

By: Representative Mettetal

To: Universities and Colleges

HOUSE BILL NO. 614

1 AN ACT TO AMEND SECTION 75-60-3, MISSISSIPPI CODE OF 1972, TO
 2 AMEND THE MISSISSIPPI PROPRIETARY SCHOOL AND COLLEGE REGISTRATION
 3 LAW TO REVISE AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION
 4 75-60-4, MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP
 5 QUALIFICATIONS OF THE COMMISSIONERS; TO AMEND SECTION 75-60-5,
 6 MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS OR COURSES OF
 7 INSTRUCTION UNDER THE JURISDICTION OF THE BOARD OF NURSING TO THIS
 8 LAW; TO DELETE THE PROVISION OF LAW ALLOWING NATIONALLY ACCREDITED
 9 SCHOOLS TO FOLLOW NATIONAL STANDARDS IN LIEU OF STATE STANDARDS
 10 FOR HIRING AND TRAINING FACULTY; TO AMEND SECTION 75-60-11,
 11 MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION OF LAW ALLOWING
 12 NATIONALLY ACCREDITED SCHOOLS TO SUBMIT NATIONAL ACCREDITATION
 13 STATUS IN LIEU OF OTHER APPLICATION REQUESTS UNDER THIS LAW; TO
 14 AMEND SECTION 75-60-19, MISSISSIPPI CODE OF 1972, TO REQUIRE
 15 CERTAIN NOTICE TO STUDENTS ABOUT THEIR RIGHT TO FILE A COMPLAINT
 16 WITH THE COMMISSION; TO AMEND SECTION 75-60-23, MISSISSIPPI CODE
 17 OF 1972, TO CLARIFY THAT ALL PERSONS INVOLVED IN RECRUITMENT MUST
 18 REGISTER WITH THE COMMISSION AS AN AGENT; TO AMEND SECTION
 19 75-60-25, MISSISSIPPI CODE OF 1972, TO ADD CAMPUS LOCATION AS A
 20 REQUIREMENT FOR BUSINESS CARDS FOR AGENTS; AND FOR RELATED
 21 PURPOSES.

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

23 **SECTION 1.** Section 75-60-3, Mississippi Code of 1972, is
 24 amended as follows:

25 75-60-3. As used in this chapter:

26 (a) "Course of instruction" means the offering of
 27 instruction to individuals for a charge, fee or contribution of



28 any kind, to a person or persons for the purpose of training or
29 preparing such person(s) for a field of endeavor in a business,
30 trade, technical or industrial occupation.

31 (b) "Program of study" means a * * * series of
32 individual courses in an area of specialization for which a
33 diploma, degree, certificate or other written evidence of
34 proficiency or achievement is offered.

35 (c) "Agent" means any * * * person employed by an
36 institution licensed by the commission, regardless of job title,
37 job description, full-time or part-time employment status, who
38 either directly or indirectly influences the decision of any
39 prospective student to enroll for a fee in a course of
40 instruction.

41 (d) "Person" means an individual, corporation,
42 partnership, association or any other type of organization.

43 (e) "Board" means the * * * Mississippi Community
44 College Board established in Section 37-4-3 et seq., Mississippi
45 Code of 1972.

46 (f) "Commission" means the Commission on Proprietary
47 School and College Registration established under this chapter.

48 (g) "Correspondence education" means a formal
49 educational process under which the institution provides
50 instructional materials, by mail or electronic transmission,
51 including examinations on the materials, to students who are
52 separated from the instructor. Interaction between the instructor



53 and the student is limited, is not regular and substantive, and is
54 primarily initiated by the student; courses are typically
55 self-paced.

56 (h) "Distance education" means a formal educational
57 process in which the majority of the instruction (interaction
58 between students and instructors and among students) in a course
59 occurs when students and instructors are not in the same place.
60 Instruction may be synchronous or asynchronous. A distance
61 education course may use the Internet; one-way and two-way
62 transmissions through open broadcast, closed circuit, cable,
63 microwave, broadband lines, fiber optics, satellite or wireless
64 communications devices; audio conferencing; or video cassettes,
65 DVDs and CD-ROMs if used as part of the distance learning course
66 or program.

67 (i) "General education course" means a unit of learning
68 that is nontechnical in nature and is a fundamental part of a
69 program. The content is drawn from oral and written
70 communications, social studies, mathematics, natural sciences and
71 the humanities.

72 (j) "Nontechnical course" means a unit of learning that
73 is nontechnical in nature and includes general education courses,
74 basic/college life skills and other related courses.

75 (k) "Occupational degree" means a credential awarded by
76 a school upon successful completion of an associate degree



77 program. This program shall contain a minimum of sixty percent
78 (60%) technical course credits/clock hours.

79 (l) "Institution" means a proprietary school, career
80 college, school person or other organization that offers programs
81 that require registration in accordance with Section 75-60-5.

82 (m) "Technical course" means a unit of learning that
83 yields skills, knowledge and understanding essential to the
84 specific occupation for which the program is designed.

85 **SECTION 2.** Section 75-60-4, Mississippi Code of 1972, is
86 amended as follows:

87 75-60-4. (1) The * * * Mississippi Community College Board
88 shall appoint a "Commission on Proprietary School and College
89 Registration" to be composed of five (5) qualified members, one
90 (1) appointed from each of the five (5) Mississippi congressional
91 districts existing on January 1, 1992. The membership of said
92 commission shall be composed of persons who have held a teaching,
93 managerial or other similar position with any public, private,
94 trade, technical or other school; provided, however, that one (1)
95 member of the commission shall be actively engaged in, or retired
96 from, teaching, managerial or other similar position with a
97 privately owned trade, technical or other school. The membership
98 of said commission shall be appointed by the board within ninety
99 (90) days of the passage of this chapter. In making the first
100 appointments, two (2) members shall be appointed for three (3)
101 years, two (2) members for four (4) years, and one (1) member for



102 five (5) years. Thereafter, all members shall be appointed for a
103 term of five (5) years. If one (1) of the members appointed by
104 the board resigns or is otherwise unable to serve, a new member
105 shall be appointed by the commission to fill the unexpired term.
106 All five (5) members of the commission have full voting rights.
107 The members shall not be paid for their services, but may be
108 compensated for the expenses necessarily incurred in the
109 attendance at meetings or in performing other services for the
110 commission at a rate prescribed under Section 25-3-69, Mississippi
111 Code of 1972, plus actual expenses and mileage as provided by
112 Section 25-3-41, Mississippi Code of 1972. Members of the
113 commission shall annually elect a chairman from among its members
114 that is not actively engaged with a privately owned trade or
115 technical school.

116 (2) The * * * Mississippi Community College Board shall
117 appoint such staff as may be required for the performance of the
118 commission's duties and provide necessary facilities.

119 (3) The * * * Mississippi Community College Board shall levy
120 only fees authorized in this chapter only in such amounts as may
121 be required for the performance of the commission's duties.

122 (4) In addition to the fees authorized in this chapter,
123 the * * * Mississippi Community College Board is authorized to
124 levy and collect fees from proprietary schools and colleges (a) to
125 recover the cost of audits, investigations and hearings relating
126 to such institutions, and (b) to recover the cost of activities



127 conducted under Section 73-15-25 relating to the accreditation of
128 practical nursing programs.

129 (5) It shall be the purpose of the Commission on Proprietary
130 School and College Registration to establish and implement the
131 registration program as provided in this chapter. All
132 controversies involving the registration of such schools shall be
133 initially heard by a duly authorized hearing officer of the
134 commission before whom a complete record shall be made. After the
135 conclusion of the hearing, the duly authorized hearing officer of
136 the commission shall make a recommendation to the commission as to
137 the resolution of the controversies, and the commission, after
138 considering the transcribed record and the recommendation of its
139 hearing officer, shall make its decision which becomes final
140 unless the school or college or other person involved shall appeal
141 to the * * * Mississippi Community College Board, which appeal
142 shall be on the record previously made before the commission's
143 hearing officer except as may be provided by rules and regulations
144 adopted by the * * * Mississippi Community College Board. All
145 appeals from the * * * Mississippi Community College Board shall
146 be on the record and shall be filed in the Chancery Court of the
147 First Judicial District of Hinds County, Mississippi.

148 **SECTION 3.** Section 75-60-5, Mississippi Code of 1972, is
149 amended as follows:

150 75-60-5. (1) The provisions of this chapter do not apply to
151 the following categories of courses, schools or colleges:



152 (a) Tuition-free courses or schools conducted by
153 employers exclusively for their own employees;

154 (b) Schools, colleges, technical institutes, community
155 colleges, junior colleges or universities under the jurisdiction
156 of the Board of Trustees of State Institutions of Higher Learning
157 or the * * * Mississippi Community College Board;

158 (c) Schools or courses of instruction under the
159 jurisdiction of the State Board of Cosmetology, State Board of
160 Barber Examiners * * *, the State Board of Massage Therapy or the
161 State Board of Nursing;

162 (d) Courses of instruction required by law to be
163 approved or licensed, or given by institutions approved or
164 licensed, by a state board or agency other than the Commission on
165 Proprietary School and College Registration; however, a school so
166 approved or licensed may apply to the Commission on Proprietary
167 School and College Registration for a certificate of registration
168 to be issued in accordance with the provisions of this chapter;

169 (e) Correspondence * * * education;

170 (f) Nonprofit private schools offering academic credits
171 at primary or secondary levels, or conducting classes for
172 exceptional education as defined by regulations of the State
173 Department of Education;

174 (g) Private nonprofit colleges and universities or any
175 private school offering academic credits at primary, secondary or
176 postsecondary levels;



177 (h) Courses of instruction conducted by a public school
178 district or a combination of public school districts;

179 (i) Courses of instruction conducted outside the United
180 States;

181 (j) A school that offers only instruction in subjects
182 that the Commission on Proprietary School and College Registration
183 determines are primarily for a vocational, personal improvement or
184 cultural purposes and that does not represent to the public that
185 its course of study or instruction will or may produce income for
186 those who take that study or instruction;

187 (k) Courses conducted primarily on an individual
188 tutorial basis, where not more than one (1) student is involved at
189 any one time, except in those instances where the Commission on
190 Proprietary School and College Registration determines that the
191 course is for the purpose of preparing for a vocational objective;

192 (l) Kindergartens or similar programs for preschool-age
193 children.

194 * * *

195 **SECTION 4.** Section 75-60-11, Mississippi Code of 1972, is
196 amended as follows:

197 75-60-11. (1) The Commission on Proprietary School and
198 College Registration shall issue a certificate of registration to
199 an applicant of good reputation, offering one or more courses of
200 instruction upon determining that the applicant has the
201 facilities, resources and faculty to provide students with the



202 kind of instruction that it proposes to offer. A certificate of
203 registration shall be granted or denied within sixty (60) days of
204 the receipt of the application therefor by the commission. If the
205 commission has not completed its determination with respect to the
206 issuance of the certificate of registration within such sixty-day
207 period, it shall issue a temporary certificate to the applicant,
208 which certificate is sufficient to meet the requirements of
209 Section 75-60-13 until such time as determination is made. Any
210 certificate issued by the commission is valid only for the
211 institution and courses for which it is issued and does not cover
212 other schools or branches operated by the owner. A certificate of
213 registration is valid for two (2) years unless earlier revoked for
214 cause by the commission. The commission shall adopt rules and
215 regulations for administration of the registration process. The
216 commission may cause an investigation to be made into the
217 correctness of the information submitted in any application for
218 registration. If the commission believes that false, misleading
219 or incomplete information has been submitted to it in connection
220 with any application for registration, the commission shall
221 conduct a hearing on the matter and may withhold a certificate of
222 registration upon finding that the applicant has failed to meet
223 the standards for such certificate or has submitted false,
224 misleading or incomplete information to the commission.
225 Application for a certificate of registration shall be made in
226 writing to the commission on forms furnished by the commission. A



227 certificate of registration is not transferable and shall be
228 prominently displayed on the premises of an institution.

229 (2) * * * The commission shall assign registration numbers
230 to all schools registered with it. Schools shall display their
231 registration numbers on all school publications and on all
232 advertisements bearing the name of the school.

233 **SECTION 5.** Section 75-60-19, Mississippi Code of 1972, is
234 amended as follows:

235 75-60-19. (1) The Commission on Proprietary School and
236 College Registration may suspend, revoke or cancel a certificate
237 of registration for any one (1) or any combination of the
238 following causes:

239 (a) Violation of any provision of the sections of this
240 chapter or any regulation made by the commission;

241 (b) The furnishing of false, misleading or incomplete
242 information requested by the commission;

243 (c) The signing of an application or the holding of a
244 certificate of registration by a person who has pleaded guilty or
245 has been found guilty of a felony or has pleaded guilty or been
246 found guilty of any other indictable offense;

247 (d) The signing of an application or the holding of a
248 certificate of registration by a person who is addicted to the use
249 of any narcotic drug, or who is found to be mentally incompetent;

250 (e) Violation of any commitment made in an application
251 for a certificate of registration;



252 (f) Presentation to prospective students of misleading,
253 false or fraudulent information relating to the course of
254 instruction, employment opportunity, or opportunities for
255 enrollment in accredited institutions of higher education after
256 entering or completing courses offered by the holder of a
257 certificate of registration;

258 (g) Failure to provide or maintain premises or
259 equipment for offering courses of instruction in a safe and
260 sanitary condition;

261 (h) Refusal by an agent to display his agent permit
262 upon demand of a prospective student or other interested person;

263 (i) Failure to maintain financial resources adequate
264 for the satisfactory conduct of courses of study as presented in
265 the plan of operation or to retain a sufficient number and
266 qualified staff of instruction; however nothing in this chapter
267 shall require an instructor to be certificated by the Commission
268 on Proprietary School and College Registration or to hold any type
269 of post-high school degree;

270 (j) Offering training or courses of instruction other
271 than those presented in the application; however, schools may
272 offer special courses adapted to the needs of individual students
273 where the special courses are in the subject field specified in
274 the application;

275 (k) Accepting the services of an agent not licensed in
276 accordance with Sections 75-60-23 through 75-60-37, inclusive;



277 (1) Conviction or a plea of nolo contendere on the part
278 of any owner, operator or director of a registered school of any
279 felony under Mississippi law or the law of another jurisdiction;

280 (m) Continued employment of a teacher or instructor who
281 has been convicted of or entered a plea of nolo contendere to any
282 felony under Mississippi law or the law of another jurisdiction;

283 (n) Incompetence of any owner or operator to operate a
284 school.

285 (2) (a) Any person who believes he has been aggrieved by a
286 violation of this section shall have the right to file a written
287 complaint within two (2) years of the alleged violation. The
288 commission shall maintain a written record of each complaint that
289 is made. The commission shall also send to the complainant a form
290 acknowledging the complaint and requesting further information if
291 necessary and shall advise the director of the school that a
292 complaint has been made and, where appropriate, the nature of the
293 complaint.

294 (b) The commission shall within twenty (20) days of
295 receipt of such written complaint commence an investigation of the
296 alleged violation and shall, within ninety (90) days of the
297 receipt of such written complaint, issue a written finding. The
298 commission shall furnish such findings to the person who filed the
299 complaint and to the chief operating officer of the school cited
300 in the complaint. If the commission finds that there has been a



301 violation of this section, the commission shall take appropriate
302 action.

303 (c) Schools shall disclose in writing to all
304 prospective and current students their right to file a complaint
305 with the commission.

306 (d) The existence of an arbitration clause in no way
307 negates the student's right to file a complaint with the
308 commission.

309 (* * *e) The commission may initiate an investigation
310 without a complaint.

311 (3) **Hearing procedures.** (a) Upon a finding that there is
312 good cause to believe that a school, or an officer, agent,
313 employee, partner or teacher, has committed a violation of
314 subsection (1) of this section, the commission shall initiate
315 proceedings by serving a notice of hearing upon each and every
316 such party subject to the administrative action. The school or
317 such party shall be given reasonable notice of hearing, including
318 the time, place and nature of the hearing and a statement
319 sufficiently particular to give notice of the transactions or
320 occurrences intended to be proved, the material elements of each
321 cause of action and the civil penalties and/or administrative
322 sanctions sought.

323 (b) Opportunity shall be afforded to the party to
324 respond and present evidence and argument on the issues involved
325 in the hearing including the right of cross-examination. In a



326 hearing, the school or such party shall be accorded the right to
327 have its representative appear in person or by or with counsel or
328 other representative. Disposition may be made in any hearing by
329 stipulation, agreed settlement, consent order, default or other
330 informal method.

331 (c) The commission shall designate an impartial hearing
332 officer to conduct the hearing, who shall be empowered to:

333 (i) Administer oaths and affirmations; and

334 (ii) Regulate the course of the hearings, set the
335 time and place for continued hearings, and fix the time for filing
336 of briefs and other documents; and

337 (iii) Direct the school or such party to appear
338 and confer to consider the simplification of the issues by
339 consent; and

340 (iv) Grant a request for an adjournment of the
341 hearing only upon good cause shown.

342 The strict legal rules of evidence shall not apply, but the
343 decision shall be supported by substantial evidence in the record.

344 (4) The commission, acting by and through its hearing
345 officer, is hereby authorized and empowered to issue subpoenas for
346 the attendance of witnesses and the production of books and papers
347 at such hearing. Process issued by the commission shall extend to
348 all parts of the state and shall be served by any person
349 designated by the commission for such service. Where, in any
350 proceeding before the hearing officer, any witness fails or



351 refuses to attend upon a subpoena issued by the commission,
352 refuses to testify, or refuses to produce any books and papers the
353 production of which is called for by a subpoena, the attendance of
354 such witness, the giving of his testimony or the production of the
355 books and papers shall be enforced by any court of competent
356 jurisdiction of this state in the manner provided for the
357 enforcement of attendance and testimony of witnesses in civil
358 cases in the courts of this state.

359 (5) **Decision after hearing.** The hearing officer shall make
360 written findings of fact and conclusions of law, and shall also
361 recommend in writing to the commission a final decision, including
362 penalties. The hearing officer shall mail a copy of his findings
363 of fact, conclusions of law and recommended penalty to the party
364 and his attorney, or representative. The commission shall make
365 the final decision, which shall be based exclusively on evidence
366 and other materials introduced at the hearing. If it is
367 determined that a party has committed a violation, the commission
368 shall issue a final order and shall impose penalties in accordance
369 with this section. The commission shall send by certified mail,
370 return receipt requested, a copy of the final order to the party
371 and his attorney, or representative. The commission shall, at the
372 request of the school or such party, furnish a copy of the
373 transcript or any part thereof upon payment of the cost thereof.

374 (6) **Civil penalties and administrative sanctions.** (a) A
375 hearing officer may recommend, and the commission may impose, a



376 civil penalty not to exceed Two Thousand Five Hundred Dollars
377 (\$2,500.00) for any violation of this section. In the case of a
378 second or further violation committed within the previous five (5)
379 years, the liability shall be a civil penalty not to exceed Five
380 Thousand Dollars (\$5,000.00) for each such violation.

381 (b) Notwithstanding the provisions of paragraph (a) of
382 this subsection, a hearing officer may recommend and the
383 commission may impose a civil penalty not to exceed Twenty-five
384 Thousand Dollars (\$25,000.00) for any of the following violations:
385 (i) operation of a school without a registration in violation of
386 this chapter; (ii) operation of a school knowing that the school's
387 registration has been suspended or revoked; (iii) use of false,
388 misleading, deceptive or fraudulent advertising; (iv) employment
389 of recruiters on the basis of a commission, bonus or quota, except
390 as authorized by the commission; (v) directing or authorizing
391 recruiters to offer guarantees of jobs upon completion of a
392 course; (vi) failure to make a tuition refund when such failure is
393 part of a pattern of misconduct; or (vii) violation of any other
394 provision of this chapter, or any rule or regulation promulgated
395 pursuant thereto, when such violation constitutes part of a
396 pattern of misconduct which significantly impairs the educational
397 quality of the program or programs being offered by the school.
398 For each enumerated offense, a second or further violation
399 committed within the previous five (5) years shall be subject to a



400 civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00)
401 for each such violation.

402 (c) In addition to the penalties authorized in
403 paragraphs (a) and (b) of this subsection, a hearing officer may
404 recommend and the commission may impose any of the following
405 administrative sanctions: (i) a cease and desist order; (ii) a
406 mandatory direction; (iii) a suspension or revocation of a
407 certificate of registration; (iv) a probation order; or (v) an
408 order of restitution.

409 (d) The commission may suspend a registration upon the
410 failure of a school to pay any fee, fine or penalty as required by
411 this chapter unless such failure is determined by the commission
412 to be for good cause.

413 (e) All civil penalties, fines and settlements received
414 shall accrue to the credit of the Commission on Proprietary School
415 and College Registration.

416 (7) Any penalty or administrative sanction imposed by the
417 commission under this section may be appealed by the school,
418 college or other person affected to the * * * Mississippi
419 Community College Board as provided in Section 75-60-4(3), which
420 appeal shall be on the record previously made before the
421 commission's hearing officer. All appeals from the * * *
422 Mississippi Community College Board shall be on the record and
423 shall be filed in the Chancery Court of the First Judicial
424 District of Hinds County, Mississippi.



425 **SECTION 6.** Section 75-60-23, Mississippi Code of 1972, is
426 amended as follows:

427 75-60-23. No person * * * employed by an institution
428 licensed by the commission, regardless of job title, job
429 description, full-time or part-time employment status, shall
430 directly or indirectly influence the decision of any prospective
431 student to enroll for a fee in a course of instruction * * *
432 without first * * * securing a permit as an agent from the
433 Commission on Proprietary School and College Registration. If
434 the * * * person represents more than one (1) * * * institution, a
435 separate permit shall be obtained for each * * * institution
436 represented * * *. Agent permits shall only be issued to agents
437 of * * * institutions that hold a certificate of
438 registration * * * issued by the commission.

439 **SECTION 7.** Section 75-60-25, Mississippi Code of 1972, is
440 amended as follows:

441 75-60-25. The application for an agent permit shall be made
442 on forms to be furnished by the Commission on Proprietary School
443 and College Registration. Any agent permit applied for shall be
444 granted or denied within sixty (60) days of the receipt of the
445 application therefor by the commission. If the commission has not
446 completed its determination with respect to the issuance of an
447 agent permit within such sixty-day period, it shall issue a
448 temporary agent permit to the applicant, which permit is
449 sufficient to meet the requirements of Section 75-60-23 until such



450 time as such determination is made. Upon approval for an agent
451 permit, the commission shall issue a pocket card to the person,
452 giving his name, * * * agent permit number and the name and * * *
453 campus location of his employing school, and certifying that the
454 person whose name appears on the card is an authorized agent of
455 the school. An agent permit is valid for one (1) year from the
456 date on which it was issued.

457 **SECTION 8.** This act shall take effect and be in force from
458 and after July 1, 2013.

