

By: Senator(s) Thames

To: Public Health and Welfare

SENATE BILL NO. 2177

1 AN ACT TO CODIFY SECTIONS 73-31-33 THROUGH 73-31-45,
 2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI BOARD OF
 3 PSYCHOLOGY TO ISSUE PRESCRIPTION PRIVILEGES FOR APPROPRIATELY
 4 TRAINED PSYCHOLOGISTS, TO PRESCRIBE EDUCATIONAL QUALIFICATIONS FOR
 5 SUCH PRESCRIPTION PRIVILEGES, TO DEFINE THE TERM "MEDICAL
 6 PSYCHOLOGIST" AND REQUIRE SUCH LICENSEES TO COORDINATE WITH THE
 7 PATIENT'S PHYSICIAN WHEN PRESCRIBING MEDICATION AND TO LIMIT THE
 8 PRESCRIPTIVE AUTHORITY TO MEDICATIONS FOR NERVOUS AND MENTAL
 9 HEALTH DISORDERS; TO AMEND SECTION 73-31-9, MISSISSIPPI CODE OF
 10 1972, TO PRESCRIBE FEES FOR THE ISSUANCE OF SUCH CERTIFICATES; TO
 11 AMEND SECTIONS 73-31-21 AND 73-31-23, MISSISSIPPI CODE OF 1972, TO
 12 PROVIDE FOR DISCIPLINARY ACTION AND CRIMINAL PENALTIES FOR
 13 VIOLATIONS OF THE PROVISIONS OF THIS ACT; AND FOR RELATED
 14 PURPOSES.

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

16 **SECTION 1.** The following provision shall be codified as

17 Section 73-31-33, Mississippi Code of 1972:

18 73-31-33. As used in Sections 73-31-33 through 73-31-45, the
 19 following terms shall be defined as follows:

20 (a) "Board" shall mean the Mississippi Board of
 21 Psychology.

22 (b) "Certificate of prescriptive authority" shall mean
 23 a certificate issued by the board which grants a medical
 24 psychologist the authority to prescribe and to distribute, without
 25 charge, drugs and other procedures directly related thereto within
 26 the scope of practice of psychology in accordance with rules and
 27 regulations adopted by the board.

28 (c) "Drug" shall mean the same as the term "drug" as
 29 defined in Section 73-21-73 (i), including controlled substances
 30 except narcotics, but shall be limited to only those agents
 31 related to the diagnosis and treatment of mental and emotional
 32 disorders. "Narcotics" are defined as natural and synthetic
 33 opioid analgesica, and their derivatives used to relieve pain.

34 Nothing in this act shall be construed to permit a medical
35 psychologist to administer or prescribe a narcotic.

36 (d) "Medical psychologist" shall mean the psychologist who
37 has undergone specialized training in clinical psychopharmacology
38 and has passed a national proficiency examination in
39 psychopharmacology approved by the board and who holds from the
40 board a current certificate of responsibility.

41 (e) "Prescription" shall mean an order for a drug or for a
42 device or test directly related to the drug or to the decision to
43 order or to continue or discontinue the order of the drug.

44 **SECTION 2.** The following provision shall be codified as
45 Section 73-31-35, Mississippi Code of 1972:

46 73-31-35. (a) Provide for an application form for
47 examination, certification, and certification renewal.

48 (b) Develop and implement a procedure to review the
49 educational and training credentials of a psychologist applying
50 for a certificate of prescriptive authority and for renewal of the
51 certificate in accordance with current standards of professional
52 practice.

53 (c) Issue a certificate of prescriptive authority to
54 any duly qualified medical psychologist and renew the certificate
55 of prescriptive authority of any medical psychologist who is not
56 in violation of any provisions of this act.

57 (d) Deny, revoke or suspend a certificate of
58 prescriptive authority of any medical psychologist who is found
59 guilty of violating any provisions of Sections 73-31-33 through
60 73-31-45.

61 (e) Issue an identification number to be placed on the
62 certificate of prescriptive authority.

63 (f) Maintain a current roster of every medical
64 psychologist certified to prescribe under Sections 73-31-33
65 through 73-31-45, including each such medical psychologist's name,

66 last known address, identification number issued by the board, and
67 the Drug Enforcement Agency (DEA) registration and numbers.

68 (g) Have all other powers necessary to implement the
69 provisions of this act.

70 **SECTION 3.** The following provision shall be codified as
71 Section 73-31-37, Mississippi Code of 1972:

72 73-31-37. The board shall issue a certificate of
73 prescriptive authority to any psychologist who files an application
74 upon a form and in such a manner as the board prescribes, and who
75 furnishes satisfactory evidence to the board that the psychologist
76 meets each of the following requirements:

77 (a) Holds a current Mississippi license to practice
78 psychology with an applied clinical specialty as defined by the
79 board.

80 (b) Has successfully graduated with a post-doctoral
81 master's degree in clinical psychopharmacology from a regionally
82 accredited institution or equivalent to the post-doctoral master's
83 degree as approved by the board. The curriculum shall include
84 instruction in anatomy and physiology, biochemistry,
85 neurosciences, pharmacology, psychopharmacology, clinical
86 medicine/pathophysiology and health assessment, including relevant
87 physical and laboratory assessment.

88 **SECTION 4.** The following provision shall be codified as
89 Section 73-31-39, Mississippi Code of 1972:

90 73-31-39. (1) The board shall implement a method for
91 renewal of a certificate of prescriptive authority at the time of,
92 and in conjunction with, the renewal of a medical psychologist's
93 license to practice psychology.

94 (2) Prior to the date of renewal of a certificate of
95 prescriptive authority, each medical psychologist applying for
96 such renewal shall present satisfactory evidence to the board of
97 having annually completed thirty clock hours of acceptable
98 continuing education, as determined by the board, relevant to the

99 pharmacological treatment of mental and emotional disorders. The
100 continuing education requirements under Sections 73-31-33 through
101 73-31-45, Mississippi Code of 1972, shall be in addition to any
102 continuing education requirements for licensure renewal.

103 **SECTION 5.** The following provision shall be codified as
104 Section 73-31-41, Mississippi Code of 1972:

105 73-31-41. (1) No medical psychologist shall issue a
106 prescription unless the medical psychologist holds a valid
107 certificate of prescriptive authority.

108 (2) Each prescription issued by a medical psychologist
109 shall:

110 (a) Comply with all applicable state and federal laws
111 and regulations.

112 (b) Be identified as issued by the medical psychologist
113 and shall include the identification number of the medical
114 psychologist.

115 (3) (a) A medical psychologist holding a valid certificate
116 to prescribe shall prescribe only in consultation and
117 collaboration with the patient's primary or attending physician,
118 and with the concurrence of that physician. The medical
119 psychologist shall also reconsult with the patient's physician
120 prior to making changes in the patient's medication regimen,
121 including dosage adjustments, adding or discontinuing a
122 medication. The medical psychologist and the physician shall
123 document the consultation in the patient's medical record.

124 (b) In the event a patient does not have a primary or
125 attending physician, the medical psychologist shall not prescribe
126 for that patient.

127 (4) A medical psychologist shall not delegate the
128 prescribing of a drug to any other individual.

129 **SECTION 6.** The following provision shall be codified as
130 Section 73-31-43, Mississippi Code of 1972:

131 73-31-43. (1) Each medical psychologist shall obtain a Drug
132 Enforcement Agency (DEA) registration and number.

133 (2) The DEA registration and number shall be filed with the
134 board before the medical psychologist issues a prescription for a
135 controlled substance.

136 **SECTION 7.** The following provision shall be codified as
137 Section 73-31-45, Mississippi Code of 1972:

138 73-31-45. (1) The board shall annually send to the
139 Mississippi Board of Pharmacy, a list of medical psychologists
140 holding valid certificates of prescriptive authority. This list
141 shall contain the following information:

142 (a) The name and identification number of each medical
143 psychologist.

144 (b) The effective date for which the certificate of
145 prescriptive authority is valued for each listed medical
146 psychologist.

147 (2) The board shall promptly notify the Mississippi Board of
148 Pharmacy of the name of any medical psychologist who is added to
149 or deleted from the list of medical psychologists certified to
150 prescribe.

151 (3) The board shall notify the Mississippi Board of Pharmacy
152 in a timely manner of the revocation, suspension, or reinstatement
153 of any certificate of prescriptive authority.

154 **SECTION 8.** Section 73-31-9, Mississippi Code of 1972, is
155 amended as follows:

156 73-31-9. (1) All fees from applicants seeking licensing
157 under this chapter and all license renewal fees received under
158 this chapter shall be nonrefundable.

159 (2) The board shall charge an application fee to be
160 determined by the board but not to exceed Three Hundred Dollars
161 (\$300.00) to applicants for licensing, and shall charge the
162 applicant for the expenses incurred by the board for examination
163 of the applicant.

164 (3) Every licensed psychologist in this state shall annually
165 pay to the board a fee determined by the board but not to exceed
166 Three Hundred Dollars (\$300.00); and the executive secretary shall
167 thereupon issue a renewal of the license for a term of one (1)
168 year. The license of any psychologist who shall fail to renew
169 during the month of July in each and every year shall lapse; the
170 failure to renew the license, however, shall not deprive said
171 psychologist of the right of renewal thereafter. Such lapsed
172 license may be renewed within a period of two (2) years after such
173 lapse upon payment of all fees in arrears. A psychologist wishing
174 to renew a license which has been lapsed for more than two (2)
175 years shall be required to reapply for licensure.

176 (4) On July 1, 1993, and every odd numbered year thereafter,
177 no psychologist license shall be renewed unless the psychologist
178 shows evidence of a minimum of twenty (20) clock hours of
179 continuing education activities approved by the board.

180 (5) The board shall charge a fee for the application and
181 renewal of certificates of prescriptive authority for
182 psychologists under the provisions of Sections 73-31-33 through
183 45.

184 (6) All fees and any other monies received by the board
185 shall be deposited in a special fund that is created in the State
186 Treasury and shall be used for the implementation and
187 administration of this chapter when appropriated by the
188 Legislature for such purpose. The monies in the special fund
189 shall be subject to all provisions of the state budget laws that
190 are applicable to special fund agencies, and disbursements from
191 the special fund shall be made by the State Treasurer only upon
192 warrants issued by the State Fiscal Officer upon requisitions
193 signed by the chairman or executive secretary of the board. Any
194 interest earned on this special fund shall be credited by the
195 State Treasurer to the fund and shall not be paid into the State
196 General Fund. Any unexpended monies remaining in the special fund

197 at the end of a fiscal year shall not lapse into the State General
198 Fund. The State Auditor shall audit the financial affairs of the
199 board and the transactions involving the special fund at least
200 once a year in the same manner as for other special fund agencies.

201 This section shall stand repealed from and after July 1,
202 2011.

203 **SECTION 9.** Section 73-31-21, Mississippi Code of 1972, is
204 amended as follows:

205 73-31-21. (1) The board, by an affirmative vote of at least
206 four (4) of its seven (7) members, shall withhold, deny, revoke or
207 suspend any license issued or applied for in accordance with the
208 provisions of this chapter, or otherwise discipline a licensed
209 psychologist, upon proof that the applicant or licensed
210 psychologist:

211 (a) Has violated the current code of ethics of the
212 American Psychological Association or other codes of ethical
213 standards adopted by the board; or

214 (b) Has been convicted of a felony or any offense
215 involving moral turpitude, the record of conviction being
216 conclusive evidence thereof; or

217 (c) Is using any narcotic or any alcoholic beverage to
218 an extent or in a manner dangerous to any other person or the
219 public, or to an extent that such use impairs his ability to
220 perform the work of a professional psychologist with safety to the
221 public; or

222 (d) Has impersonated another person holding a
223 psychologist license or allowed another person to use his license;
224 or

225 (e) Has used fraud or deception in applying for a
226 license or in taking an examination provided for in this chapter;
227 or

228 (f) Has accepted commissions or rebates or other forms
229 of remuneration for referring clients to other professional
230 persons; or

231 (g) Has allowed his name or license issued under this
232 chapter to be used in connection with any person or persons who
233 perform psychological services outside of the area of their
234 training, experience or competence; or

235 (h) Is legally adjudicated mentally incompetent, the
236 record of such adjudication being conclusive evidence thereof; or

237 (i) Has willfully or negligently violated any of the
238 provisions of Sections 73-31-33 through 73-31-45, Mississippi Code
239 of 1972, relating to the prescription of certain drugs by
240 psychologists; or

241 (j) Has willfully or negligently violated any of the
242 provisions of this chapter. The board may recover from any person
243 disciplined under this chapter, the costs of investigation,
244 prosecution, and adjudication of the disciplinary action.

245 (2) Notice shall be effected by registered mail or personal
246 service setting forth the particular reasons for the proposed
247 action and fixing a date not less than thirty (30) days nor more
248 than sixty (60) days from the date of such mailing or such
249 service, at which time the applicant or licentiate shall be given
250 an opportunity for a prompt and fair hearing. For the purpose of
251 such hearing the board, acting by and through its executive
252 secretary, may subpoena persons and papers on its own behalf and
253 on behalf of the applicant or licentiate, may administer oaths and
254 may take testimony. Such testimony, when properly transcribed,
255 together with such papers and exhibits, shall be admissible in
256 evidence for or against the applicant or licentiate. At such
257 hearing applicant or licentiate may appear by counsel and
258 personally in his own behalf. Any person sworn and examined by a
259 witness in such hearing shall not be held to answer criminally,
260 nor shall any papers or documents produced by such witness be

261 competent evidence in any criminal proceedings against such
262 witness other than for perjury in delivering his evidence. On the
263 basis of any such hearing, or upon default of applicant or
264 licentiate, the board shall make a determination specifying its
265 findings of fact and conclusions of law. A copy of such
266 determination shall be sent by registered mail or served
267 personally upon the applicant or licentiate. The decision of the
268 board denying, revoking or suspending the license shall become
269 final thirty (30) days after so mailed or served unless within
270 said period the licentiate appeals the decision to the chancery
271 court, pursuant to the provisions hereof, and the proceedings in
272 chancery shall be conducted as other matters coming before the
273 court. All proceedings and evidence, together with exhibits,
274 presented at such hearing before the board in the event of appeal
275 shall be admissible in evidence in said court.

276 (3) The board may subpoena persons and papers on its own
277 behalf and on behalf of the respondent, may administer oaths and
278 may compel the testimony of witnesses. It may issue commissions
279 to take testimony, and testimony so taken and sworn to shall be
280 admissible in evidence for and against the respondent. The board
281 shall be entitled to the assistance of the chancery court or the
282 chancellor in vacation, which, on petition by the board, shall
283 issue ancillary subpoenas and petitions and may punish as for
284 contempt of court in the event of noncompliance therewith.

285 (4) Every order and judgment of the board shall take effect
286 immediately on its promulgation unless the board in such order or
287 judgment fixes a probationary period for applicant or licentiate.
288 Such order and judgment shall continue in effect unless upon
289 appeal the court by proper order or decree terminates it earlier.
290 The board may make public its order and judgments in such manner
291 and form as it deems proper. It shall, in event of the suspension
292 or revocation of a license, direct the clerk of the circuit court

293 of the county in which that license was recorded to cancel such
294 record.

295 (5) Nothing in this section shall be construed as limiting
296 or revoking the authority of any court or of any licensing or
297 registering officer or board, other than the Mississippi Board of
298 Psychology, to suspend, revoke and reinstate licenses and to
299 cancel registrations under the provisions of Section 41-29-311.

300 (6) Suspension by the board of the license of a psychologist
301 shall be for a period not exceeding one (1) year. At the end of
302 this period the board shall reevaluate the suspension, and shall
303 either reinstate or revoke the license. A person whose license
304 has been revoked under the provisions of this section may reapply
305 for license after more than two (2) years have elapsed from the
306 date such denial or revocation is legally effective.

307 (7) In addition to the reasons specified in subsection (1)
308 of this section, the board shall be authorized to suspend the
309 license of any licensee for being out of compliance with an order
310 for support, as defined in Section 93-11-153. The procedure for
311 suspension of a license for being out of compliance with an order
312 for support, and the procedure for the reissuance or reinstatement
313 of a license suspended for that purpose, and the payment of any
314 fees for the reissuance or reinstatement of a license suspended
315 for that purpose, shall be governed by Section 93-11-157. Actions
316 taken by the board in suspending a license when required by
317 Section 93-11-157 or 93-11-163 are not actions from which an
318 appeal may be taken under this section. Any appeal of a license
319 suspension that is required by Section 93-11-157 or 93-11-163
320 shall be taken in accordance with the appeal procedure specified
321 in Section 93-11-157 or 93-11-163, as the case may be, rather than
322 the procedure specified in this section. If there is any conflict
323 between any provision of Section 93-11-157 or 93-11-163 and any
324 provision of this chapter, the provisions of Section 93-11-157 or
325 93-11-163, as the case may be, shall control.

326 (8) This section shall stand repealed from and after July 1,
327 2011.

328 **SECTION 10.** Section 73-31-23, Mississippi Code of 1972, is
329 amended as follows:

330 73-31-23. (1) It shall be a misdemeanor:

331 (a) For any person not licensed under this chapter to
332 represent himself as a psychologist or practice psychology in the
333 manner prescribed in Section 73-31-3 of this chapter; or

334 (b) For any person to represent himself as a
335 psychologist or practice psychology in the manner prescribed in
336 Section 73-31-3 of this chapter during the time that his license
337 as a psychologist shall be suspended or revoked or lapsed; or

338 (c) For any person to violate the provisions of
339 Sections 73-31-33 through 73-31-45, Mississippi Code of 1972,
340 relating to the prescription of certain drugs by psychologists; or

341 (d) For any person to otherwise violate the provisions
342 of this chapter.

343 Such misdemeanor shall be punishable, upon conviction, by
344 imprisonment for not more than sixty (60) days or by a fine of not
345 more than Three Hundred Dollars (\$300.00), or by both such fine
346 and imprisonment. Each violation shall be deemed a separate
347 offense. Such misdemeanor shall be prosecuted by the district
348 attorney of the judicial district in which the offense was
349 committed in the name of the people of the State of Mississippi.

350 (2) Any entity, organization or person, including the board,
351 any member of the board, and its agents or employees, acting in
352 good faith and without malice, who makes any report or information
353 available to the board regarding violation of any of the
354 provisions of this chapter, or who assists in the organization,
355 investigation or preparation of any such report or information or
356 assists the board in carrying out any of its duties or functions
357 provided by law, shall be immune from civil or criminal liability
358 for such acts.

359 The immunity granted pursuant to the provisions of this
360 subsection shall not apply to and shall not be available to any
361 psychologist who is the subject of any report or information
362 relating to a violation by such psychologist of the provisions of
363 this chapter.

364 This section shall stand repealed from and after July 1,
365 2011.

366 **SECTION 11.** This act shall take effect and be in force from
367 and after July 1, 2007.