

By: Representatives Mims, Mayo, Smith (39th) To: Public Health and Human Services

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 899

1 AN ACT ENTITLED "THE PATIENT'S RIGHT TO INFORMED HEALTH CARE  
2 CHOICES ACT"; TO PROVIDE DEFINITIONS; TO REGULATE AND PROVIDE  
3 STANDARDS FOR HEALTH CARE PRACTITIONERS' ADVERTISEMENT PRACTICES  
4 AND COMMUNICATIONS; TO PROVIDE PENALTIES FOR VIOLATION OF THIS  
5 ACT; TO AMEND SECTIONS 73-21-97, 73-25-29, 73-26-5, 73-27-13,  
6 73-15-29, 73-19-23, 73-6-19 AND 73-39-77, MISSISSIPPI CODE OF  
7 1972, TO INCLUDE VIOLATIONS OF DECEPTIVE ADVERTISEMENT BY HEALTH  
8 CARE PRACTITIONERS AS SPECIFIC GROUNDS FOR DISCIPLINARY ACTION  
9 AGAINST LICENSEES; AND FOR RELATED PURPOSES.

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

11 **SECTION 1. Title.** This act shall be known and may be cited  
12 as "The Patient's Right to Informed Health Care Choices Act."

13 **SECTION 2. Purpose.** The Legislature finds and declares  
14 that:

15 (a) There are a multitude of professional degrees using  
16 the term "doctor," including Medical Doctor (M.D.); Doctor of  
17 Osteopathic Medicine (D.O.); Doctor of Podiatric Medicine  
18 (D.P.M.); Doctor of Optometry (O.D.); Doctor of Chiropractic  
19 (D.C.); Doctor of Nursing Practice (D.N.P.); Doctor of Pharmacy  
20 (Pharm.D.), and other designations which may be used by health  
21 care practitioners.

22 (b) Choosing a health care provider is one of the most  
23 important decisions a patient makes, which should be supported by  
24 full disclosure from their health care provider. There are  
25 differences regarding the training and qualifications required to  
26 earn the professional degrees described in and subject to this  
27 act. These differences often concern the training and skills  
28 necessary to correctly detect, diagnose, prevent and treat serious  
29 health care conditions.



30 (c) There is a compelling state interest in patients  
31 being promptly and clearly informed of the actual training and  
32 qualifications of their health care practitioners who provide  
33 health care services. This act aims to provide public protection  
34 against potentially misleading and deceptive health care  
35 advertising that cause patients to have undue expectations  
36 regarding their medical treatments and outcomes.

37 **SECTION 3. Definitions.** For the purposes of this act:

38 (a) "Advertisement" means any communication or  
39 statement, whether printed, electronic or oral, that names the  
40 health care practitioner in relation to his or her practice,  
41 profession, or institution in which the individual is employed,  
42 volunteers or otherwise provides health care services. This  
43 includes business cards, letterhead, patient brochures, email,  
44 Internet, audio and video, and any other communication or  
45 statement used in the course of business or any other definition  
46 provided by regulations of the licensing board of proper  
47 jurisdiction.

48 (b) "Deceptive" or "misleading" includes, but is not  
49 limited to, any advertisement or affirmative communication or  
50 representation that misstates, falsely describes, holds out or  
51 falsely details the health care practitioner's profession, skills,  
52 training, expertise, education, board certification or licensure  
53 as determined by each respective licensing board.

54 (c) "Health care practitioner" means any person who  
55 engages in acts that are the subject of licensure or regulation.  
56 Categories of health care practitioner include:

57 (i) Practitioners of allopathic medicine,  
58 signified by the letters "M.D." or the words surgeon, medical  
59 doctor, or doctor of medicine by a person licensed to practice  
60 medicine and surgery.

61 (ii) Practitioners of osteopathic medicine,  
62 signified by the letters "D.O." or the words surgeon, osteopathic



63 surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic  
64 medicine.

65 (iii) Practitioners of nursing, signified by the  
66 letters "D.N.P.," "N.P.," "R.N.," "L.P.N.," "C.R.N.A.," or any  
67 other commonly used signifier to denote a doctorate of nursing  
68 practice, nurse practitioner, registered nurse, licensed practical  
69 nurse, or certified registered nurse anesthetist, respectively, as  
70 appropriate to signify the appropriate degree of licensure and  
71 degree earned from a regionally accredited institution of higher  
72 education in the appropriate field of learning.

73 (iv) Practitioners of podiatry, signified by the  
74 letters "D.P.M." or the words podiatrist, doctor of podiatry,  
75 podiatric surgeon, or doctor of podiatric medicine.

76 (v) Practitioners of chiropractic, signified by  
77 the letters "D.C." or the words chiropractor, doctor of  
78 chiropractic or chiropractic physician.

79 (vi) Practitioners of optometry, signified by the  
80 letters "O.D." or the words optometrist or doctor of optometry.

81 (vii) Practitioners of pharmacy, signified by the  
82 letters "BSc.Pharm" or "Pharm.D." or the words pharmacists or  
83 doctor of pharmacy.

84 (viii) Physician assistants, signified by the  
85 letters "P.A." or the words physician assistant.

86 (ix) Medical assistants, signified by the letters  
87 "M.A." or the words medical assistant.

88 (x) Practitioners of audiology, signified by the  
89 letters "Au.D.," "Sc.D.," or "Ph.D.," or the words audiologist or  
90 doctor of audiology.

91 (xi) Psychologists, therapists, speech-language  
92 pathologists, counselors, or any other health care practitioner  
93 not covered under this section, including, but not limited to,  
94 those signified by the letters "Ph.D.," "Ed.D.," "P.T.," "M.P.T."  
95 or "Psy.D.," or "Sc.D.," as appropriate to signify the appropriate



96 degree of licensure and degree earned from a regionally accredited  
97 institution of higher education in the appropriate field of  
98 learning.

99 (d) "Licensee" means a health care practitioner who  
100 holds an active license with the licensing board governing his or  
101 her practice in this state.

102 **SECTION 4. Requirements.** (1) An advertisement for health  
103 care services that names a health care practitioner must identify  
104 the type of license held according to the definitions under this  
105 act. The advertisement shall be free from any and all deceptive  
106 or misleading information.

107 (2) A health care practitioner providing health care  
108 services in this state must conspicuously post in their office and  
109 affirmatively communicate the practitioner's specific licensure as  
110 defined under this act. This shall consist of the following: The  
111 health care practitioner shall display in his or her office a  
112 writing that clearly identifies the type of license held by the  
113 health care practitioner. The writing must be of sufficient size  
114 so as to be visible and apparent to all current and prospective  
115 patients.

116 (3) A health care practitioner who practices in more than  
117 one (1) office shall be required to comply with these requirements  
118 in each practice setting.

119 (4) A health care practitioner who is a nonmedical doctor or  
120 nonosteopathic medical doctor who participates in a collaborative  
121 practice agreement(s) with a medical doctor(s) or doctor(s) of  
122 osteopathic medicine and whose collaborative practice agreement(s)  
123 is regulated by the Board of Medical Licensure or the Board of  
124 Nursing shall be required to indicate that the health care  
125 practitioner collaborates with a physician(s) and that the contact  
126 information of the physician(s) and a copy of the collaborative  
127 practice agreement(s) are available upon request.



128 (5) Health care practitioners working in nonpatient care  
129 settings, and who do not have any direct patient care  
130 interactions, are not subject to the provisions of this act.

131 **SECTION 5. Violations and enforcement.** (1) Failure to  
132 comply with any provision under this section shall constitute a  
133 violation under this act.

134 (2) Knowingly aiding, assisting, procuring, employing or  
135 advising any unlicensed person or entity to practice or engage in  
136 acts contrary to the health care practitioner's degree of  
137 licensure shall constitute a violation under this act.

138 (3) Delegating or contracting for the performance of health  
139 care services by a health care practitioner when the licensee  
140 delegating or contracting for performance knows, or has reason to  
141 know, the person does not have the required authority under the  
142 person's licensure, shall constitute a violation under this act.

143 (4) Violations of this act relating to practitioners of  
144 pharmacy shall be regulated in accordance with the restrictions on  
145 the use of business name for pharmacists in Section 73-21-109.

146 (5) Each day that this act is violated shall constitute a  
147 separate offense and shall be punishable as such.

148 (6) Any health care practitioner who violates any provision  
149 under this act is guilty of unprofessional conduct and subject to  
150 disciplinary action under the appropriate licensure provisions  
151 governing the respective health care practitioner.

152 (7) Any and all fees and other amounts billed to and paid by  
153 the patient may be effectively rescinded and refunded. This  
154 includes third parties contracted to collect fees on behalf of the  
155 health care practitioner, the health care practitioner's employer,  
156 or other entity contracting with the health care practitioner as  
157 determined by each respective licensing board.

158 (8) The imposition of professional sanctions, administrative  
159 fees or other disciplinary actions shall be publicly reported by



160 the governmental administrative body of proper jurisdiction at its  
161 discretion.

162 (9) Notwithstanding the imposition of any penalty, a  
163 professional licensing board or other administrative agency with  
164 jurisdiction may seek an injunction or other legal means as  
165 appropriate against a person or entity violating this act as  
166 determined by each respective licensing board.

167 (10) A licensing board may only enforce violations of this  
168 act with licensees that are subject to its jurisdiction.

169 **SECTION 6.** Sections 1 through 5 of this act shall stand  
170 repealed on July 1, 2016.

171 **SECTION 7.** Section 73-21-97, Mississippi Code of 1972, is  
172 amended as follows:

173 73-21-97. (1) The board may refuse to issue or renew, or  
174 may suspend, reprimand, revoke or restrict the license,  
175 registration or permit of any person upon one or more of the  
176 following grounds:

177 (a) Unprofessional conduct as defined by the rules and  
178 regulations of the board;

179 (b) Incapacity of a nature that prevents a pharmacist  
180 from engaging in the practice of pharmacy with reasonable skill,  
181 confidence and safety to the public;

182 (c) Being found guilty by a court of competent  
183 jurisdiction of one or more of the following:

184 (i) A felony;

185 (ii) Any act involving moral turpitude or gross  
186 immorality; or

187 (iii) Violation of pharmacy or drug laws of this  
188 state or rules or regulations pertaining thereto, or of statutes,  
189 rules or regulations of any other state or the federal government;

190 (d) Fraud or intentional misrepresentation by a  
191 licensee or permit holder in securing the issuance or renewal of a  
192 license or permit;



- 193           (e) Engaging or aiding and abetting an individual to  
194 engage in the practice of pharmacy without a license;
- 195           (f) Violation of any of the provisions of this chapter  
196 or rules or regulations adopted pursuant to this chapter;
- 197           (g) Failure to comply with lawful orders of the board;
- 198           (h) Negligently or willfully acting in a manner  
199 inconsistent with the health or safety of the public;
- 200           (i) Addiction to or dependence on alcohol or controlled  
201 substances or the unauthorized use or possession of controlled  
202 substances;
- 203           (j) Misappropriation of any prescription drug;
- 204           (k) Being found guilty by the licensing agency in  
205 another state of violating the statutes, rules or regulations of  
206 that jurisdiction;
- 207           (l) The unlawful or unauthorized possession of a  
208 controlled substance;
- 209           (m) Willful failure to submit drug monitoring  
210 information or willful submission of incorrect dispensing  
211 information as required by the Prescription Monitoring Program  
212 under Section 73-21-127; \* \* \*
- 213           (n) Failure to obtain the license, registration or  
214 permit required by this chapter; or
- 215           (o) Violation(s) of the provisions of Sections 1  
216 through 5 of this act relating to deceptive advertisement by  
217 health care practitioners. This paragraph shall stand repealed on  
218 July 1, 2016.
- 219           (2) In lieu of suspension, revocation or restriction of a  
220 license as provided for above, the board may warn or reprimand the  
221 offending pharmacist.
- 222           (3) In addition to the grounds specified in subsection (1)  
223 of this section, the board shall be authorized to suspend the  
224 license, registration or permit of any person for being out of  
225 compliance with an order for support, as defined in Section



226 93-11-153. The procedure for suspension of a license,  
227 registration or permit for being out of compliance with an order  
228 for support, and the procedure for the reissuance or reinstatement  
229 of a license, registration or permit suspended for that purpose,  
230 and the payment of any fees for the reissuance or reinstatement of  
231 a license, registration or permit suspended for that purpose,  
232 shall be governed by Section 93-11-157 or 93-11-163, as the case  
233 may be. If there is any conflict between any provision of Section  
234 93-11-157 or 93-11-163 and any provision of this chapter, the  
235 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
236 shall control.

237 **SECTION 8.** Section 73-25-29, Mississippi Code of 1972, is  
238 amended as follows:

239 73-25-29. The grounds for the nonissuance, suspension,  
240 revocation or restriction of a license or the denial of  
241 reinstatement or renewal of a license are:

242 (1) Habitual personal use of narcotic drugs, or any  
243 other drug having addiction-forming or addiction-sustaining  
244 liability.

245 (2) Habitual use of intoxicating liquors, or any  
246 beverage, to an extent which affects professional competency.

247 (3) Administering, dispensing or prescribing any  
248 narcotic drug, or any other drug having addiction-forming or  
249 addiction-sustaining liability otherwise than in the course of  
250 legitimate professional practice.

251 (4) Conviction of violation of any federal or state law  
252 regulating the possession, distribution or use of any narcotic  
253 drug or any drug considered a controlled substance under state or  
254 federal law, a certified copy of the conviction order or judgment  
255 rendered by the trial court being prima facie evidence thereof,  
256 notwithstanding the pendency of any appeal.

257 (5) Procuring, or attempting to procure, or aiding in,  
258 an abortion that is not medically indicated.





259           (6) Conviction of a felony or misdemeanor involving  
260 moral turpitude, a certified copy of the conviction order or  
261 judgment rendered by the trial court being prima facie evidence  
262 thereof, notwithstanding the pendency of any appeal.

263           (7) Obtaining or attempting to obtain a license by  
264 fraud or deception.

265           (8) Unprofessional conduct, which includes, but is not  
266 limited to:

267                   (a) Practicing medicine under a false or assumed  
268 name or impersonating another practitioner, living or dead.

269                   (b) Knowingly performing any act which in any way  
270 assists an unlicensed person to practice medicine.

271                   (c) Making or willfully causing to be made any  
272 flamboyant claims concerning the licensee's professional  
273 excellence.

274                   (d) Being guilty of any dishonorable or unethical  
275 conduct likely to deceive, defraud or harm the public.

276                   (e) Obtaining a fee as personal compensation or  
277 gain from a person on fraudulent representation of a disease or  
278 injury condition generally considered incurable by competent  
279 medical authority in the light of current scientific knowledge and  
280 practice can be cured or offering, undertaking, attempting or  
281 agreeing to cure or treat the same by a secret method, which he  
282 refuses to divulge to the board upon request.

283                   (f) Use of any false, fraudulent or forged  
284 statement or document, or the use of any fraudulent, deceitful,  
285 dishonest or immoral practice in connection with any of the  
286 licensing requirements, including the signing in his professional  
287 capacity any certificate that is known to be false at the time he  
288 makes or signs such certificate.

289                   (g) Failing to identify a physician's school of  
290 practice in all professional uses of his name by use of his earned  
291 degree or a description of his school of practice.



292           (9) The refusal of a licensing authority of another  
293 state or jurisdiction to issue or renew a license, permit or  
294 certificate to practice medicine in that jurisdiction or the  
295 revocation, suspension or other restriction imposed on a license,  
296 permit or certificate issued by such licensing authority which  
297 prevents or restricts practice in that jurisdiction, a certified  
298 copy of the disciplinary order or action taken by the other state  
299 or jurisdiction being prima facie evidence thereof,  
300 notwithstanding the pendency of any appeal.

301           (10) Surrender of a license or authorization to  
302 practice medicine in another state or jurisdiction or surrender of  
303 membership on any medical staff or in any medical or professional  
304 association or society while under disciplinary investigation by  
305 any of those authorities or bodies for acts or conduct similar to  
306 acts or conduct which would constitute grounds for action as  
307 defined in this section.

308           (11) Final sanctions imposed by the United States  
309 Department of Health and Human Services, Office of Inspector  
310 General or any successor federal agency or office, based upon a  
311 finding of incompetency, gross misconduct or failure to meet  
312 professionally recognized standards of health care; a certified  
313 copy of the notice of final sanction being prima facie evidence  
314 thereof. As used in this paragraph, the term "final sanction"  
315 means the written notice to a physician from the United States  
316 Department of Health and Human Services, Officer of Inspector  
317 General or any successor federal agency or office, which  
318 implements the exclusion.

319           (12) Failure to furnish the board, its investigators or  
320 representatives information legally requested by the board.

321           (13) Violation of any provision(s) of the Medical  
322 Practice Act or the rules and regulations of the board or of any  
323 order, stipulation or agreement with the board.



324           (14) Violation(s) of the provisions of Sections 1  
325 through 5 of this act relating to deceptive advertisement by  
326 health care practitioners. This paragraph shall stand repealed on  
327 July 1, 2016.

328           In addition to the grounds specified above, the board shall  
329 be authorized to suspend the license of any licensee for being out  
330 of compliance with an order for support, as defined in Section  
331 93-11-153. The procedure for suspension of a license for being  
332 out of compliance with an order for support, and the procedure for  
333 the reissuance or reinstatement of a license suspended for that  
334 purpose, and the payment of any fees for the reissuance or  
335 reinstatement of a license suspended for that purpose, shall be  
336 governed by Section 93-11-157 or 93-11-163, as the case may be.  
337 If there is any conflict between any provision of Section  
338 93-11-157 or 93-11-163 and any provision of this chapter, the  
339 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
340 shall control.

341           **SECTION 9.** Section 73-26-5, Mississippi Code of 1972, is  
342 amended as follows:

343           73-26-5. (1) The board shall promulgate and publish  
344 reasonable rules and regulations necessary to enable it to  
345 discharge its functions and to enforce the provisions of law  
346 regulating the practice of physician assistants. Those rules  
347 shall include, but are not limited to: qualifications for  
348 licensure for physician assistants; scope of practice of physician  
349 assistants; supervision of physician assistants; identification of  
350 physician assistants; grounds for disciplinary actions and  
351 discipline of physician assistants, which through June 30, 2016,  
352 shall specifically include discipline for violation(s) of the  
353 provisions of Sections 1 through 5 of this act relating to  
354 deceptive advertisement by health care practitioners; and setting  
355 and charging reasonable fees for licensure and license renewals  
356 for physician assistants. However, nothing in this chapter or in



357 rules adopted by the board shall authorize physician assistants to  
358 administer or monitor general inhaled anesthesia, epidural  
359 anesthesia, spinal anesthesia or monitored anesthesia as utilized  
360 in surgical procedures. The board shall promulgate rules for  
361 licensure and license renewals in accordance with Section 33-1-39.

362 (2) If the board appoints a task force or committee to  
363 address physician assistant regulation, at least one (1) member of  
364 the task force shall be a nurse practitioner who is a member of  
365 the Mississippi Board of Nursing or a nurse practitioner appointee  
366 selected by the board from a list of three (3) recommendations  
367 submitted by the Mississippi Nurses Association, and at least one  
368 (1) member shall be a physician assistant selected by the board  
369 from a list of three (3) recommendations submitted by the  
370 Mississippi Academy of Physician Assistants.

371 **SECTION 10.** Section 73-27-13, Mississippi Code of 1972, is  
372 amended as follows:

373 73-27-13. (1) The State Board of Medical Licensure may  
374 refuse to issue, suspend, revoke or otherwise restrict any license  
375 provided for in this chapter, with the advice of the advisory  
376 committee, based upon the following grounds:

377 (a) Habitual personal use of narcotic drugs, or any  
378 other drug having addiction-forming or addiction-sustaining  
379 liability.

380 (b) Habitual use of intoxicating liquors, or any  
381 beverage, to an extent which affects professional competency.

382 (c) Administering, dispensing or prescribing any  
383 narcotic drug, or any other drug having addiction-forming or  
384 addiction-sustaining liability otherwise than in the course of  
385 legitimate professional practice.

386 (d) Conviction of violation of any federal or state law  
387 regulating the possession, distribution or use of any narcotic  
388 drug or any drug considered a controlled substance under state or  
389 federal law.



390 (e) Performing any medical diagnosis or treatment  
391 outside the scope of podiatry as defined in Section 73-27-1.

392 (f) Conviction of a felony or misdemeanor involving  
393 moral turpitude.

394 (g) Obtaining or attempting to obtain a license by  
395 fraud or deception.

396 (h) Unprofessional conduct, which includes, but is not  
397 limited to:

398 (i) Practicing medicine under a false or assumed  
399 name or impersonating another practitioner, living or dead.

400 (ii) Knowingly performing any act which in any way  
401 assists an unlicensed person to practice podiatry.

402 (iii) Making or willfully causing to be made any  
403 flamboyant claims concerning the licensee's professional  
404 excellence.

405 (iv) Being guilty of any dishonorable or unethical  
406 conduct likely to deceive, defraud or harm the public.

407 (v) Obtaining a fee as personal compensation or  
408 gain from a person on fraudulent representation a disease or  
409 injury condition generally considered incurable by competent  
410 medical authority in the light of current scientific knowledge and  
411 practice can be cured or offering, undertaking, attempting or  
412 agreeing to cure or treat the same by a secret method, which he  
413 refuses to divulge to the board upon request.

414 (vi) Use of any false, fraudulent or forged  
415 statement or document, or the use of any fraudulent, deceitful,  
416 dishonest or immoral practice in connection with any of the  
417 licensing requirements, including the signing in his professional  
418 capacity any certificate that is known to be false at the time he  
419 makes or signs such certificate.

420 (vii) Failing to identify a podiatrist's school of  
421 practice in all professional uses of his name by use of his earned  
422 degree or a description of his school of practice.



423           (i) The refusal of a licensing authority of another  
424 state to issue or renew a license, permit or certificate to  
425 practice podiatry in that state or the revocation, suspension or  
426 other restriction imposed on a license, permit or certificate  
427 issued by such licensing authority which prevents or restricts  
428 practice in that state.

429           (j) Violation(s) of the provisions of Sections 1  
430 through 5 of this act relating to deceptive advertisement by  
431 health care practitioners. This paragraph shall stand repealed on  
432 July 1, 2016.

433           (2) Upon the nonissuance, suspension or revocation of a  
434 license to practice podiatry, the board may, in its discretion and  
435 with the advice of the advisory committee, reissue a license after  
436 a lapse of six (6) months. No advertising shall be permitted  
437 except regular professional cards.

438           (3) In its investigation of whether the license of a  
439 podiatrist should be suspended, revoked or otherwise restricted,  
440 the board may inspect patient records in accordance with the  
441 provisions of Section 73-25-28.

442           (4) In addition to the grounds specified in subsection (1)  
443 of this section, the board shall be authorized to suspend the  
444 license of any licensee for being out of compliance with an order  
445 for support, as defined in Section 93-11-153. The procedure for  
446 suspension of a license for being out of compliance with an order  
447 for support, and the procedure for the reissuance or reinstatement  
448 of a license suspended for that purpose, and the payment of any  
449 fees for the reissuance or reinstatement of a license suspended  
450 for that purpose, shall be governed by Section 93-11-157 or  
451 93-11-163, as the case may be. If there is any conflict between  
452 any provision of Section 93-11-157 or 93-11-163 and any provision  
453 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
454 as the case may be, shall control.



455           **SECTION 11.** Section 73-15-29, Mississippi Code of 1972, is  
456 amended as follows:

457           73-15-29. (1) The board shall have power to revoke, suspend  
458 or refuse to renew any license issued by the board, or to revoke  
459 or suspend any privilege to practice, or to deny an application  
460 for a license, or to fine, place on probation and/or discipline a  
461 licensee, in any manner specified in this article, upon proof that  
462 such person:

463                   (a) Has committed fraud or deceit in securing or  
464 attempting to secure such license;

465                   (b) Has been convicted of felony, or a crime involving  
466 moral turpitude or has had accepted by a court a plea of nolo  
467 contendere to a felony or a crime involving moral turpitude (a  
468 certified copy of the judgment of the court of competent  
469 jurisdiction of such conviction or pleas shall be prima facie  
470 evidence of such conviction);

471                   (c) Has negligently or willfully acted in a manner  
472 inconsistent with the health or safety of the persons under the  
473 licensee's care;

474                   (d) Has had a license or privilege to practice as a  
475 registered nurse or a licensed practical nurse suspended or  
476 revoked in any jurisdiction, has voluntarily surrendered such  
477 license or privilege to practice in any jurisdiction, has been  
478 placed on probation as a registered nurse or licensed practical  
479 nurse in any jurisdiction or has been placed under a disciplinary  
480 order(s) in any manner as a registered nurse or licensed practical  
481 nurse in any jurisdiction, (a certified copy of the order of  
482 suspension, revocation, probation or disciplinary action shall be  
483 prima facie evidence of such action);

484                   (e) Has negligently or willfully practiced nursing in a  
485 manner that fails to meet generally accepted standards of such  
486 nursing practice;



487 (f) Has negligently or willfully violated any order,  
488 rule or regulation of the board pertaining to nursing practice or  
489 licensure;

490 (g) Has falsified or in a repeatedly negligent manner  
491 made incorrect entries or failed to make essential entries on  
492 records;

493 (h) Is addicted to or dependent on alcohol or other  
494 habit-forming drugs or is a habitual user of narcotics,  
495 barbiturates, amphetamines, hallucinogens, or other drugs having  
496 similar effect, or has misappropriated any medication;

497 (i) Has a physical, mental or emotional condition that  
498 renders the licensee unable to perform nursing services or duties  
499 with reasonable skill and safety;

500 (j) Has engaged in any other conduct, whether of the  
501 same or of a different character from that specified in this  
502 article, that would constitute a crime as defined in Title 97 of  
503 the Mississippi Code of 1972, as now or hereafter amended, and  
504 that relates to such person's employment as a registered nurse or  
505 licensed practical nurse;

506 (k) Engages in conduct likely to deceive, defraud or  
507 harm the public;

508 (l) Engages in any unprofessional conduct as identified  
509 by the board in its rules; \* \* \*

510 (m) Has violated any provision of this article; or

511 (n) Violation(s) of the provisions of Sections 1  
512 through 5 of this act relating to deceptive advertisement by  
513 health care practitioners. This paragraph shall stand repealed on  
514 July 1, 2016.

515 (2) When the board finds any person unqualified because of  
516 any of the grounds set forth in subsection (1) of this section, it  
517 may enter an order imposing one or more of the following  
518 penalties:





- 519           (a) Denying application for a license or other  
520 authorization to practice nursing or practical nursing;
- 521           (b) Administering a reprimand;
- 522           (c) Suspending or restricting the license or other  
523 authorization to practice as a registered nurse or licensed  
524 practical nurse for up to two (2) years without review;
- 525           (d) Revoking the license or other authorization to  
526 practice nursing or practical nursing;
- 527           (e) Requiring the disciplinee to submit to care,  
528 counseling or treatment by persons and/or agencies approved or  
529 designated by the board as a condition for initial, continued or  
530 renewed licensure or other authorization to practice nursing or  
531 practical nursing;
- 532           (f) Requiring the disciplinee to participate in a  
533 program of education prescribed by the board as a condition for  
534 initial, continued or renewed licensure or other authorization to  
535 practice;
- 536           (g) Requiring the disciplinee to practice under the  
537 supervision of a registered nurse for a specified period of time;  
538 or
- 539           (h) Imposing a fine not to exceed Five Hundred Dollars  
540 (\$500.00).

541           (3) In addition to the grounds specified in subsection (1)  
542 of this section, the board shall be authorized to suspend the  
543 license or privilege to practice of any licensee for being out of  
544 compliance with an order for support, as defined in Section  
545 93-11-153. The procedure for suspension of a license or privilege  
546 to practice for being out of compliance with an order for support,  
547 and the procedure for the reissuance or reinstatement of a license  
548 or privilege to practice suspended for that purpose, and the  
549 payment of any fees for the reissuance or reinstatement of a  
550 license or privilege to practice suspended for that purpose, shall  
551 be governed by Section 93-11-157 or 93-11-163, as the case may be.



552 If there is any conflict between any provision of Section  
553 93-11-157 or 93-11-163 and any provision of this article, the  
554 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
555 shall control.

556 (4) If the public health, safety or welfare imperatively  
557 requires emergency action and the board incorporates a finding to  
558 that effect in an order, the board may order summary suspension of  
559 a license pending proceedings for revocation or other action.  
560 These proceedings shall be promptly instituted and determined by  
561 the board.

562 **SECTION 12.** Section 73-19-23, Mississippi Code of 1972, is  
563 amended as follows:

564 73-19-23. (1) The board shall refuse to grant a certificate  
565 of licensure to any applicant and may cancel, revoke or suspend  
566 the operation of any certificate by it granted for any or all of  
567 the following reasons: unprofessional and unethical conduct or  
568 the conviction of a crime involving moral turpitude, habitual  
569 intemperance in the use of ardent spirits, or stimulants,  
570 narcotics, or any other substance that impairs the intellect and  
571 judgment to such an extent as to incapacitate one for the  
572 performance of the duties of an optometrist. The certificate of  
573 licensure of any person can be revoked for violating any section  
574 of this chapter.

575 (2) The board shall further be authorized to take  
576 disciplinary action against a licensee for any unlawful acts,  
577 which shall include violations of regulations promulgated by the  
578 board, as well as the following acts:

579 (a) Fraud or misrepresentation in applying for or  
580 procuring an optometric license or in connection with applying for  
581 or procuring periodic renewal of an optometric license.

582 (b) Cheating on or attempting to subvert the optometric  
583 licensing examination(s).



584 (c) The conviction of a felony in this state or any  
585 other jurisdiction, or the entry of a guilty or nolo contendere  
586 plea to a felony charge.

587 (d) The conviction of a felony as defined by federal  
588 law, or the entry of a guilty or nolo contendere plea to a felony  
589 charge.

590 (e) Conduct likely to deceive, defraud or harm the  
591 public.

592 (f) Making a false or misleading statement regarding  
593 his or her skill or the efficacy or value of the medicine, device,  
594 treatment or remedy prescribed by him or her or used at his or her  
595 direction in the treatment of any disease or other condition.

596 (g) Willfully or negligently violating the  
597 confidentiality between doctor and patient, except as required by  
598 law.

599 (h) Negligence or gross incompetence in the practice of  
600 optometry as determined by the board.

601 (i) Being found to be a person with mental illness or  
602 with an intellectual disability by any court of competent  
603 jurisdiction.

604 (j) The use of any false, fraudulent, deceptive or  
605 misleading statement in any document connected with the practice  
606 of optometry.

607 (k) Aiding or abetting the practice of optometry by an  
608 unlicensed, incompetent or impaired person.

609 (l) Commission of any act of sexual abuse, misconduct  
610 or exploitation related to the licensee's practice of optometry.

611 (m) Being addicted or habituated to a drug or  
612 intoxicant.

613 (n) Violating any state or federal law or regulation  
614 relating to a drug legally classified as a controlled substance.

615 (o) Obtaining any fee by fraud, deceit or  
616 misrepresentation.



617           (p) Disciplinary action of another state or  
618 jurisdiction against a licensee or other authorization to practice  
619 optometry based upon acts or conduct by the licensee similar to  
620 acts or conduct that would constitute grounds for action as  
621 defined in this chapter, a certified copy of the record of the  
622 action taken by the other state or jurisdiction being conclusive  
623 evidence thereof.

624           (q) Failure to report to the board the relocation of  
625 his or her office in or out of the jurisdiction, or to furnish  
626 floor plans as required by regulation.

627           (r) Violation of any provision(s) of the Optometry  
628 Practice Act or the rules and regulations of the board or of an  
629 action, stipulation or agreement of the board.

630           (s) To advertise in a manner that tends to deceive,  
631 mislead or defraud the public.

632           (t) The designation of any person licensed under this  
633 chapter, other than by the terms "optometrist," "Doctor of  
634 Optometry" or "O.D.," which through June 30, 2016 shall include  
635 any violation(s) of the provisions of Sections 1 through 5 of this  
636 act relating to deceptive advertisement by health care  
637 practitioners.

638           (u) To knowingly submit or cause to be submitted any  
639 misleading, deceptive or fraudulent representation on a claim  
640 form, bill or statement.

641           (v) To practice or attempt to practice optometry while  
642 his or her license is suspended.

643           (3) Any person who is holder of a certificate of licensure  
644 or who is an applicant for examination for a certificate of  
645 licensure, against whom is preferred any charges, shall be  
646 furnished by the board with a copy of the complaint and shall have  
647 a hearing in Jackson, Mississippi, before the board, at which  
648 hearing he may be represented by counsel. At the hearing,  
649 witnesses may be examined for and against the accused respecting



650 those charges, and the hearing orders or appeals will be conducted  
651 according to the procedure now provided in Section 73-25-27. The  
652 suspension of a certificate of licensure by reason of the use of  
653 stimulants or narcotics may be removed when the holder of the  
654 certificate has been adjudged by the board to be cured and capable  
655 of practicing optometry.

656 (4) In addition to the reasons specified in subsections (1)  
657 and (2) of this section, the board shall be authorized to suspend  
658 the license of any licensee for being out of compliance with an  
659 order for support, as defined in Section 93-11-153. The procedure  
660 for suspension of a license for being out of compliance with an  
661 order for support, and the procedure for the reissuance or  
662 reinstatement of a license suspended for that purpose, and the  
663 payment of any fees for the reissuance or reinstatement of a  
664 license suspended for that purpose, shall be governed by Section  
665 93-11-157 or 93-11-163, as the case may be. If there is any  
666 conflict between any provision of Section 93-11-157 or 93-11-163  
667 and any provision of this chapter, the provisions of Section  
668 93-11-157 or 93-11-163, as the case may be, shall control.

669 **SECTION 13.** Section 73-6-19, Mississippi Code of 1972, is  
670 amended as follows:

671 73-6-19. (1) The board shall refuse to grant a certificate  
672 of licensure to any applicant or may cancel, revoke or suspend the  
673 certificate upon the finding of any of the following facts  
674 regarding the applicant or licensed practitioner:

675 (a) Failure to comply with the rules and regulations  
676 adopted by the State Board of Chiropractic Examiners;

677 (b) Violation of any of the provisions of this chapter  
678 or any of the rules and regulations of the State Board of Health  
679 pursuant to this chapter with regard to the operation and use of  
680 x-rays;

681 (c) Fraud or deceit in obtaining a license;



682           (d)   Addiction to the use of alcohol, narcotic drugs, or  
683 anything which would seriously interfere with the competent  
684 performance of his professional duties;

685           (e)   Conviction by a court of competent jurisdiction of  
686 a felony, other than manslaughter or any violation of the United  
687 States Internal Revenue Code;

688           (f)   Unprofessional and unethical conduct;

689           (g)   Contraction of a contagious disease which may be  
690 carried for a prolonged period;

691           (h)   Failure to report to the Mississippi Department of  
692 Human Services or the county attorney any case wherein there are  
693 reasonable grounds to believe that a child or vulnerable adult has  
694 been abused by its parent or person responsible for such person's  
695 welfare;

696           (i)   Advising a patient to use drugs, prescribing or  
697 providing drugs for a patient, or advising a patient not to use a  
698 drug prescribed by a licensed physician or dentist;

699           (j)   Professional incompetency in the practice of  
700 chiropractic;

701           (k)   Having disciplinary action taken by his peers  
702 within any professional chiropractic association or society;

703           (l)   Offering to accept or accepting payment for  
704 services rendered by assignment from any third-party payor after  
705 offering to accept or accepting whatever the third-party payor  
706 covers as payment in full, if the effect of the offering or  
707 acceptance is to eliminate or give the impression of eliminating  
708 the need for payment by an insured of any required deductions  
709 applicable in the policy of the insured;

710           (m)   Associating his practice with any chiropractor who  
711 does not hold a valid chiropractic license in Mississippi, or  
712 teach chiropractic manipulation to nonqualified persons under  
713 Section 73-6-13;



714 (n) Failure to make payment on chiropractic student  
715 loans;

716 (o) Failure to follow record keeping requirements  
717 prescribed in Section 73-6-18; \* \* \*

718 (p) If the practitioner is certified to provide animal  
719 chiropractic treatment, failure to follow guidelines approved by  
720 the Mississippi Board of Veterinary Medicine; or

721 (q) Violation(s) of the provisions of Sections 1  
722 through 5 of this act relating to deceptive advertisement by  
723 health care practitioners. This paragraph shall stand repealed on  
724 July 1, 2016.

725 (2) Any holder of such certificate or any applicant therefor  
726 against whom is preferred any of the designated charges shall be  
727 furnished a copy of the complaint and shall receive a formal  
728 hearing in Jackson, Mississippi, before the board, at which time  
729 he may be represented by counsel and examine witnesses. The board  
730 is authorized to administer oaths as may be necessary for the  
731 proper conduct of any such hearing. In addition, the board is  
732 authorized and empowered to issue subpoenas for the attendance of  
733 witnesses and the production of books and papers. The process  
734 issued by the board shall extend to all parts of the state. Where  
735 in any proceeding before the board any witness shall fail or  
736 refuse to attend upon subpoena issued by the board, shall refuse  
737 to testify, or shall refuse to produce any books and papers, the  
738 production of which is called for by the subpoena, the attendance  
739 of such witness and the giving of his testimony and the production  
740 of the books and papers shall be enforced by any court of  
741 competent jurisdiction of this state in the manner provided for  
742 the enforcement of attendance and testimony of witnesses in civil  
743 cases in the courts of this state.

744 (3) In addition to any other investigators the board  
745 employs, the board shall appoint one or more licensed  
746 chiropractors to act for the board in investigating the conduct



747 relating to the competency of a chiropractor, whenever  
748 disciplinary action is being considered for professional  
749 incompetence and unprofessional conduct.

750 (4) Whenever the board finds any person unqualified to  
751 practice chiropractic because of any of the grounds set forth in  
752 subsection (1) of this section, after a hearing has been conducted  
753 as prescribed by this section, the board may enter an order  
754 imposing one or more of the following:

755 (a) Deny his application for a license or other  
756 authorization to practice chiropractic;

757 (b) Administer a public or private reprimand;

758 (c) Suspend, limit or restrict his license or other  
759 authorization to practice chiropractic for up to five (5) years;

760 (d) Revoke or cancel his license or other authorization  
761 to practice chiropractic;

762 (e) Require him to submit to care, counseling or  
763 treatment by physicians or chiropractors designated by the board,  
764 as a condition for initial, continued or renewal of licensure or  
765 other authorization to practice chiropractic;

766 (f) Require him to participate in a program of  
767 education prescribed by the board; or

768 (g) Require him to practice under the direction of a  
769 chiropractor designated by the board for a specified period of  
770 time.

771 (5) Any person whose application for a license or whose  
772 license to practice chiropractic has been cancelled, revoked or  
773 suspended by the board within thirty (30) days from the date of  
774 such final decision shall have the right of a de novo appeal to  
775 the circuit court of his county of residence or the Circuit Court  
776 of the First Judicial District of Hinds County, Mississippi. If  
777 there is an appeal, such appeal may, in the discretion of and on  
778 motion to the circuit court, act as a supersedeas. The circuit  
779 court shall dispose of the appeal and enter its decision promptly.





780 The hearing on the appeal may, in the discretion of the circuit  
781 judge, be tried in vacation. Either party shall have the right of  
782 appeal to the Supreme Court as provided by law from any decision  
783 of the circuit court.

784 (6) In a proceeding conducted under this section by the  
785 board for the revocation, suspension or cancellation of a license  
786 to practice chiropractic, after a hearing has been conducted as  
787 prescribed by this section, the board shall have the power and  
788 authority for the grounds stated in subsection (1) of this  
789 section, with the exception of paragraph (c) thereof, to assess  
790 and levy upon any person licensed to practice chiropractic in the  
791 state a monetary penalty in lieu of such revocation, suspension or  
792 cancellation, as follows:

793 (a) For the first violation, a monetary penalty of not  
794 less than Five Hundred Dollars (\$500.00) nor more than One  
795 Thousand Dollars (\$1,000.00) for each violation.

796 (b) For the second and each subsequent violation, a  
797 monetary penalty of not less than One Thousand Dollars (\$1,000.00)  
798 nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for  
799 each violation.

800 The power and authority of the board to assess and levy such  
801 monetary penalties under this section shall not be affected or  
802 diminished by any other proceeding, civil or criminal, concerning  
803 the same violation or violations. A licensee shall have the right  
804 of appeal from the assessment and levy of a monetary penalty as  
805 provided in this section to the circuit court under the same  
806 conditions as a right of appeal is provided for in this section  
807 for appeals from an adverse ruling, or order, or decision of the  
808 board. Any monetary penalty assessed and levied under this  
809 section shall not take effect until after the time for appeal has  
810 expired, and an appeal of the assessment and levy of such a  
811 monetary penalty shall act as a supersedeas.



812 (7) In addition to the grounds specified in subsection (1)  
813 of this section, the board shall be authorized to suspend the  
814 license of any licensee for being out of compliance with an order  
815 for support, as defined in Section 93-11-153. The procedure for  
816 suspension of a license for being out of compliance with an order  
817 for support, and the procedure for the reissuance or reinstatement  
818 of a license suspended for that purpose, and the payment of any  
819 fees for the reissuance or reinstatement of a license suspended  
820 for that purpose, shall be governed by Section 93-11-157 or  
821 93-11-163, as the case may be. Actions taken by the board in  
822 suspending a license when required by Section 93-11-157 or  
823 93-11-163 are not actions from which an appeal may be taken under  
824 this section. Any appeal of a license suspension that is required  
825 by Section 93-11-157 or 93-11-163 shall be taken in accordance  
826 with the appeal procedure specified in Section 93-11-157 or  
827 93-11-163, as the case may be, rather than the procedure specified  
828 in this section. If there is any conflict between any provision  
829 of Section 93-11-157 or 93-11-163 and any provision of this  
830 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
831 case may be, shall control.

832 **SECTION 14.** Section 73-39-77, Mississippi Code of 1972, is  
833 amended as follows:

834 73-39-77. (1) Upon a written complaint sworn to by any  
835 person, the board, in its sole discretion, may, after a hearing,  
836 revoke, suspend or limit for a certain time a license, impose an  
837 administrative fine not to exceed One Thousand Dollars (\$1,000.00)  
838 for each separate offense, or otherwise discipline any licensed  
839 veterinarian for any of the following reasons:

840 (a) The employment of fraud, misrepresentation or  
841 deception in obtaining a license.

842 (b) The inability to practice veterinary medicine with  
843 reasonable skill and safety because of a physical or mental  
844 disability, including deterioration of mental capacity, loss of



845 motor skills or abuse of drugs or alcohol of sufficient degree to  
846 diminish the person's ability to deliver competent patient care.

847 (c) The use of advertising or solicitation that is  
848 false or misleading.

849 (d) Conviction of the following in any federal court or  
850 in the courts of this state or any other jurisdiction, regardless  
851 of whether the sentence is deferred:

852 (i) Any felony;

853 (ii) Any crime involving cruelty, abuse or neglect  
854 of animals, including bestiality;

855 (iii) Any crime of moral turpitude;

856 (iv) Any crime involving unlawful sexual contact,  
857 child abuse, the use or threatened use of a weapon, the infliction  
858 of injury, indecent exposure, perjury, false reporting, criminal  
859 impersonation, forgery and any other crime involving a lack of  
860 truthfulness, veracity or honesty, intimidation of a victim or  
861 witness, larceny, or alcohol or drugs.

862 For the purposes of this paragraph, a plea of guilty or a  
863 plea of nolo contendere accepted by the court shall be considered  
864 as a conviction.

865 (e) Incompetence, gross negligence or other malpractice  
866 in the practice of veterinary medicine.

867 (f) Aiding the unlawful practice of veterinary  
868 medicine.

869 (g) Fraud or dishonesty in the application or reporting  
870 of any test for disease in animals.

871 (h) Failure to report, as required by law, or making  
872 false or misleading report of, any contagious or infectious  
873 disease.

874 (i) Failure to keep accurate patient records.

875 (j) Dishonesty or gross negligence in the performance  
876 of food safety inspections or in the issuance of any health or  
877 inspection certificates.



878 (k) Failure to keep veterinary premises and equipment,  
879 including practice vehicles, in a clean and sanitary condition.

880 (l) Failure to permit the board or its agents to enter  
881 and inspect veterinary premises and equipment, including practice  
882 vehicles, as set by rules promulgated by the board.

883 (m) Revocation, suspension or limitation of a license  
884 to practice veterinary medicine by another state, territory or  
885 district of the United States.

886 (n) Loss or suspension of accreditation by any federal  
887 or state agency.

888 (o) Unprofessional conduct as defined in regulations  
889 adopted by the board.

890 (p) The dispensing, distribution, prescription or  
891 administration of any veterinary prescription drug, or the  
892 extralabel use of any drug in the absence of a  
893 veterinarian-client-patient relationship.

894 (q) Violations of state or federal drug laws.

895 (r) Violations of any order of the board.

896 (s) Violations of this chapter or of the rules  
897 promulgated under this chapter.

898 (t) Violation(s) of the provisions of Sections 1  
899 through 5 of this act relating to deceptive advertisement by  
900 health care practitioners. This paragraph shall stand repealed on  
901 July 1, 2016.

902 (2) A certified copy of any judgment of conviction or  
903 finding of guilt by a court of competent jurisdiction or by a  
904 governmental agency, or agency authorized to issue licenses or  
905 permits, including the United States Department of Agriculture,  
906 Animal and Plant Health Inspection Service, the Mississippi Board  
907 of Animal Health and the Mississippi Board of Health, of a  
908 veterinarian or veterinary technician of any matters listed in  
909 this section shall be admissible in evidence in any hearing held  
910 by the board to discipline such veterinarian or technician and



911 shall constitute prima facie evidence of the commission of any  
912 such act.

913           **SECTION 15.** This act shall take effect and be in force from  
914 and after July 1, 2012.

