.
165 **SECTION 7.** (1) A hospital, ambulatory surgical center or
166 mental hospital shall provide to the department at least one (1)
167 report of best practices and safety measures related to a reported
168 event.
169 (2) A hospital, ambulatory surgical center or mental
170 hospital may provide to the department a report of other best
171 practices and the safety measures that are effective in improving
172 patient safety.
173 (3) The department by rule may prescribe the form and format
174 of a best practices report. The department may not require a best
175 practices report to exceed one (1) page in length. The department
176 shall accept, in lieu of a report in the form and format
177 prescribed by the department, a copy of a report submitted by a
178 hospital, ambulatory surgical center or mental hospital to a
179 patient safety organization.
180 (4) The department periodically shall:
181 (a) Review the best practices reports;
182 (b) Compile a summary of the best practices reports
183 determined by the department to be effective and recommended as
184 best practices; and
185 (c) Make the summary available to the public by posting
186 it on the department's Web site and distributing its availability
187 to interested parties as widely as practical.
188 (5) The summary shall identify best practices by specific
189 hospital, ambulatory surgical center or mental hospital but shall
190 not directly or indirectly identify:
191 (a) An individual; or

192 (b) A specific reported event or the circumstances or
193 individuals surrounding the event.
194 **SECTION 8.** (1) Not later than January 1, 2008, the State
195 Health Officer shall:
196 (a) Evaluate the patient safety program established
197 under this act; and
198 (b) Report the results of the evaluation and make
199 recommendations to the Legislature.
200 (2) The State Health Officer shall conduct the evaluation in
201 consultation with licensed hospitals, ambulatory surgical centers
202 or mental hospitals.
203 (3) The evaluation must address:
204 (a) The degree to which the department was able to
205 detect statewide trends in errors based on the types and numbers
206 of events reported;
207 (b) The degree to which the statewide summaries of
208 events compiled by the department were accessed by the public;
209 (c) The effectiveness of the department's best
210 practices summary in improving patient care; and
211 (d) The impact of national studies on the effectiveness
212 of state or federal systems of reporting medical errors.
213 (4) The department shall publicize the report and its
214 availability as widely as practical to interested parties,
215 including, but not limited to, hospitals, providers, media
216 organizations, health insurers, health maintenance organizations,
217 purchasers of health insurance, organized labor, consumer or
218 patient advocacy groups and individual consumers. The annual
219 report shall be made available to any person upon request.
220 **SECTION 9.** The department may accept and administer a gift,
221 grant or donation from any source to carry out the purposes of
222 this act.

223 **SECTION 10.** (1) An employer shall not take retaliatory
224 action against an employee because the employee does any of the
225 following:
226 (a) Discloses or threatens to disclose to any person or
227 entity any activity, policy, practice, procedure, action or
228 failure to act of the employer or agent of the employer that the
229 employee reasonably believes is a violation of any law or that the
230 employee reasonably believes constitutes improper quality of
231 patient care;
232 (b) Provides information to, or testifies before, any
233 public body conducting an investigation, a hearing or an inquiry
234 that involves allegations that the employer has violated any law
235 or has engaged in behavior constituting improper quality of
236 patient care; and
237 (c) Objects to or refuses to participate in any
238 activity, policy or practice of the employer or agent that the
239 employee reasonably believes is in violation of a law or
240 constitutes improper quality of patient care.
241 (2) Subsection (1)(a) and (c) of this section shall not
242 apply unless an employee first reports the alleged violation of
243 law or improper quality of patient care to the employer,
244 supervisor or other person designated by the employer to address
245 reports by employees of improper quality of patient care, and the
246 employer has had a reasonable opportunity to address the
247 violation. The employer shall address the violation under its
248 compliance plan, if one exists. The employee shall not be
249 required to make a report under this subsection if the employee
250 reasonably believes that doing so would be futile because making
251 the report would not result in appropriate action to address the
252 violation.
253 **SECTION 11.** (1) The department may assess an administrative
254 penalty against a person who violates this act or a rule adopted
255 under this act.

256 (2) The penalty may not exceed One Thousand Dollars
257 ($1,000.00) for each violation. Each day of a continuing
258 violation constitutes a separate violation.
259 (3) In determining the amount of an administrative penalty
260 assessed under this section, the department shall consider:
261 (a) The seriousness of the violation;
262 (b) The history of previous violations;
263 (c) The amount necessary to deter future violations;
264 (d) Efforts made to correct the violation;
265 (e) Any hazard posed to the public health and safety by
266 the violation; and
267 (f) Any other matters that justice may require.
268 (4) All proceedings for the assessment of an administrative
269 penalty under this section are considered to be contested cases
270 under the Administrative Procedures Act.
271 **SECTION 12.** (1) If, after investigation of a possible
272 violation and the facts surrounding that possible violation, the
273 department determines that a violation has occurred, the
274 department shall give written notice of the violation to the
275 person alleged to have committed the violation. The notice shall
276 include:
277 (a) A brief summary of the alleged violation;
278 (b) A statement of the amount of the proposed penalty
279 based on the factors set forth in Section 8(3) of this act; and
280 (c) A statement of the person's right to a hearing on
281 the occurrence of the violation, the amount of the penalty, or
282 both the occurrence of the violation and the amount of the
283 penalty.
284 (2) Not later than the twentieth day after the date on which
285 the notice is received, the person notified may accept the
286 determination of the department made under this section, including
287 the proposed penalty, or make a written request for a hearing on
288 that determination.

289 (3) If the person notified of the violation accepts the
290 determination of the department, the State Health Officer or his
291 designee shall issue an order approving the determination and
292 ordering that the person pay the proposed penalty.

293 **SECTION 13.** (1) If the person notified fails to respond in
294 a timely manner to the notice under Section 12(2) of this act, or
295 if the person requests a hearing, the department shall:

296 (a) Set a hearing;

297 (b) Give written notice of the hearing to the person;
298 and

299 (c) Designate a hearings examiner to conduct the
300 hearing.

301 (2) The hearings examiner shall make findings of fact and
302 conclusions of law and shall promptly issue to the State Health
303 Officer a proposal for a decision as to the occurrence of the
304 violation and a recommendation as to the amount of the proposed
305 penalty if a penalty is determined to be warranted.

306 (3) Based on the findings of fact and conclusions of law and
307 the recommendations of the hearings examiner, the State Health
308 Officer or his designee, by order, may find that a violation has
309 occurred and may assess a penalty or may find that no violation
310 has occurred.

311 **SECTION 14.** (1) The department shall give notice of the
312 order under Section 12 of this act to the person notified. The
313 notice must include:

314 (a) Separate statements of the findings of fact and
315 conclusions of law;

316 (b) The amount of any penalty assessed; and

317 (c) A statement of the right of the person to judicial
318 review of the order.

319 (2) Not later than the thirtieth day after the date on which
320 the decision is final, the person shall either:

321 (a) Pay the penalty;

322 (b) Pay the penalty and file a petition for judicial
323 review contesting the occurrence of the violation, the amount of
324 the penalty, or both the occurrence of the violation and the
325 amount of the penalty; or
326 (c) Without paying the penalty, file a petition for
327 judicial review contesting the occurrence of the violation, the
328 amount of the penalty, or both the occurrence of the violation and
329 the amount of the penalty.
330 (3) Within the thirty-day period, a person who acts under
331 subsection (2)(c) of this section may:
332 (a) Stay the enforcement of the penalty by:
333 (i) Paying the penalty to the court for placement
334 in an escrow account; or
335 (ii) Giving to the court a supersedeas bond that
336 is approved by the court for the amount of the penalty and that is
337 effective until all judicial review of the order is final; or
338 (b) Request the court to stay the enforcement of the
339 penalty by:
340 (i) Filing with the court a sworn affidavit of the
341 person stating that the person is financially unable to pay the
342 amount of the penalty and is financially unable to give the
343 supersedeas bond; and
344 (ii) Giving a copy of the affidavit to the
345 department by certified mail.
346 (4) If the department receives a copy of an affidavit under
347 subsection (3)(b) of this section, the department may file with
348 the court, within five (5) days after the date the copy is
349 received, a contest to the affidavit. The court shall hold a
350 hearing on the facts alleged in the affidavit as soon as
351 practicable and shall stay the enforcement of the penalty on
352 finding that the alleged facts are true. The person who files an
353 affidavit has the burden of proving that the person is financially
354 unable to pay the penalty and to give a supersedeas bond.

355 (5) If the person does not pay the penalty and the
356 enforcement of the penalty is not stayed, the department may refer
357 the matter to the Attorney General for collection of the penalty.
358 (6) Upon judicial review, if the court sustains the
359 occurrence of the violation, the court may uphold or reduce the
360 amount of the penalty and order the person to pay the full or
361 reduced amount of the penalty. If the court does not sustain the
362 occurrence of the violation, the court shall order that no penalty
363 is owed.
364 (7) When the judgment of the court becomes final, the court
365 shall proceed under this subsection. If the person paid the
366 amount of the penalty under subsection (2)(b) and if that amount
367 is reduced or is not upheld by the court, the court shall order
368 that the department pay the appropriate amount plus accrued
369 interest to the person. The rate of the interest is the rate
370 charged on loans to depository institutions by the New York
371 Federal Reserve Bank, and the interest shall be paid for the
372 period beginning on the date the penalty was paid and ending on
373 the date the penalty is remitted. If the person paid the penalty
374 under subsection (3)(a)(i) or gave a supersedeas bond under
375 subsection (3)(a)(ii) and if the amount of the penalty is not
376 upheld by the court, the court shall order the release of the
377 escrow account or bond. If the person paid the penalty under
378 subsection (3)(a)(i) and the amount of the penalty is reduced, the
379 court shall order that the amount of the penalty be paid to the
380 department from the escrow account and that the remainder of the
381 account be released. If the person gave a supersedeas bond and if
382 the amount of the penalty is reduced, the court shall order the
383 release of the bond after the person pays the amount.
384 **SECTION 15.** For purposes of this act:
385 (a) "Department" means the State Department of Health.
386 (b) "Hospital" means an acute care health care facility
387 licensed under Sections 41-9-1 through 41-9-35.

388 (c) "Hospital-acquired infection" means a localized or
389 systemic condition (i) that results from adverse reaction to the
390 presence of an infectious agent(s) or its toxin(s) as determined
391 by clinical examination, and (ii) that was not present or
392 incubating at the time of admission to the hospital unless the
393 infection was related to a previous admission to the same
394 facility.
395 **SECTION 16.** (1) Each hospital shall maintain a program
396 capable of identifying and tracking hospital-acquired infections
397 for the purpose of public reporting under this section and quality
398 improvement. Such programs shall have the capacity to identify
399 the following elements: the specific infectious agents or toxins
400 and site of each infection; the clinical department or unit within
401 the facility where the patient first became infected; and the
402 patient's diagnoses and any relevant specific surgical, medical or
403 diagnostic procedure performed during the current admission. The
404 department shall establish guidelines, definitions, criteria,
405 standards and coding for hospital identification, tracking and
406 reporting of hospital-acquired infections that shall be consistent
407 with the recommendations of recognized centers of expertise in the
408 identification and prevention of hospital-acquired infections,
409 including, but not limited to, the National Health Care Safety
410 Network of the Centers for Disease Control and Prevention or its
411 successor. The department shall solicit and consider public
412 comment prior to such establishment. Hospitals initially shall be
413 required to identify, track and report hospital-acquired
414 infections that occur in critical care units to include surgical
415 wound infections, central line-related bloodstream infections, and
416 ventilator associated pneumonia. Subsequent to the initial
417 requirements, the department may, from time to time, require the
418 tracking and reporting of other types of hospital-acquired
419 infections that occur in hospitals in consultation with technical
420 advisors who are regionally or nationally recognized experts in

421 the prevention, identification and control of hospital-acquired
422 infection and the public reporting of performance data.
423 (2) Each hospital shall regularly report to the department
424 the hospital-acquired infection data it has collected. The
425 department shall establish data collection and analytical
426 methodologies that meet accepted standards for validity and
427 reliability. In no case shall the frequency of reporting be
428 required to be more frequently than once every six (6) months, and
429 reports shall be submitted not more than sixty (60) days after the
430 close of the reporting period.
431 (3) The State Health Officer shall establish a statewide
432 database of all reported hospital-acquired infection information
433 for the purpose of supporting quality improvement and infection
434 control activities in hospitals. The database shall be organized
435 so that consumers, hospitals, health care professionals,
436 purchasers and payers may compare individual hospital experience
437 with that of other individual hospitals as well as regional and
438 statewide averages and, where available, national data.
439 (4) (a) Subject to paragraph (c) of this subsection, on or
440 before January 1 of each year the State Health Officer shall
441 submit a report to the Governor and the Legislature, which shall
442 simultaneously be published in its entirety on the department's
443 Web site, that includes, but is not limited to, hospital-acquired
444 infection rates adjusted for the potential differences in risk
445 factors for each reporting hospital, an analysis of trends in the
446 prevention and control of hospital-acquired infection rates in
447 hospitals across the state, regional and, if available, national
448 comparisons for the purpose of comparing individual hospital
449 performance, and a narrative describing lessons for safety and
450 quality improvement that can be learned from leadership hospitals
451 and programs.
452 (b) The State Health Officer shall consult with
453 technical advisors who have regionally or nationally acknowledged

454 expertise in the prevention and control of hospital-acquired
455 infection and infectious disease in order to develop the
456 adjustment for potential differences in risk factors to be used
457 for public reporting.

458 (c) (i) No later than one (1) year subsequent to the
459 effective date of this act, the department shall establish a
460 hospital-acquired infection reporting system capable of receiving
461 electronically transmitted reports from hospitals. Hospitals
462 shall begin to submit such reports as directed by the State Health
463 Officer but in no case later than six (6) months subsequent to the
464 establishment of such reporting system.

465 (ii) The first year of data submission under this
466 section shall be considered the "pilot phase" of the statewide
467 hospital-acquired infection reporting system. The purpose of the
468 pilot phase is to ensure, by various means, including any audit
469 process referred to in subsection (6) of this section, the
470 completeness and accuracy of hospital-acquired infection reporting
471 by hospitals. For data reported during the pilot phase, hospital
472 identifiers shall be encrypted by the department in any and all
473 public databases and reports. The department shall provide each
474 hospital with an encryption key for that hospital only to
475 permit access to its own performance data for internal quality
476 improvement purposes.

477 (iii) No later than one hundred eighty (180) days
478 after the conclusion of the pilot phase, the department shall
479 issue a report to hospitals assessing the overall accuracy of the
480 data submitted in the pilot phase and provide guidance for
481 improving the accuracy of hospital-acquired infection reporting.
482 The department shall issue a report to the Governor and the
483 Legislature assessing the overall completeness and accuracy of the
484 data submitted by hospitals during the pilot phase and make
485 recommendations for the improvement or modification of
486 hospital-acquired infection data reporting based on the pilot

487 phase, as well as share lessons learned in prevention of
488 hospital-acquired infections. No hospital-identifiable data shall
489 be included in the pilot phase report, but aggregate or otherwise
490 de-identified data may be included.
491 (iv) After the pilot phase is completed, all data
492 submitted under this section and compiled in the statewide
493 hospital-acquired infection database established herein and all
494 public reports derived therefrom shall include hospital
495 identifiers.
496 (5) Subject to subsection (4) of this section, a summary
497 table, in a format designed to be easily understood by lay
498 consumers, that includes individual facility hospital-acquired
499 infection rates adjusted for potential differences in risk factors
500 and comparisons with regional and/or state averages shall be
501 developed and posted on the department's Web site. The State
502 Health Officer shall consult with consumer and patient advocates
503 and representatives of reporting facilities for the purpose of
504 ensuring that such summary table report format is easily
505 understandable by the public, and clearly and accurately portrays
506 comparative hospital performance in the prevention and control of
507 hospital-acquired infections.
508 (6) To assure the accuracy of the self-reported
509 hospital-acquired infection data and to assure that public
510 reporting fairly reflects what actually is occurring in each
511 hospital, the department shall develop and implement an audit
512 process.
513 (7) For the purpose of ensuring that hospitals have the
514 resources needed for ongoing staff education and training in
515 hospital-acquired infection prevention and control, the department
516 may make such grants to hospitals within amounts appropriated
517 therefor.
518 **SECTION 17.** (1) The provisions of this section regarding
519 the confidentiality of information or materials compiled or

520 reported by a hospital in compliance with or as authorized under
521 this act do not restrict access, to the extent authorized by law,
522 by the patient or the patient's legally authorized representative
523 to records of the patient's medical diagnosis or treatment or to
524 other primary health records.

525 (2) It is the expressed intent of the Legislature that a
526 patient's right of confidentiality shall not be violated in any
527 manner. Patient social security numbers and any other information
528 that could be used to identify an individual patient shall not be
529 released notwithstanding any other provision of law.

530 **SECTION 18.** (1) No employer shall take retaliatory action
531 against any employee because the employee does any of the
532 following:

533 (a) Discloses or threatens to disclose to any person or
534 entity any activity, policy, practice, procedure, action or
535 failure to act of the employer or agent of the employer that the
536 employee reasonably believes is a violation of any law or that the
537 employee reasonably believes constitutes improper quality of
538 patient care.

539 (b) Provides information to, or testifies before, any
540 public body conducting an investigation, a hearing, or an inquiry
541 that involves allegations that the employer has violated any law
542 or has engaged in behavior constituting improper quality of
543 patient care.

544 (c) Objects to or refuses to participate in any
545 activity, policy, or practice of the employer or agent that the
546 employee reasonably believes is in violation of a law or
547 constitutes improper quality of patient care.

548 (2) Subsection (1)(a) and (c) of this section shall not
549 apply unless an employee first reports the alleged violation of
550 law or improper quality of patient care to the employer,
551 supervisor or other person designated by the employer to address
552 reports by employees of improper quality of patient care, and the

553 employer has had a reasonable opportunity to address the
554 violation. The employer shall address the violation under its
555 compliance plan, if one exists. The employee shall not be
556 required to make a report under this subsection if the employee
557 reasonably believes that doing so would be futile because making
558 the report would not result in appropriate action to address the
559 violation.

560 **SECTION 19.** A determination that a hospital has violated the
561 provisions of this act may result in any of the following:

562 (a) Termination of licensure or other sanctions
563 relating to licensure under Sections 41-9-1 through 41-9-35.

564 (b) A civil penalty of up to One Thousand Dollars
565 ($1,000.00) per day per violation for each day the hospital is in
566 violation of this act.

567 **SECTION 20.** The department shall be responsible for ensuring
568 compliance with this act as a condition of licensure under
569 Sections 41-9-1 through 41-9-35 and shall enforce such compliance
570 according to the provisions under Sections 41-9-1 through 41-9-35.

571 **SECTION 21.** Section 41-9-15, Mississippi Code of 1972, is
572 amended as follows:

573 41-9-15. The licensing agency, after notice and opportunity
574 for hearing to the applicant or licensee, is authorized to deny,
575 suspend or revoke a license in any case in which it finds that
576 there has been a substantial failure to comply with the
577 requirements established under Sections 41-9-1 through 41-9-35,
578 which shall specifically include the provisions of the Mississippi
579 Patient Safety Act, being Sections 1 through 20 of Senate Bill No.
580 2078, 2007 Regular Session.

581 Such notice shall be effected by registered mail, or by
582 personal service, setting forth the particular reasons for the
583 proposed action and a fixing date not less than thirty (30) days
584 from the date of such mailing or service, at which the applicant
585 or licensee shall be given an opportunity for a prompt and fair

586 hearing. On the basis of any such hearing, or upon default of the
587 applicant or licensee, the licensing agency shall make a
588 determination specifying its findings of fact and conclusions of
589 law. A copy of such determination shall be sent by registered
590 mail or served personally upon the applicant or licensee. The
591 decision revoking, suspending or denying the license or
592 application shall become final thirty (30) days after it is so
593 mailed or served, unless the applicant or licensee, within such
594 thirty-day period, appeals the decision, pursuant to Section
595 41-9-31.

596 The procedure governing hearings authorized by this section
597 shall be in accordance with rules promulgated by the licensing
598 agency. A full and complete record shall be kept of all
599 proceedings, and all testimony shall be reported but need not be
600 transcribed unless the decision is appealed pursuant to Section
601 41-9-31. Witnesses may be subpoenaed by either party.
602 Compensation shall be allowed to witnesses as in cases in the
603 chancery court. Each party shall pay the expense of his own
604 witnesses. The cost of the record shall be paid by the licensing
605 agency. Any other party desiring a copy of the transcript shall
606 pay therefor the reasonable cost of preparing the same.

607 **SECTION 22.** Section 41-75-11, Mississippi Code of 1972, is
608 amended as follows:

609 41-75-11. The licensing agency after notice and opportunity
610 for a hearing to the applicant or licensee is authorized to deny,
611 suspend or revoke a license in any case in which it finds that
612 there has been a substantial failure to comply with the
613 requirements established under this chapter<u>, specifically</u>
614 <u>including the provisions of the Mississippi Patient Safety Act,</u>
615 <u>Sections 1 through 20 of Senate Bill No. 2078, 2007 Regular</u>
616 <u>Session</u>. Such notice shall be effected by registered mail, or by
617 personal service setting forth the particular reasons for the
618 proposed action and fixing a date not less than thirty (30) days

619 from the date of such mailing or such service, at which time the
620 applicant or licensee shall be given an opportunity for a prompt
621 and fair hearing. On the basis of any such hearing, or upon
622 default of the applicant or licensee, the licensing agency shall
623 make a determination specifying its findings of fact and
624 conclusions of law. A copy of such determination shall be sent by
625 registered mail or served personally upon the applicant or
626 licensee. The decision revoking, suspending or denying the
627 license or application shall become final thirty (30) days after
628 it is so mailed or served, unless the applicant or licensee,
629 within such thirty (30) day period, appeals the decision to the
630 chancery court in the county in which such facility is located in
631 the manner prescribed in Section 43-11-23, Mississippi Code of
632 1972. The procedure governing hearings authorized by this section
633 shall be in accordance with rules promulgated by the licensing
634 agency. A full and complete record shall be kept of all
635 proceedings, and all testimony shall be recorded but need not be
636 transcribed unless the decision is appealed pursuant to Section
637 43-11-23, Mississippi Code of 1972. Witnesses may be subpoenaed
638 by either party. Compensation shall be allowed to witnesses as in
639 cases in the chancery court. Each party shall pay the expense of
640 his own witnesses. The cost of the record shall be paid by the
641 licensing agency provided any other party desiring a copy of the
642 transcript shall pay therefor the reasonable cost of preparing the
643 same.

644 **SECTION 23.** Section 41-9-63, Mississippi Code of 1972, is
645 amended as follows:

646 41-9-63. All hospitals, their officers or employees and
647 medical and nursing personnel practicing therein, shall with
648 reasonable promptness prepare, make and maintain true and accurate
649 hospital records complying with such methods and minimum standards
650 as may be prescribed from time to time by rules and regulations
651 adopted by the licensing agency, which shall specifically include

652 the requirements of the Mississippi Patient Safety Act, Sections 1
653 through 20 of Senate Bill No. 2078, 2007 Regular Session.
654 **SECTION 24.** This act shall take effect and be in force from
655 and after July 1, 2007.