To: Public Health and Welfare

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2007

By: Senator(s) Burton, Dearing

AN ACT TO AMEND SECTIONS 73-25-3, 73-27-5, 73-26-3, 73-25-32, 73-27-12 AND 73-25-14, MISSISSIPPI CODE OF 1972, TO REQUIRE A CRIMINAL HISTORY CHECK ON APPLICANTS FOR MEDICAL LICENSURE, OSTEOPATHIC LICENSURE, PODIATRIC LICENSURE AND PHYSICIAN ASSISTANT LICENSURE, AND ON APPLICANTS FOR REINSTATATION OF A LICENSE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-25-3, Mississippi Code of 1972, is amended as follows:

73-25-3. Every person who desires to obtain a license to practice medicine must apply therefor, in writing, to the State Board of Medical Licensure at least ten (10) days before the date of the examination and must be examined by the board according to the methods deemed by it to be the most practical and expeditious to test the applicants' qualifications. If the applicant is found by the board, upon examination, to possess sufficient learning in those branches and to be of good moral character, the board shall issue him a license to practice medicine; however, no applicant shall be granted a license unless the applicant holds a diploma from a reputable medical college or college of osteopathic medicine that requires a four-year course of at least thirty-two (32) weeks for each session, or its equivalent.

To qualify for a Mississippi medical license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Sections 73-25-29 and 73-25-83. To assist the board in conducting its licensure investigation, all...
applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

This section shall not apply to applicants for a special volunteer medical license authorized under Section 73-25-18.
SECTION 2. Section 73-27-5, Mississippi Code of 1972, is amended as follows:

73-27-5. All applicants for license shall have attained the age of twenty-one (21) years, and shall be of good moral character; they shall have had at least four (4) years high school and be graduates of same; they shall have at least one (1) year prepodiatry college education and be graduates of some college of podiatry recognized as being in good standing by the State Board of Medical Licensure. No college of podiatry or chiropody shall be accredited by the board as a college of good standing that does not require for graduation a course of study of at least four (4) years (eight and one-half (8-1/2) months each) and be recognized by the Council on Education of the American Podiatry Association. ** However, ** all podiatrists actively engaged in the practice of podiatry in the State of Mississippi, prior to January 1, 1938, whether graduates or not, shall, upon furnishing proof thereof by displaying their state privilege tax license to the Secretary of the State Board of Medical Licensure, and upon payment of fee of Ten Dollars and Twenty-five Cents ($10.25), be entitled to a license without an examination, and applications for the license shall be filed not later than sixty (60) days after the passage of this chapter. ** Upon payment of a fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars ($500.00), a license without examination may be issued to podiatrists of other states maintaining equal statutory requirements for the practice of podiatry and extending the same reciprocal privileges to this state. ** The State Board of Medical Licensure may affiliate with the National Board of Chiropody or Podiatry Licensure in granting licenses to practice podiatry in Mississippi, provided the written examination covers at least two-thirds (2/3) of the subjects set forth in Section 73-27-9.
To qualify for a Mississippi podiatry license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-27-13. To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the
fingerprints and other identifying information required by the
state or national repositories.

The board shall charge and collect from the applicant, in
addition to all other applicable fees and costs, such amount as
may be incurred by the board in requesting and obtaining state and
national criminal history records information on the applicant.

Each application or filing made under this section shall
include the social security number(s) of the applicant in
accordance with Section 93-11-64.

SECTION 3. Section 73-26-3, Mississippi Code of 1972, is
amended as follows:

73-26-3. (1) The State Board of Medical Licensure shall
license and regulate the practice of physician assistants in
accordance with the provisions of this chapter.

(2) All physician assistants who are employed as physician
assistants by a Department of Veterans Affairs health care
facility, a branch of the United States military or the Federal
Bureau of Prisons, and who are practicing as physician assistants
in a federal facility in Mississippi on July 1, 2000, and those
physician assistants who trained in a Mississippi physician
assistant program and have been continuously practicing as a
physician assistant in Mississippi since 1976, shall be eligible
for licensure if they submit an application for licensure to the
board by December 31, 2000. Physician assistants licensed under
this subsection will be eligible for license renewal so long as
they meet standard renewal requirements.

(3) Before December 31, 2004, applicants for physician
assistant licensure, except those licensed under subsection (2) of
this section, must be graduates of physician assistant educational
programs accredited by the Commission on Accreditation of Allied
Health Educational Programs or its predecessor or successor
agency, have passed the certification examination administered by
the National Commission on Certification of Physician Assistants
(NCCPA), have current NCCPA certification, and possess a minimum
of a baccalaureate degree. Physician assistants meeting these
licensure requirements will be eligible for license renewal so
long as they meet standard renewal requirements.

(4) On or after December 31, 2004, applicants for physician
assistant licensure must meet all of the requirements in
subsection (3) of this section and, in addition, must have
obtained a minimum of a master's degree in a health-related or
science field.

(5) Applicants for licensure who meet all licensure
requirements except for the master's degree may be granted a
temporary license by the board so long as they can show proof of
enrollment in a master's program that will, when completed, meet
the master's degree requirement. The temporary license will be
valid for no longer than one (1) year, and may not be renewed.
This subsection shall take effect and be in force from and after
March 9, 2006. This subsection shall stand repealed on July 1,
2010.

(6) For new graduate physician assistants and all physician
assistants receiving initial licenses in the state, except those
licensed under subsection (2) of this section, supervision shall
require the on-site presence of a supervising physician for one
hundred twenty (120) days.

(7) To qualify for a Mississippi physician assistant
license, an applicant must have successfully been cleared for
licensure through an investigation that shall consist of a
determination as to good moral character and verification that the
prospective licensee is not guilty of or in violation of any
statutory ground for denial of licensure. To assist the board in
conducting its licensure investigation, all applicants shall
undergo a fingerprint-based criminal history records check of the
Mississippi central criminal database and the Federal Bureau of
Investigation criminal history database. Each applicant shall
submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant’s eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

SECTION 4. Section 73-25-32, Mississippi Code of 1972, is amended as follows:

73-25-32. (1) A person whose license to practice medicine or osteopathy has been revoked or suspended may petition the Mississippi State Board of Medical Licensure to reinstate this
license after a period of not less than one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(2) The petition shall be accompanied by two (2) or more verified recommendations from physicians or osteopaths licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.

(3) In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, that should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

(4) The investigation shall require the petitioner to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each petitioner shall
submit a full set of the petitioner's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the petitioner, any additional information that may be required by the department, and a form signed by the petitioner consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the petitioner, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

(5) The Secretary-Treasurer of the Board of Medical Licensure shall enter into his records of the case all actions of the board in setting aside a disciplinary penalty under this section and he shall certify notices to the proper court clerk.
The clerk shall make such changes on his records as may be necessary.

SECTION 5. Section 73-27-12, Mississippi Code of 1972, is amended as follows:

73-27-12. (1) The license of every person licensed to practice podiatry in the State of Mississippi shall be renewed annually.

On or before May 1 of each year, the board shall mail a notice of renewal of license to every podiatrist to whom a license was issued or renewed during the current licensing year. The notice shall provide instructions for obtaining and submitting applications for renewal. The State Board of Medical Licensure is authorized to make applications for renewal available via electronic means. The applicant shall obtain and complete the application and submit it to the board in the manner prescribed by the board in the notice before June 30 with the renewal fee of an amount established by the board, but not to exceed Two Hundred Dollars ($200.00), a portion of which fee shall be used to support a program to aid impaired podiatrists. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to applicant a certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. That renewal shall render the holder thereof a legal practitioner as stated on the renewal form.

(2) Any podiatrist practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the board on satisfactory explanation for the failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year, and shall be assessed a fine of Twenty-five Dollars ($25.00) plus an additional fine of Five Dollars ($5.00) for each month thereafter that the license renewal remains delinquent.
(3) Any podiatrist not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the board on satisfactory explanation for the failure to renew, by completion of a reinstatement form and upon payment of the arrearages for the previous five (5) years and the renewal fee for the current year.

(4) Any podiatrist who allows his or her license to lapse shall be notified by the board within thirty (30) days of that lapse.

(5) Any person practicing as a licensed podiatrist during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to penalties set forth in Section 73-27-17, provided that he or she has not submitted the required reinstatement form and fee within fifteen (15) days after notification by the board of the lapse.

(6) Any podiatrist practicing in the State of Mississippi whose license has lapsed and is deemed an illegal practitioner under subsection (5) of this section may petition the board for reinstatement of his or her license on a retroactive basis, if the podiatrist was unable to meet the June 30 deadline due to extraordinary or other legitimate reasons, and retroactive reinstatement of licensure shall be granted or may be denied by the board only for good cause. Failure to advise the board of change of address shall not be considered a basis for reinstatement.

(7) Fees collected under the provisions of this section shall be used by the board to defray expenses of administering the licensure provisions of Title 73, Chapter 27, Mississippi Code of 1972, and to support a program to aid impaired podiatrists in an amount determined by the board.

(8) In order for a podiatrist whose podiatric medical license has been expired for five (5) years or more to qualify for reinstatement of license, the podiatrist must have successfully
been cleared for reinstatement through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-27-13. To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose. Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency. The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.
The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

SECTION 6. Section 73-25-14, Mississippi Code of 1972, is amended as follows:

73-25-14. (1) The license of every person licensed to practice medicine or osteopathy in the State of Mississippi shall be renewed annually.

On or before May 1 of each year, the State Board of Medical Licensure shall mail a notice of renewal of license to every physician or osteopath to whom a license was issued or renewed during the current licensing year. The notice shall provide instructions for obtaining and submitting applications for renewal. The State Board of Medical Licensure is authorized to make applications for renewal available via electronic means. The applicant shall obtain and complete the application and submit it to the board in the manner prescribed by the board in the notice before June 30 with the renewal fee of an amount established by the board, but not to exceed Two Hundred Dollars ($200.00), a portion of which fee shall be used to support a program to aid impaired physicians and osteopaths. The payment of the annual license renewal fee shall be optional with all physicians over the age of seventy (70) years. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to applicant a certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. That renewal shall render the holder thereof a legal practitioner as stated on the renewal form.

(2) Any physician or osteopath practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the board on satisfactory explanation for the failure to renew, by completion
of a reinstatement form, and upon payment of the renewal fee for
the current year, and shall be assessed a fine of Twenty-five
Dollars ($25.00) plus an additional fine of Five Dollars ($5.00)
for each month thereafter that the license renewal remains
delinquent.

(3) Any physician or osteopath not practicing in Mississippi
who allows his or her license to lapse by failing to renew the
license as provided in subsection (1) may be reinstated by the
board on satisfactory explanation for the failure to renew, by
completion of a reinstatement form and upon payment of the
arrearages for the previous five (5) years and the renewal fee for
the current year.

(4) Any physician or osteopath who allows his or her license
to lapse shall be notified by the board within thirty (30) days of
that lapse.

(5) Any person practicing as a licensed physician or
osteopath during the time his or her license has lapsed shall be
considered an illegal practitioner and shall be subject to
penalties provided for violation of the Medical Practice Act, if
he or she had not submitted the required reinstatement form and
fee within fifteen (15) days after notification by the board of
the lapse.

(6) Any physician or osteopath practicing in the State of
Mississippi whose license has lapsed and is deemed an illegal
practitioner under subsection (5) of this section may petition the
board for reinstatement of his or her license on a retroactive
basis, if the physician or osteopath was unable to meet the June
30 deadline due to extraordinary or other legitimate reasons, and
retroactive reinstatement of licensure shall be granted or may be
denied by the board only for good cause. Failure to advise the
board of change of address shall not be considered a basis of
reinstatement.
(7) None of the fees or fines provided for in this section shall be applicable to the renewal of a special volunteer medical license authorized under Section 73-25-18.

(8) Fees collected under the provisions of this section shall be used by the board to defray expenses of administering the licensure provisions of the Medical Practice Act (Title 73, Chapter 25, Mississippi Code of 1972) and to support a program to aid impaired physicians and osteopaths in an amount determined by the board.

(9) In order for a physician or osteopath whose medical license has been expired for five (5) years or more to qualify for reinstatement of license, the physician or osteopath must have successfully been cleared for reinstatement through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Sections 73-25-29 and 73-25-83. To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records
Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

SECTION 7. This act shall take effect and be in force from and after July 1, 2007.