

By: Senator(s) Burton

To: Public Health and
Welfare; Judiciary, Division
A

SENATE BILL NO. 2091

1 AN ACT TO AMEND SECTION 97-23-43, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY HEALTH CARE PRACTITIONER WHO PRACTICES WITHOUT
3 A LICENSE SHALL BE SUBJECT TO CRIMINAL PENALTIES AND TO PRESCRIBE
4 THE PENALTIES FOR PRACTICING CERTAIN PROFESSIONS WITHOUT A
5 LICENSE; TO AMEND SECTION 41-121-9, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT THE PENALTY PROVISIONS OF THE "PATIENT'S RIGHT TO
7 INFORMED HEALTH CARE CHOICES ACT" ARE IN ADDITION TO SUCH CRIMINAL
8 PENALTY PROVISIONS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 97-23-43, Mississippi Code of 1972, is
11 amended as follows:

12 97-23-43. If any person shall practice as an attorney and
13 counselor-at-law, or shall practice as a * * * "health care
14 practitioner" as defined in "The Patient's Right to Informed
15 Health Care Choices Act," Section 41-121-5(c), without having
16 first been examined and obtained a license as required by law, he
17 shall, on conviction, of the first offense, be punished by a fine
18 of not less than * * * One Thousand Dollars (\$1,000.00) or by
19 imprisonment in the county jail not less than three (3) months or
20 more than twelve (12) months or both; and such person, upon
21 conviction of the second offense against this section, shall be



22 punished by a fine of not less than * * * Ten Thousand Dollars
23 (\$10,000.00) or by imprisonment in the Penitentiary not less than
24 one (1) year or more than two (2) years; and such person, upon
25 conviction of any succeeding offense, shall be punished in the
26 discretion of the court. * * * Each day that this section is
27 violated shall constitute a separate offense and shall be
28 punishable as such.

29 **SECTION 2.** Section 41-121-9, Mississippi Code of 1972, is
30 amended as follows:

31 41-121-9. (1) Failure to comply with any provision under
32 this section shall constitute a violation under this chapter,
33 punishable upon conviction by the criminal penalties prescribed
34 under Section 97-23-43, Mississippi Code of 1972, in addition to
35 the administrative penalties provided under this section.

36 (2) Knowingly aiding, assisting, procuring, employing or
37 advising any unlicensed person or entity to practice or engage in
38 acts contrary to the health care practitioner's degree of
39 licensure shall constitute a violation under this chapter,
40 punishable upon conviction by the criminal penalties prescribed
41 under Section 97-23-43, Mississippi Code of 1972, in addition to
42 the administrative penalties provided under this section.

43 (3) Delegating or contracting for the performance of health
44 care services by a health care practitioner when the licensee
45 delegating or contracting for performance knows, or has reason to
46 know, the person does not have the required authority under the



47 person's licensure, shall constitute a violation under this
48 chapter, punishable upon conviction by the criminal penalties
49 prescribed under Section 97-23-43, Mississippi Code of 1972, in
50 addition to the administrative penalties provided under this
51 section.

52 (4) Violations of this chapter relating to practitioners of
53 pharmacy shall be regulated in accordance with the restrictions on
54 the use of business name for pharmacists in Section 73-21-109.

55 (5) Each day that this chapter is violated shall constitute
56 a separate offense and shall be punishable as such.

57 (6) Any health care practitioner who violates any provision
58 under this chapter is guilty of unprofessional conduct and subject
59 to disciplinary action under the appropriate licensure provisions
60 governing the respective health care practitioner.

61 (7) Any and all fees and other amounts billed to and paid by
62 the patient may be effectively rescinded and refunded. This
63 includes third parties contracted to collect fees on behalf of the
64 health care practitioner, the health care practitioner's employer,
65 or other entity contracting with the health care practitioner as
66 determined by each respective licensing board.

67 (8) The imposition of professional sanctions, administrative
68 fees or other disciplinary actions shall be publicly reported by
69 the governmental administrative body of proper jurisdiction at its
70 discretion.



71 (9) Notwithstanding the imposition of any penalty, a
72 professional licensing board or other administrative agency with
73 jurisdiction may seek an injunction or other legal means as
74 appropriate against a person or entity violating this chapter as
75 determined by each respective licensing board.

76 (10) A licensing board may only enforce violations of this
77 chapter with licensees that are subject to its jurisdiction.

78 **SECTION 3.** This act shall take effect and be in force from
79 and after July 1, 2016.

