

By: Representative Chism

To: Insurance

## HOUSE BILL NO. 862

1 AN ACT TO CREATE THE PATIENT CHOICE ACT OF 2017; TO CREATE  
2 NEW SECTION 83-41-221, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
3 AN INSURED IS ENTITLED TO BENEFITS UNDER A HEALTH BENEFIT PLAN IF  
4 THE HEALTH BENEFIT PLAN PROVIDES FOR REIMBURSEMENT FOR THE SERVICE  
5 IF PERFORMED BY A DULY LICENSED PHYSICIAN OR PODIATRIST AND THE  
6 SERVICE IS SO PERFORMED; TO CREATE NEW SECTION 83-41-223,  
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A HEALTH BENEFIT PLAN  
8 SHALL NOT DISCRIMINATE AGAINST ANY PHYSICIAN WHO IS LOCATED WITHIN  
9 THE GEOGRAPHIC COVERAGE AREA OF THE HEALTH BENEFIT PLAN AND WHO IS  
10 WILLING TO MEET THE TERMS AND CONDITIONS FOR PARTICIPATION  
11 ESTABLISHED BY THE HEALTH BENEFIT PLAN; TO CREATE NEW SECTION  
12 83-41-225, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NOTHING IN  
13 THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE OR PROHIBIT THE SAME  
14 REIMBURSEMENT TO DIFFERENT TYPES OF PHYSICIANS WHOSE LICENSED  
15 SCOPE OF SPECIALTY PRACTICE DIFFERS; TO PROVIDE THAT NOTHING IN  
16 THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE OR PROHIBIT COVERAGE OF  
17 THE SERVICES OF ANY PARTICULAR TYPE OF PROVIDER; TO CREATE NEW  
18 SECTION 83-41-227, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A  
19 HEALTH BENEFIT PLAN SHALL NOT, DIRECTLY OR INDIRECTLY, PROHIBIT OR  
20 LIMIT A PHYSICIAN THAT IS QUALIFIED UNDER THIS ARTICLE AND IS  
21 WILLING TO ACCEPT THE HEALTH BENEFIT PLAN'S OPERATING TERMS AND  
22 CONDITIONS, SCHEDULE OF FEES, COVERED EXPENSES AND UTILIZATION  
23 REGULATIONS AND QUALITY STANDARDS, FROM THE OPPORTUNITY TO  
24 PARTICIPATE IN THAT PLAN; TO PROVIDE THAT NOTHING IN THIS ARTICLE  
25 SHALL PREVENT A HEALTH BENEFIT PLAN FROM INSTITUTING MEASURES  
26 DESIGNED TO MAINTAIN QUALITY AND TO CONTROL COSTS, INCLUDING, BUT  
27 NOT LIMITED TO, THE UTILIZATION OF A GATEKEEPER SYSTEM, AS LONG AS  
28 SUCH MEASURES ARE IMPOSED EQUALLY ON ALL PROVIDERS IN THE SAME  
29 CLASS; TO CREATE NEW SECTION 83-41-229, MISSISSIPPI CODE OF 1972,  
30 TO CLARIFY HOW THE ARTICLE SHOULD BE CONSTRUED; TO CREATE NEW  
31 SECTION 83-41-231, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
32 COMMISSIONER OF INSURANCE'S POWERS AND DUTIES REGARDING ARTICLE 5,  
33 CHAPTER 41, TITLE 83; TO AMEND SECTIONS 83-41-203, 83-41-211,  
34 83-41-213 AND 83-41-215, MISSISSIPPI CODE OF 1972, TO REVISE



35 CERTAIN EXISTING LAWS PROVIDING FOR CHOICE OF PRACTITIONER; AND  
36 FOR RELATED PURPOSES.

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

38 **SECTION 1.** This act shall be known and may be cited as "The  
39 Patient Choice Act of 2017."

40 **SECTION 2.** The following shall be codified as Section  
41 83-41-221, Mississippi Code of 1972:

42 83-41-221. (1) From and after July 1, 2017, whenever any  
43 health benefit plan provides for reimbursement for any service  
44 which is within the lawful scope of practice of a duly licensed  
45 physician or podiatrist who is licensed under the Mississippi  
46 Board of Medical Licensure, the insured or other person entitled  
47 to benefits under such health benefit plan shall be entitled to  
48 reimbursement for such services if performed by a duly licensed  
49 physician or podiatrist. Any duly licensed physician or  
50 podiatrist shall be entitled to participate in such health benefit  
51 plan providing for reimbursement for any service which is within  
52 the lawful scope of practice of a duly licensed physician or  
53 podiatrist.

54 It is the intent of the Legislature by this section to  
55 provide for increased access of health delivery services to the  
56 underserved.

57 (2) Any duly licensed physician or podiatrist shall not be  
58 entitled to participate in a health benefit plan described in  
59 subsection (1) of this section if he or she is committing an act  
60 of fraud or other illegal activity.



61           **SECTION 3.** The following shall be codified as Section  
62 83-41-223, Mississippi Code of 1972:

63           83-41-223. A health benefit plan shall not discriminate  
64 against any physician who is located within the geographic  
65 coverage area of the health benefit plan and who is willing to  
66 meet the terms and conditions for participation established by the  
67 health benefit plan. Therefore, notification of acceptance should  
68 occur within sixty (60) days of completed application to such  
69 health benefit plan.

70           **SECTION 4.** The following shall be codified as Section  
71 83-41-225, Mississippi Code of 1972:

72           83-41-225. Nothing in this article shall be construed to  
73 require or prohibit the same reimbursement to different types of  
74 physicians whose licensed scope of specialty practice differs nor  
75 shall anything in this article be construed to require or prohibit  
76 coverage of the services of any particular type of provider.

77           **SECTION 5.** The following shall be codified as Section  
78 83-41-227, Mississippi Code of 1972:

79           83-41-227. (1) A health benefit plan shall not, directly or  
80 indirectly, prohibit or limit a physician that is qualified under  
81 this article and is willing to accept the health benefit plan's  
82 operating terms and conditions, schedule of fees, covered expenses  
83 and utilization regulations and quality standards, from the  
84 opportunity to participate in that plan.



85 (2) Nothing in this article shall prevent a health benefit  
86 plan from instituting measures designed to maintain quality, to  
87 provide merit, shared savings, or monetary rewards through  
88 controlling costs and to control costs, including, but not limited  
89 to, the utilization of a gatekeeper system, as long as such  
90 measures are imposed equally on all providers in the same class.

91 **SECTION 6.** The following shall be codified as Section  
92 83-41-229, Mississippi Code of 1972:

93 83-41-229. (1) This article shall not be construed:

94 (a) To require all physicians or a percentage of  
95 physicians in the state or a locale to participate in the  
96 provision of services for a health benefit plan; or

97 (b) To take away the authority of health benefit plans  
98 that provide coverage of physician services to set the terms and  
99 conditions for participation by physicians, though health benefit  
100 plans shall apply such terms and conditions in a nondiscriminatory  
101 manner.

102 (2) This article shall apply to:

103 (a) All health benefit plans, regardless of whether  
104 they are providing insurance, including pre-paid coverage, or  
105 administering or contracting to provide provider networks; and

106 (b) All multiple employer welfare arrangements and  
107 multiple employer trusts.

108 **SECTION 7.** The following shall be codified as Section  
109 83-41-231, Mississippi Code of 1972:



110           83-41-231. The Commissioner of Insurance acting through the  
111 department, shall:

112                   (a) Enforce this article using powers granted to the  
113 commissioner in the Mississippi Insurance Code.

114                   (b) Be entitled to seek an injunction against a health  
115 insurer in a court of competent jurisdiction.

116           **SECTION 8.** Section 83-41-203, Mississippi Code of 1972, is  
117 amended as follows:

118           83-41-203. (1) Whenever any policy of insurance or any  
119 medical service plan or hospital service contract or hospital and  
120 medical service contract issued, delivered, administered,  
121 continued or renewed in this state (hereinafter referred to in  
122 this article as "health benefit plan") provides for reimbursement  
123 for any visual service which is within the lawful scope of  
124 practice of a duly licensed optometrist as defined in Section  
125 73-19-1, Mississippi Code of 1972, the insured or other person  
126 entitled to benefits under such \* \* \* health benefit plan shall be  
127 entitled to reimbursement for such services, whether such services  
128 are performed by a duly licensed physician or by a duly licensed  
129 optometrist, \* \* \* plan or contract. Duly licensed optometrists  
130 shall be entitled to participate in such policies, plans, or  
131 contracts providing for visual services, as authorized by Sections  
132 73-19-1 and 43-3-67, Mississippi Code of 1972, to the same extent  
133 as duly licensed physicians.



134       (2) Any duly licensed optometrist or duly licensed physician  
135 shall not be entitled to participate in a health benefit plan  
136 described in subsection (1) of this section if he or she is  
137 committing an act of fraud or other illegal activity.

138       **SECTION 9.** Section 83-41-211, Mississippi Code of 1972, is  
139 amended as follows:

140       83-41-211. (1) Whenever any \* \* \* health benefit plan  
141 provides for reimbursement for any diagnosis and treatment of  
142 mental, nervous or emotional disorders only which are within the  
143 lawful scope of practice of a duly licensed psychologist as  
144 defined in Section 73-31-3, within the lawful scope of practice of  
145 a duly licensed professional counselor as defined in Section  
146 73-30-3, within the lawful scope of practice of a duly licensed  
147 clinical social worker as defined in Section 73-53-3, or within  
148 the lawful scope of practice of a duly licensed marriage and  
149 family therapist as defined in Section 73-54-5, the insured or  
150 other person entitled to benefits under such \* \* \* health benefit  
151 plan shall be entitled to reimbursement for such services, whether  
152 such services are performed by a duly licensed physician or by a  
153 duly licensed psychologist, by a duly licensed professional  
154 counselor, by a duly licensed clinical social worker or by a duly  
155 licensed marriage and family therapist \* \* \*. Duly licensed  
156 psychologists shall be entitled to participate in such \* \* \*  
157 health benefit plans providing for the diagnosis and treatment of  
158 mental, nervous or emotional disorders only as authorized by



159 Section 73-31-3. A duly licensed professional counselor shall be  
160 entitled to participate in such \* \* \* health benefit plans  
161 providing for the diagnosis and treatment of mental, nervous or  
162 emotional disorders only as authorized by Section 73-30-3. A duly  
163 licensed clinical social worker shall be entitled to participate  
164 in such \* \* \* health benefit plans providing for the diagnosis and  
165 treatment of mental, nervous or emotional disorders only as  
166 authorized by Section 73-53-3. A duly licensed marriage and  
167 family therapist shall be entitled to participate in such \* \* \*  
168 health benefit plans providing for the diagnosis and treatment of  
169 mental, nervous or emotional disorders only as authorized by  
170 Section 73-54-5 et seq. The addition of marriage and family  
171 therapists as providers herein is intended to only allow them to  
172 treat mental, nervous or emotional disorders as treated by other  
173 providers, to the extent that marriage and family therapists are  
174 qualified to treat such disorders. Notwithstanding anything in  
175 this section to the contrary, the scope or definition of mental,  
176 nervous or emotional disorders shall remain the same and shall not  
177 be expanded by the addition of marriage and family therapists as  
178 allowable providers.

179 (2) Any duly licensed psychologist, duly licensed  
180 professional counselor, duly licensed clinical social worker, duly  
181 licensed marriage and family therapist or duly licensed physician  
182 shall not be entitled to participate in a health benefit plan



183 described in subsection (1) of this section if he or she is  
184 committing an act of fraud or other illegal activity.

185 **SECTION 10.** Section 83-41-213, Mississippi Code of 1972, is  
186 amended as follows:

187 83-41-213. (1) From and after January 1, 1999, whenever  
188 any \* \* \* health benefit plan provides for reimbursement for any  
189 service which is within the lawful scope of practice of a  
190 duly \* \* \* licensed nurse practitioner as provided for by rules  
191 and regulations implemented by the Mississippi Board of Nursing  
192 under Section 73-15-5(2), the insured or other person entitled to  
193 benefits under such \* \* \* health benefit plan shall be entitled to  
194 reimbursement for such services, whether such services are  
195 performed by a duly licensed physician or by a duly \* \* \* licensed  
196 nurse practitioner \* \* \*. Duly \* \* \* licensed nurse practitioners  
197 shall be entitled to participate in such \* \* \* health benefit  
198 plans providing for the services of nurse practitioners, as  
199 authorized by the rules and regulations implemented by the  
200 Mississippi Board of Nursing under Section 73-15-5(2).  
201 Reimbursement shall be based on services rendered by a duly \* \* \*  
202 licensed nurse practitioner.

203 It is the intent of the Legislature by this section to  
204 provide for increased access of health delivery services to the  
205 underserved.

206 (2) Any duly licensed nurse practitioner or duly licensed  
207 physician shall not be entitled to participate in a health benefit





208 plan described in subsection (1) of this section if he or she is  
209 committing an act of fraud or other illegal activity.

210 **SECTION 11.** Section 83-41-215, Mississippi Code of 1972, is  
211 amended as follows:

212 83-41-215. (1) Whenever any \* \* \* health benefit plan  
213 provides for reimbursement for any service which is within the  
214 lawful scope of practice of a duly licensed chiropractor as  
215 defined in Section 73-6-1, Mississippi Code of 1972, then such  
216 service may be performed by a duly licensed chiropractor, and the  
217 insured or other person entitled to benefits under such \* \* \*  
218 health benefit plan shall be entitled to reimbursement for such  
219 services. The insured shall have the right to choose the place  
220 where the service is to be performed as well as the chiropractor  
221 to perform such service, provided that such service shall be  
222 performed in the chiropractor's office, clinic or regular place of  
223 business. Any duly licensed chiropractor shall be entitled to  
224 participate in such health benefit plan providing for  
225 reimbursement for any service which is within the lawful scope of  
226 practice of a duly licensed chiropractor.

227 (2) Any duly licensed chiropractor shall not be entitled to  
228 participate in a health benefit plan described in subsection (1)  
229 of this section if he or she is committing an act of fraud or  
230 other illegal activity.

231 **SECTION 12.** This act shall take effect and be in force from  
232 and after July 1, 2017.

