

By: Representative Reynolds

To: Public Health and Human Services

HOUSE BILL NO. 1107

1 AN ACT TO CREATE THE MISSISSIPPI GRADUATE REGISTERED
 2 PHYSICIAN ACT; TO PROVIDE THE DEFINITIONS FOR THE ACT; TO PROVIDE
 3 THE QUALIFICATIONS FOR LICENSURE AS A GRADUATE REGISTERED
 4 PHYSICIAN; TO PROVIDE FOR THE RENEWAL OF SUCH A LICENSE; TO
 5 PROVIDE THE AUTHORITY OF A GRADUATE REGISTERED PHYSICIAN; TO
 6 PROVIDE THAT A GRADUATE REGISTERED PHYSICIAN SHALL BE UNDER
 7 SUPERVISION BY A PHYSICIAN; TO PROVIDE FOR DISCIPLINARY ACTION TO
 8 BE TAKEN AGAINST A GRADUATE REGISTERED PHYSICIAN IN CERTAIN
 9 SITUATIONS; TO PROVIDE THAT THE MISSISSIPPI BOARD OF MEDICAL
 10 LICENSURE SHALL PROMULGATE THE NECESSARY RULES TO IMPLEMENT THE
 11 PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS 73-43-11,
 12 41-29-149.1, 73-25-19, 73-25-21, 73-25-23, 73-25-27, 73-25-28,
 13 73-25-29, 73-25-30, 73-25-31, 73-25-32, 73-25-37 AND 73-25-83,
 14 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
 15 AND FOR RELATED PURPOSES.

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

17 **SECTION 1. Title.** This act shall be known and may be cited
 18 as the "Mississippi Graduate Registered Physician Act."

19 **SECTION 2. Definitions.** The following words and phrases
 20 shall have the meanings as defined in this section unless the
 21 context clearly indicates otherwise:

- 22 (1) "Graduate registered physician" means an individual who:
 23 (a) Is a resident of Mississippi who has graduated
 24 from:



25 (i) An accredited allopathic medical school or
26 osteopathic medical school and is not currently enrolled in an
27 accredited graduate medical education training program; or

28 (ii) An accredited foreign medical school that has
29 met all of the requirements from the Educational Commission of
30 Foreign Medical Graduates (ECFMG) and is listed in the World
31 Directory of Medical Schools, and is not currently enrolled in an
32 accredited graduate education training program.

33 (b) Is a dependent medical practitioner who:

34 (i) Only provides healthcare services under the
35 supervision of a physician; and

36 (ii) Works under a physician-drafted protocol
37 approved by the Mississippi State Board of Medical Licensure,
38 which describes how the graduate registered physician and the
39 physician will work together and practice guidelines required by
40 the supervising physician.

41 (2) "Medical school" means a school defined by the board.

42 (3) "Resident of Mississippi" means a natural person who
43 provides evidence deemed sufficient to the Mississippi State Board
44 of Medical Licensure that the person uses a Mississippi residence
45 address for federal or state tax purposes.

46 (4) "Supervising physician" means a physician licensed under
47 the Mississippi State Board of Medical Licensure who has agreed to
48 practice in consultation with a graduate resident physician and
49 who is board eligible in his or her specialty.



50 (5) "Supervision" means overseeing the activities of and
51 accepting responsibility for the medical services rendered by a
52 graduate registered physician. Supervision of each graduate
53 registered physician by a physician or physicians shall be
54 continuous.

55 (6) "Board" means the Mississippi State Board of Medical
56 Licensure.

57 **SECTION 3. Qualifications for licensure.** (1) Except as
58 otherwise provided in this act, an individual shall be licensed by
59 the Mississippi State Board of Medical Licensure before the
60 individual may practice as a graduate registered physician.

61 (2) The board may grant a graduate registered physician
62 license to an applicant who:

63 (a) Submits an application on forms approved by the
64 board;

65 (b) Pays the appropriate fees as determined by the
66 board;

67 (c) Has successfully completed Step 1 and Step 2 of the
68 United States Medical Licensing Examination (USMLE), or the
69 Comprehensive Osteopathic Medical Licensing Examination since
70 2000;

71 (d) Has not completed a postgraduate residency but has
72 successfully completed both parts of Step 2 of the USMLE, Clinical
73 Knowledge (CK) and Clinical Skills (CS), or the osteopathic
74 equivalents since 2000;



75 (e) Has no licensure, certification or registration
76 under current discipline, revocation, suspension or probation for
77 cause resulting from the applicant's medical practice, unless the
78 board considers the conditions and agrees to licensure;

79 (f) Enters into a physician-drafted protocol within six
80 (6) months of initial licensure;

81 (g) Is of good moral character; and

82 (h) Submits to the board any other information that the
83 board deems necessary to evaluate the applicant's qualifications.

84 **SECTION 4. Renewal.** (1) Upon notification from the
85 Mississippi State Board of Medical Licensure, an individual who
86 holds a license as a graduate registered physician in this state
87 shall renew the license by:

88 (a) Submitting the appropriate fee as determined by the
89 board;

90 (b) Completing the appropriate renewal forms;

91 (c) Submitting verification of actual practice under a
92 physician-drafted protocol during the immediately preceding
93 licensure period; and

94 (d) Meeting other requirements set by the board.

95 (2) The board shall determine the renewal period.

96 **SECTION 5. Scope of authority.** (1) (a) A graduate
97 registered physician may provide healthcare services with
98 physician supervision.



99 (b) The supervising physician shall be identified on
100 all prescriptions and orders.

101 (c) A graduate registered physician may perform those
102 duties and responsibilities, including the prescribing, ordering,
103 and administering of drugs and medical devices, that are delegated
104 by his or her supervising physician.

105 (2) A graduate registered physician shall be considered the
106 agent of his or her supervising physician in the performance of
107 all practice-related activities, including but not limited to, the
108 ordering of diagnostic, therapeutic, and other medical services.

109 (3) A graduate registered physician may perform healthcare
110 services in a setting authorized by the supervising physician in
111 accordance with any applicable facility policy.

112 **SECTION 6. Prescriptive authority.** (1) (a) A physician
113 who is supervising a graduate registered physician may delegate
114 prescriptive authority to a graduate registered physician to
115 include prescribing, ordering and administering Schedules II-V
116 controlled substances as described in the Uniform Controlled
117 Substances Law in Sections 41-29-115 through 41-29-121, all legend
118 and over-the-counter drugs, and all non-schedule prescription
119 medications and medical devices.

120 (b) All prescriptions and orders issued by a graduate
121 registered physician also shall identify his or her supervising
122 physician.



123 (2) A graduate registered physician's level of prescriptive
124 authority shall not exceed the authority of the supervising
125 physician.

126 (3) A graduate registered physician who prescribes
127 controlled substances shall register with the Drug Enforcement
128 Administration as part of the Drug Enforcement Administration's
129 Mid-Level Practitioner Registry and the Uniform Controlled
130 Substances Law.

131 **SECTION 7. Supervision.** (1) Supervision of a graduate
132 registered physician shall be continuous and require the
133 supervising physician to be in contact physically, by phone, by
134 teleconference, or by text.

135 (2) Each team of physicians and graduate registered
136 physicians has an obligation to ensure that:

137 (a) The graduate registered physician's scope of
138 practice is identified;

139 (b) The delegation of a medical task is appropriate to
140 the graduate registered physician's level of competence;

141 (c) The relationship and access to the supervising
142 physician is defined; and

143 (d) A process of evaluation of the graduate registered
144 physician's performance is established.

145 (3) The graduate registered physician and supervising
146 physician may designate back-up physicians who agree to supervise



147 the graduate registered physician during the absence of the
148 supervising physician.

149 (4) A physician who desires to supervise a graduate
150 registered physician shall:

151 (a) Be licensed in Mississippi;

152 (b) Notify the board of his or her intent to supervise
153 a graduate registered physician;

154 (c) Submit a statement to the board that he or she will
155 exercise supervision over the graduate registered physician in
156 accordance with rules adopted by the board; and

157 (d) Limit supervision to no more than two (2) graduate
158 registered physicians per supervising physician.

159 **SECTION 8. Notification of intent to practice.** (1) (a)

160 Before initiating practice, a graduate registered physician
161 licensed in Mississippi must submit on forms approved by the board
162 notification of an intent to practice.

163 (b) The notification shall include:

164 (i) The name, business, address, email address,
165 and telephone number of the supervising physician; and

166 (ii) The name, business address, and telephone
167 number of the graduate registered physician.

168 (2) A graduate registered physician shall notify the
169 board of any changes of addition in supervising physicians within
170 ten (10) calendar days.



171 **SECTION 9. Exclusions of limitations of employment.** This
172 chapter shall not be construed to limit the employment arrangement
173 of a graduate registered physician licensed under this act.

174 **SECTION 10. Violation.** Following the exercise of due
175 process, the board may discipline a graduate registered physician
176 who:

177 (a) Fraudulently or deceptively obtains or attempts to
178 obtain a license;

179 (b) Fraudulently or deceptively uses a license;

180 (c) Violates any provision of this act or any rules
181 adopted by the board pertaining to this act;

182 (d) Is convicted of a felony;

183 (e) Is an habitual user of intoxicants or drugs to the
184 extent that he or she is unable to safely perform as a graduate
185 registered physician;

186 (f) Has been adjudicated as mentally incompetent or has
187 a mental condition that renders him or her unable to safely
188 perform as a graduate registered physician; or

189 (g) Has committed an act of moral turpitude.

190 **SECTION 11. Disciplinary authority.** Upon finding that a
191 graduate registered physician has committed an offense described
192 in Section 73-25-29, the board may:

193 (a) Refuse to grant a license;

194 (b) Administer a public or private reprimand;



195 (c) Revoke, suspend, limit or otherwise restrict a
196 license;

197 (d) Require a graduate registered physician to submit
198 to the care, counseling, or treatment of a physician or physicians
199 designated by the board;

200 (e) Suspend enforcement of its finding and place the
201 graduate registered physician on probation with the right to
202 vacate the probationary order for noncompliance; or

203 (f) Restore or reissue, at its discretion, a license
204 and impose any disciplinary or corrective measure that may have
205 been imposed previously.

206 **SECTION 12. Title and practice protection.** An individual
207 who is not licensed under this act is guilty of a Class A
208 misdemeanor and is subject to penalties applicable to the
209 unlicensed practice of medicine if he or she:

210 (a) Holds himself or herself out as a graduate
211 registered physician; or

212 (b) Uses any combination or abbreviation of the term
213 "graduate registered physician" to indicate or imply that he or
214 she is a graduate registered physician.

215 **SECTION 13. Identification requirements.** A graduate
216 registered physician licensed under this act shall keep his or her
217 license available for inspection at his or her primary place of
218 business, and when engaged in professional activities, a graduate
219 registered physician shall wear a name tag identifying himself or



220 herself as a graduate registered physician, and immediately below
221 the licensure of degree, information, in equal size or larger
222 lettering.

223 **SECTION 14. Rule-making authority.** The Mississippi State
224 Board of Medical Licensure shall promulgate rules that are
225 reasonable and necessary to implement this act.

226 **SECTION 15. "Mississippi Medical Emergency Good Samaritan**
227 **Act" provision.** A graduate registered physician shall be subject
228 to the "Mississippi Medical Emergency Good Samaritan Act"
229 provisions embodied in Section 41-29-149.1.

230 **SECTION 16. Patient care orders.** (1) Patient care orders
231 generated by a graduate registered physician shall be construed as
232 having the same medical, health, and legal force and effect as if
233 the orders were generated by his or her supervising physician,
234 provided that the supervising physician's name is identified in
235 the patient care order.

236 (2) The orders shall be complied with and carried out as if
237 the orders had been issued by the graduate registered physician's
238 supervising physician.

239 **SECTION 17. Medical malpractice and professional and legal**
240 **liability for actions.** A graduate registered physician shall be
241 covered under the provisions regarding medical malpractice and
242 legal liability as such applies to his or her supervising
243 physician.



244 **SECTION 18.** Section 73-43-11, Mississippi Code of 1972, is
245 brought forward as follows:

246 73-43-11. The State Board of Medical Licensure shall have
247 the following powers and responsibilities:

248 (a) Setting policies and professional standards
249 regarding the medical practice of physicians, osteopaths,
250 podiatrists and physician assistants practicing with physician
251 supervision;

252 (b) Considering applications for licensure;

253 (c) Conducting examinations for licensure;

254 (d) Investigating alleged violations of the medical
255 practice act;

256 (e) Conducting hearings on disciplinary matters
257 involving violations of state and federal law, probation,
258 suspension and revocation of licenses;

259 (f) Considering petitions for termination of
260 probationary and suspension periods, and restoration of revoked
261 licenses;

262 (g) To promulgate and publish reasonable rules and
263 regulations necessary to enable it to discharge its functions and
264 to enforce the provisions of law regulating the practice of
265 medicine; however, the board shall not adopt any rule or
266 regulation or impose any requirement regarding the licensing of
267 physicians or osteopaths that conflicts with the prohibitions in
268 Section 73-49-3;



269 (h) To enter into contracts with any other state or
270 federal agency, or with any private person, organization or group
271 capable of contracting, if it finds such action to be in the
272 public interest and in the furtherance of its responsibilities;

273 (i) Perform the duties prescribed by Sections 73-26-1
274 through 73-26-5; and

275 (j) Perform the duties prescribed by the Interstate
276 Medical Licensure Compact, Section 73-25-101.

277 **SECTION 19.** Section 41-29-149.1, Mississippi Code of 1972,
278 is brought forward as follows:

279 41-29-149.1. (1) This section shall be known as the
280 "Mississippi Medical Emergency Good Samaritan Act."

281 (2) As used in this section, the following words shall have
282 the meanings ascribed:

283 (a) "Drug overdose" means an acute condition,
284 including, but not limited to, extreme physical illness, decreased
285 level of consciousness, respiratory depression, coma, mania, or
286 death, resulting from the consumption or use of a controlled
287 substance or dangerous drug in violation of this chapter or that a
288 layperson would reasonably believe to be resulting from the
289 consumption or use of a controlled substance or dangerous drug for
290 which medical assistance is required.

291 (b) "Drug violation" means:

292 (i) A violation of Section 41-29-139 for
293 possession of a controlled substance if the aggregate weight,



294 including any mixture, is less than four (4) grams of a solid
295 substance, less than twenty (20) dosage units, less than one (1)
296 milliliter of liquid substance, or, if the substance is placed
297 onto a secondary medium, has a combined weight of less than four
298 (4) grams;

299 (ii) A violation of Section 41-29-139 for
300 possession of thirty (30) grams or less of marijuana or ten (10)
301 grams or less of synthetic cannabinoids; or

302 (iii) A violation of Section 41-29-139(d) (2)
303 relating to possession and use of paraphernalia.

304 (c) "Medical assistance" means aid provided to a person
305 experiencing or believed to be experiencing a drug overdose by a
306 health care professional who is licensed, registered, or certified
307 under the laws of this state and who, acting within the lawful
308 scope of practice, may provide diagnosis, treatment, or emergency
309 services relative to the overdose.

310 (d) "Seeks medical assistance" means accesses or
311 assists in accessing the E-911 system or otherwise contacts or
312 assists in contacting law enforcement or a poison control center
313 or provides care to a person experiencing or believed to be
314 experiencing a drug overdose while awaiting the arrival of medical
315 assistance to aid the person.

316 (3) (a) Any person who in good faith seeks medical
317 assistance for someone who is experiencing a drug overdose shall
318 not be arrested, charged, or prosecuted for a drug violation if



319 there is evidence that the person is under the influence of a
320 controlled substance or in possession of a controlled substance as
321 referenced in subsection (2)(b) of this section.

322 (b) Any person who is experiencing a drug overdose and,
323 in good faith, seeks medical assistance or is the subject of a
324 request for medical assistance shall not be arrested, charged, or
325 prosecuted for a drug violation if there is evidence that the
326 person is under the influence of a controlled substance or in
327 possession of a controlled substance as referenced in subsection
328 (2)(b) of this section.

329 (c) A person shall also not be subject to, if related
330 to the seeking of medical assistance:

331 (i) Penalties for a violation of a permanent or
332 temporary protective order or restraining order;

333 (ii) Sanctions for a violation of a condition of
334 pretrial release, condition of probation, or condition of parole
335 based on a drug violation; or

336 (iii) Forfeiture of property pursuant to Section
337 41-29-153 or 41-29-176 for a drug violation, except that prima
338 facie contraband shall be subject to forfeiture.

339 (4) Nothing in this section shall be construed:

340 (a) To limit the admissibility of any evidence in
341 connection with the investigation or prosecution of a crime with
342 regard to a defendant who does not qualify for the protections of
343 subsection (3) of this section or with regard to other crimes



344 committed by a person who otherwise qualifies for protection
345 pursuant to subsection (3) of this section;

346 (b) To limit any seizure of evidence or contraband
347 otherwise permitted by law; and

348 (c) To limit or abridge the authority of a law
349 enforcement officer to detain or take into custody a person in the
350 course of an investigation or to effectuate an arrest for any
351 offense except as provided in subsection (3) of this section.

352 **SECTION 20.** Section 73-25-19, Mississippi Code of 1972, is
353 brought forward as follows:

354 73-25-19. Nonresident physicians not holding license from
355 the state shall not be permitted to practice medicine under any
356 circumstances after remaining in the state for five (5) days,
357 except when called in consultation by a licensed physician
358 residing in this state. This section shall not apply to any
359 nonresident physician who holds a temporary license to practice
360 medicine at a youth camp issued under the provisions of Section
361 75-74-8 and Section 73-25-17.

362 **SECTION 21.** Section 73-25-21, Mississippi Code of 1972, is
363 brought forward as follows:

364 73-25-21. The State Board of Medical Licensure may grant
365 license to practice medicine without examination as to learning to
366 graduates in medicine or osteopathic medicine who hold license to
367 practice medicine from another state, provided the requirements in
368 such state are equal to those required by the State Board of



369 Medical Licensure. The State Board of Medical Licensure may
370 affiliate with and recognize for the purpose of waiving
371 examination diplomates of the National Board of Medical Examiners,
372 or the National Board of Examiners for Osteopathic Physicians and
373 Surgeons in granting license to practice medicine in Mississippi.
374 In addition, the board may grant a license to practice medicine
375 without examination to Licentiates of the Medical Council of
376 Canada (LMCC) who are graduates of Canadian medical schools which
377 are accredited by the Liaison Committee on Medical Education, as
378 sponsored by the American Medical Association and the Association
379 of American Medical Colleges, and by the Committee for
380 Accreditation of Canadian Medical Schools, as sponsored by the
381 Canadian Medical Association and the Association of Canadian
382 Medical Colleges.

383 The issuance of a license by reciprocity to a
384 military-trained applicant or military spouse shall be subject to
385 the provisions of Section 73-50-1.

386 **SECTION 22.** Section 73-25-23, Mississippi Code of 1972, is
387 brought forward as follows:

388 73-25-23. The State Board of Medical Licensure is hereby
389 authorized and empowered to grant limited institutional license
390 for the practice of medicine in state institutions to graduates of
391 foreign medical colleges approved by the National Educational
392 Council for Foreign Medical Graduates or its successor, subject to
393 the conditions as set out herein.



394 Any graduate of a foreign medical college approved by the
395 organizations specified in the foregoing paragraph who is employed
396 or is being considered for employment to practice medicine in one
397 or more Mississippi state-supported institution(s) located in the
398 same county shall make application for license to the State Board
399 of Medical Licensure. The application shall be made on a form
400 prescribed by the Board of Medical Licensure as required by laws
401 of the State of Mississippi. The application shall also state the
402 institution or institutions in which the applicant has assurance
403 of employment. The State Board of Medical Licensure is hereby
404 authorized to establish minimum standards of qualifications
405 including moral, experience and proficiency for such applicants.
406 The application and the board's recommendation shall be forwarded
407 to the board of trustees and director of the institution(s) in
408 which the applicant wishes to practice.

409 Upon receipt of such approved application from the State
410 Board of Medical Licensure, the board of trustees or the governing
411 authority and director of the institution or health center shall
412 submit the application for review to the local medical society,
413 the member of the Board of Trustees of the State Medical
414 Association of that district and the member of the State Board of
415 Medical Licensure of the district in which the institution is
416 located. A formal recommendation from each of these, along with
417 that of the board of trustees and director of the institution,
418 shall become a part of the application, and shall then be returned



419 to the State Board of Medical Licensure. If a majority of the
420 recommendations are in favor of the applicant, the State Board of
421 Medical Licensure may, in its discretion, issue a limited license
422 to practice medicine. The holder of such a license shall be
423 subject to all the laws of the State of Mississippi governing the
424 practice of medicine.

425 Such license shall be for one (1) year and shall be in such
426 form as the State Board of Medical Licensure shall prescribe, and
427 shall be issued for practice in a particular institution and shall
428 not be endorsable to another state. The license must be renewed
429 annually, after such review as the State Board of Medical
430 Licensure considers necessary. A graduate of a foreign medical
431 school so licensed may hold such limited institutional license no
432 longer than five (5) years. However, any graduate of a foreign
433 medical school so licensed and employed by any state institution
434 on January 1, 1981, shall not be subject to the five-year
435 limitation created hereby. In addition, the State Board of
436 Medical Licensure, in its discretion, may waive the five-year
437 limitation on limited institutional licenses for any graduate of a
438 foreign medical school who holds such license.

439 It is the intent of this section to enable Mississippi
440 institutions to utilize the services of qualified graduates of
441 foreign medical colleges during the period necessary for them to
442 secure citizenship papers, and to meet other requirements for a
443 regular license, including Educational Council for Foreign Medical



444 Graduates certification. The State Board of Medical Licensure is
445 hereby authorized, in its discretion, to refuse to renew, or to
446 revoke such limited license if the holder of such license has
447 failed to avail himself of the opportunity to take the examination
448 for regular licensure after becoming eligible for such
449 examination.

450 The State Board of Medical Licensure may establish reasonable
451 and uniform license fees and shall make such rules and regulations
452 as it considers necessary to carry out the purposes of this
453 section.

454 The State Board of Medical Licensure is hereby authorized and
455 directed to grant a full license for the practice of medicine to a
456 graduate of a foreign medical school who has previously been
457 granted an institutional license in one or more Mississippi state
458 supported institutions for a twenty-nine-year period of time and
459 who on July 1, 2001, was serving as director of a Mississippi
460 state supported hospital and who has passed the clinical
461 competency part of the Flex Examination for the State of
462 Mississippi.

463 **SECTION 23.** Section 73-25-27, Mississippi Code of 1972, is
464 brought forward as follows:

465 73-25-27. The State Board of Medical Licensure after notice
466 and opportunity for a hearing to the licentiate, is authorized to
467 suspend or revoke for any cause named in this chapter any license
468 it has issued, or the renewal thereof, that authorizes any person



469 to practice medicine, osteopathy, or any other method of
470 preventing, diagnosing, relieving, caring for, or treating, or
471 curing disease, injury or other bodily condition. The procedure
472 for suspension of a license for being out of compliance with an
473 order for support, and the procedure for the reissuance or
474 reinstatement of a license suspended for that purpose, and the
475 payment of any fees for the reissuance or reinstatement of a
476 license suspended for that purpose, shall be governed by Section
477 93-11-157 or 93-11-163, as the case may be. If there is any
478 conflict between any provision of Section 93-11-157 or 93-11-163
479 and any provision of this chapter, the provisions of Section
480 93-11-157 or 93-11-163, as the case may be, shall control.

481 The notice shall be effected by registered mail or personal
482 service setting forth the particular reasons for the proposed
483 action and fixing a date not less than thirty (30) days or more
484 than sixty (60) days from the date of the mailing or the service,
485 at which time the licentiate shall be given an opportunity for a
486 prompt and fair hearing. For the purpose of the hearing the
487 board, acting by and through its executive office, may subpoena
488 persons and papers on its own behalf and on behalf of the
489 licentiate, including records obtained under Section 73-25-28 and
490 Section 73-25-83(c), may administer oaths and the testimony when
491 properly transcribed, together with the papers and exhibits, shall
492 be admissible in evidence for or against the licentiate. At the
493 hearing the licentiate may appear by counsel and personally in his



494 own behalf. Any person sworn and examined as a witness in the
495 hearing shall not be held to answer criminally, nor shall any
496 papers or documents produced by the witness be competent evidence
497 in any criminal proceedings against the witness other than for
498 perjury in delivering his evidence. The board or its designee, in
499 the conduct of any hearing, shall not be bound by strict laws or
500 rules of evidence. The board may adopt rules and discovery and
501 procedure governing all proceedings before it. On the basis of
502 any such hearing, or upon default of the licentiate, the board
503 shall make a determination specifying its findings of fact and
504 conclusions of law. The board shall make its determination based
505 upon a preponderance of the evidence.

506 A copy of the determination shall be sent by registered mail
507 or served personally upon the licentiate. The decision of the
508 board revoking or suspending the license shall become final thirty
509 (30) days after so mailed or served unless within that period the
510 licentiate appeals the decision to the chancery court, under the
511 provisions of this section. The appeal to the chancery court
512 shall be based solely on the record made before the board. A
513 transcript of the proceedings and evidence, together with
514 exhibits, presented at the hearing before the board in the event
515 of appeal shall be a part of the record before the chancery court.
516 The chancery court shall dispose of the appeal and enter its
517 decision promptly. The hearing on the appeal may, in the
518 discretion of the chancellor, be tried in vacation. Appeals may



519 be taken to the Supreme Court of the State of Mississippi as
520 provided by law from any final action of the chancery court. No
521 such person shall be allowed to practice medicine in violation of
522 any action of the chancery court affirming, in whole or in part,
523 the determination of the board, while any such appeal to the
524 Supreme Court is pending.

525 For the purpose of conducting investigations, the board,
526 through its executive director, may issue subpoenas to any
527 individual, clinic, hospital, pharmacy or other entity having in
528 its possession papers, documents, medical charts, prescriptions or
529 any other nonfinancial records. Any such subpoenas issued by the
530 executive director shall be made pursuant to an order of the board
531 entered on its minutes, determined on a case-by-case basis.
532 Investigatory subpoenas, as provided in this section, may be
533 served either by personal process or by registered mail, and upon
534 service shall command production of the papers and documents to
535 the board at the time and place so specified. The board shall be
536 entitled to the assistance of the chancery court or the chancellor
537 in vacation, which, on petition by the board, shall issue
538 ancillary subpoenas and petitions and may punish as for contempt
539 of court in the event of noncompliance with the subpoenas or
540 petitions.

541 For the purpose of conducting hearings, the board through its
542 executive director may subpoena persons and papers on its own
543 behalf and on behalf of the respondent, including records obtained



544 under Section 73-25-28 and Section 73-25-83(c), may administer
545 oaths, and may compel the testimony of witnesses. Any such
546 subpoenas issued by the executive director shall be made pursuant
547 to an order of the board entered on its minutes, determined on a
548 case-by-case basis. It may issue subpoenas to take testimony, and
549 testimony so taken and sworn to shall be admissible in evidence
550 for and against the respondent. The board shall be entitled to
551 the assistance of the chancery court or the chancellor in
552 vacation, which, on petition by the board, shall issue ancillary
553 subpoenas and petitions and may punish as for contempt of court in
554 the event of noncompliance with the subpoenas or petitions.

555 Unless the court otherwise decrees, a license that has been
556 suspended by the board for a stated period of time shall
557 automatically become valid on the expiration of that period and a
558 license that has been suspended for an indefinite period shall
559 become again valid if and when the board so orders, which it may
560 do on its own motion or on the petition of the respondent. A
561 license that has been revoked shall not be restored to validity
562 except: (1) by order of the board based on petition for
563 reinstatement filed under Section 73-25-32 or (2) by order of the
564 chancery court or Supreme Court following appeal. Any licentiate
565 whose license becomes again valid after a period of suspension or
566 after it has been restored to validity by order of the board or by
567 an order of the court, shall record it again in the office of the
568 clerk of the circuit court of the county in which he resides in



569 conformity with the requirements of Section 73-25-13. Nothing in
570 this chapter shall be construed as limiting or revoking the
571 authority of any court or of any licensing or registering officer
572 or board, other than the State Board of Medical Licensure, to
573 suspend, revoke and reinstate licenses and to cancel registrations
574 under the provisions of Section 41-29-311.

575 **SECTION 24.** Section 73-25-28, Mississippi Code of 1972, is
576 brought forward as follows:

577 73-25-28. (1) In any case in which disciplinary action
578 against a medical physician, osteopathic physician or podiatrist
579 is being considered by the State Board of Medical Licensure, the
580 executive officer of the board, or its investigators accompanied
581 by any member of the board or any licensed physician or podiatrist
582 appointed to act for the board, upon reasonable cause as defined
583 below, may enter, at a time convenient to all parties, any
584 hospital, clinic, office of a medical physician, osteopathic
585 physician or podiatrist or emergency care facility to inspect and
586 copy patient records, charts, emergency room records or any other
587 document which would assist the board in its investigation of a
588 medical physician, osteopathic physician or podiatrist.
589 Reasonable cause shall be demonstrated by allegations of one or
590 more of the following: (a) a single incident of gross negligence;
591 (b) a pattern of inappropriate prescribing of controlled
592 substances; (c) an act of incompetence or negligence causing death
593 or serious bodily injury; (d) a pattern of substandard medical



594 care; (e) a pattern of unnecessary surgery or unindicated medical
595 procedures; (f) disciplinary action taken against a physician or
596 podiatrist by a licensed hospital or by the medical staff of the
597 hospital; (g) voluntary termination by a physician or podiatrist
598 of staff privileges or having restrictions placed thereon; or (h)
599 habitual personal use of narcotic drugs or other drugs having
600 addiction-forming or addiction-sustaining liability, or the
601 habitual personal use of intoxicating liquors or alcoholic
602 beverages, to an extent which affects professional competency.
603 Whether reasonable cause exists shall be determined by the
604 executive officer and executive committee of the board, and
605 documentation of that determination shall be provided to the
606 hospital, clinic, office or emergency care facility before entry
607 for inspection and copying hereunder.

608 (2) A certified copy of any record inspected or copied
609 pursuant to subsection (1) shall be subject to subpoena by the
610 board to be used as evidence before it in a licensure disciplinary
611 proceeding initiated pursuant to the provisions of Sections
612 73-25-1 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81
613 through 73-25-95 and 73-27-1 through 73-27-19, Mississippi Code of
614 1972. All references to a patient's name and address or other
615 information which would identify the patient shall be deleted from
616 the records unless a waiver of the medical privilege is obtained
617 from the patient.



618 (3) All records of the investigation and all patient charts,
619 records, emergency room records or any other document that may
620 have been copied shall be kept confidential and shall not be
621 subject to discovery or subpoena. If no disciplinary proceedings
622 are initiated within a period of five (5) years after the
623 determination of insufficient cause, then the board shall destroy
624 all records obtained pursuant to this section.

625 (4) Notwithstanding any right to privacy, confidentiality,
626 privilege or exemption from public access conferred by this
627 section, Section 73-52-1, or otherwise by statute or at law, the
628 board shall provide to any hospital, as defined in Section 41-9-3,
629 any and all information it may have concerning any physician who
630 has applied for a license, other than information contained in
631 records exempt from the provisions of the Mississippi Public
632 Records Act of 1983 pursuant to Sections 45-29-1 and 45-29-3,
633 Mississippi Code of 1972, upon receipt by the board of a written
634 request from the hospital for such information and documentation
635 that the physician has applied for appointment or reappointment to
636 the medical staff of the hospital or staff privileges at the
637 hospital. The board, any member of the board, and its agents or
638 employees, acting without malice in providing the documents or
639 information hereunder, shall be immune from civil or criminal
640 liability.

641 **SECTION 25.** Section 73-25-29, Mississippi Code of 1972, is
642 brought forward as follows:



643 73-25-29. The grounds for the nonissuance, suspension,
644 revocation or restriction of a license or the denial of
645 reinstatement or renewal of a license are:

646 (1) Habitual personal use of narcotic drugs, or any
647 other drug having addiction-forming or addiction-sustaining
648 liability.

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

651 (3) Administering, dispensing or prescribing any
652 narcotic drug, or any other drug having addiction-forming or
653 addiction-sustaining liability otherwise than in the course of
654 legitimate professional practice.

655 (4) Conviction of violation of any federal or state law
656 regulating the possession, distribution or use of any narcotic
657 drug or any drug considered a controlled substance under state or
658 federal law, a certified copy of the conviction order or judgment
659 rendered by the trial court being prima facie evidence thereof,
660 notwithstanding the pendency of any appeal.

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

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



667 (7) Obtaining or attempting to obtain a license by
668 fraud or deception.

669 (8) Unprofessional conduct, which includes, but is not
670 limited to:

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

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

675 (c) Making or willfully causing to be made any
676 flamboyant claims concerning the licensee's professional
677 excellence.

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

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

687 (f) Use of any false, fraudulent or forged
688 statement or document, or the use of any fraudulent, deceitful,
689 dishonest or immoral practice in connection with any of the
690 licensing requirements, including the signing in his professional



691 capacity any certificate that is known to be false at the time he
692 makes or signs such certificate.

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

696 (9) The refusal of a licensing authority of another
697 state or jurisdiction to issue or renew a license, permit or
698 certificate to practice medicine in that jurisdiction or the
699 revocation, suspension or other restriction imposed on a license,
700 permit or certificate issued by such licensing authority which
701 prevents or restricts practice in that jurisdiction, a certified
702 copy of the disciplinary order or action taken by the other state
703 or jurisdiction being prima facie evidence thereof,
704 notwithstanding the pendency of any appeal.

705 (10) Surrender of a license or authorization to
706 practice medicine in another state or jurisdiction or surrender of
707 membership on any medical staff or in any medical or professional
708 association or society while under disciplinary investigation by
709 any of those authorities or bodies for acts or conduct similar to
710 acts or conduct which would constitute grounds for action as
711 defined in this section.

712 (11) Final sanctions imposed by the United States
713 Department of Health and Human Services, Office of Inspector
714 General or any successor federal agency or office, based upon a
715 finding of incompetency, gross misconduct or failure to meet



716 professionally recognized standards of health care; a certified
717 copy of the notice of final sanction being prima facie evidence
718 thereof. As used in this paragraph, the term "final sanction"
719 means the written notice to a physician from the United States
720 Department of Health and Human Services, Officer of Inspector
721 General or any successor federal agency or office, which
722 implements the exclusion.

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

725 (13) Violation of any provision(s) of the Medical
726 Practice Act or the rules and regulations of the board or of any
727 order, stipulation or agreement with the board.

728 (14) Violation(s) of the provisions of Sections
729 41-121-1 through 41-121-9 relating to deceptive advertisement by
730 health care practitioners.

731 (15) Performing or inducing an abortion on a woman in
732 violation of any provision of Sections 41-41-131 through
733 41-41-145.

734 In addition to the grounds specified above, the board shall
735 be authorized to suspend the license of any licensee for being out
736 of compliance with an order for support, as defined in Section
737 93-11-153. The procedure for suspension of a license for being
738 out of compliance with an order for support, and the procedure for
739 the reissuance or reinstatement of a license suspended for that
740 purpose, and the payment of any fees for the reissuance or



741 reinstatement of a license suspended for that purpose, shall be
742 governed by Section 93-11-157 or 93-11-163, as the case may be.
743 If there is any conflict between any provision of Section
744 93-11-157 or 93-11-163 and any provision of this chapter, the
745 provisions of Section 93-11-157 or 93-11-163, as the case may be,
746 shall control.

747 **SECTION 26.** Section 73-25-30, Mississippi Code of 1972, is
748 brought forward as follows:

749 73-25-30. (1) The Mississippi State Board of Medical
750 Licensure, in exercising its authority under the provisions of
751 Section 73-25-29, shall have the power to discipline the holder of
752 a license who has been found by the board in violation of that
753 statute after notice and a hearing as provided by law, and the
754 licensee shall be disciplined as follows:

755 (a) By placing him upon probation, the terms of which
756 may be set by the board, or

757 (b) By suspending his right to practice for a time
758 deemed proper by the board, or

759 (c) By revoking his license, or

760 (d) By taking any other action in relation to his
761 license as the board may deem proper under the circumstances.

762 (2) Upon the execution of a disciplinary order by the board,
763 either following a hearing or in lieu of a hearing, the board, in
764 addition to the disciplinary powers specified in subsection (1) of
765 this section, may assess the licensee for those reasonable costs



766 that are expended by the board in the investigation and conduct of
767 a proceeding for licensure disciplinary action including, but not
768 limited to, the cost of process service, court reporters, witness
769 fees, expert witnesses, investigators, and other related expenses.
770 Money collected by the board under this section shall be deposited
771 to the credit of the special fund of the board to reimburse the
772 existing current year appropriated budget.

773 (3) An assessment of costs under this section shall be paid
774 to the board by the licensee, upon the expiration of the period
775 allowed for appeals under Section 73-25-27, or may be paid sooner
776 if the licensee elects. Cost assessed under this section shall
777 not exceed Ten Thousand Dollars (\$10,000.00).

778 (4) When an assessment of costs by the board against a
779 licensee in accordance with this section is not paid by the
780 licensee when due under this section, the licensee shall be
781 prohibited from practicing medicine until the full amount is paid.
782 In addition, the board may institute and maintain proceedings in
783 its name for enforcement of payment in the Chancery Court of the
784 First Judicial District of Hinds County. When those proceedings
785 are instituted, the board shall certify the record of its
786 proceedings, together with all documents and evidence, to the
787 chancery court. The matter shall be heard in due course by the
788 court, which shall review the record and make its determination
789 thereon. The hearing on the matter, in the discretion of the
790 chancellor, may be tried in vacation.



791 **SECTION 27.** Section 73-25-31, Mississippi Code of 1972, is
792 brought forward as follows:

793 73-25-31. Every order and judgment of the board shall take
794 effect immediately on its promulgation unless the board in such
795 order or judgment fixes a probationary period for licentiate.
796 Such order and judgment shall continue in effect unless upon
797 appeal the court by proper order or decree terminates it earlier.
798 The board may make public its orders and judgments in such manner
799 and form as it deems proper. It shall in event of the suspension
800 or revocation of a license direct the clerk of the circuit court
801 of the county in which that license was recorded to cancel such
802 record.

803 **SECTION 28.** Section 73-25-32, Mississippi Code of 1972, is
804 brought forward as follows:

805 73-25-32. (1) A person whose license to practice medicine
806 or osteopathy has been revoked or suspended may petition the
807 Mississippi State Board of Medical Licensure to reinstate this
808 license after a period of not less than one (1) year has elapsed
809 from the date of the revocation or suspension. The procedure for
810 the reinstatement of a license that is suspended for being out of
811 compliance with an order for support, as defined in Section
812 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as
813 the case may be.

814 (2) The petition shall be accompanied by two (2) or more
815 verified recommendations from physicians or osteopaths licensed by



816 the Board of Medical Licensure to which the petition is addressed
817 and by two (2) or more recommendations from citizens each having
818 personal knowledge of the activities of the petitioner since the
819 disciplinary penalty was imposed and such facts as may be required
820 by the Board of Medical Licensure.

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

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

837 (4) The investigation shall require the petitioner to
838 undergo a fingerprint-based criminal history records check of the
839 Mississippi central criminal database and the Federal Bureau of
840 Investigation criminal history database. Each petitioner shall



841 submit a full set of the petitioner's fingerprints in a form and
842 manner prescribed by the board, which shall be forwarded to the
843 Mississippi Department of Public Safety (department) and the
844 Federal Bureau of Investigation Identification Division for this
845 purpose.

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

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



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

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

875 **SECTION 29.** Section 73-25-37, Mississippi Code of 1972, is
876 brought forward as follows:

877 73-25-37. (1) No duly licensed, practicing physician,
878 physician assistant, dentist, registered nurse, licensed practical
879 nurse, certified registered emergency medical technician, or any
880 other person who, in good faith and in the exercise of reasonable
881 care, renders emergency care to any injured person at the scene of
882 an emergency, or in transporting the injured person to a point
883 where medical assistance can be reasonably expected, shall be
884 liable for any civil damages to the injured person as a result of
885 any acts committed in good faith and in the exercise of reasonable
886 care or omissions in good faith and in the exercise of reasonable
887 care by such persons in rendering the emergency care to the
888 injured person.



889 (2) (a) Any person who in good faith, with or without
890 compensation, renders emergency care or treatment by the use of an
891 Automated External Defibrillator (AED) in accordance with the
892 provisions of Sections 41-60-31 through 41-60-35, as well as the
893 person responsible for the site where the AED is located if the
894 person has provided for compliance with the provisions of Sections
895 41-60-31 through 41-60-35, shall be immune from civil liability
896 for any personal injury as a result of that care or treatment, or
897 as a result of any act, or failure to act, in providing or
898 arranging further medical treatment, where the person acts as an
899 ordinary, reasonably prudent person would have acted under the
900 same or similar circumstances and the person's actions or failure
901 to act does not amount to willful or wanton misconduct or gross
902 negligence.

903 (b) A person who has not complied with the provisions
904 of Sections 41-60-31 through 41-60-35, but who has access to an
905 AED and uses it in good faith in an emergency as an ordinary
906 prudent person would have done in the same or similar
907 circumstances, shall be immune from civil liability for any
908 personal injury as a result of an act or omission related to the
909 operation of or failure to operate an AED if the person's actions
910 or failure to act do not amount to willful or wanton misconduct or
911 gross negligence.

912 (3) Any employee of a local public school district, a
913 private school, or parochial school, trained in the administration



914 of auto-injectable epinephrine, who provides, administers, or
915 assists in the administration of auto-injectable epinephrine, in
916 accordance with the provisions of Section 37-11-71, to a student
917 believed in good faith to be having an anaphylactic reaction,
918 shall be immune from civil liability for any personal injury as a
919 result of that care or treatment if the employee's actions or
920 failure to act do not amount to willful or wanton misconduct or
921 gross negligence.

922 (4) The immunity from civil liability for any personal
923 injury under subsection (2) of this section includes the licensed
924 physician who authorizes, directs or supervises the installation
925 or provision of AED equipment in or on any premises or conveyance
926 other than a medical facility, the owner of the premises where an
927 AED is used, the purchaser of the AED, a person who uses an AED
928 during an emergency for the purpose of attempting to save the life
929 of another person who is or who appears to be in cardiac arrest,
930 and the person who provides the CPR and AED training.

931 (5) The immunity from civil liability for any personal
932 injury under subsection (3) of this section includes the licensed
933 physician who prescribes the auto-injectable epinephrine, the
934 school district, or any other entity, that legally obtained the
935 auto-injectable epinephrine, and the person who provides the
936 training in the administration of auto-injectable epinephrine.

937 (6) The immunity from civil liability under subsection (2)
938 and subsection (3) of this section does not apply if the personal



939 injury results from the gross negligence or willful or wanton
940 misconduct of the person rendering the emergency care.

941 (7) Except in cases of gross negligence or willful
942 misconduct, civil immunity shall apply to any licensed physician
943 or licensed pharmacist who prescribes or makes recommendation to
944 an eligible patient regarding prescription for or treatment with
945 an investigational drug, biological product or device under the
946 provisions of Section 41-131-1, and the State Board of Medical
947 Licensure and/or the State Board of Pharmacy, as the case may be,
948 shall be prohibited from taking any adverse action against the
949 license of such physician or pharmacist based solely on the
950 physician's action under the provisions of Section 41-131-1.

951 **SECTION 30.** Section 73-25-83, Mississippi Code of 1972, is
952 brought forward as follows:

953 73-25-83. The board shall have authority to deny an
954 application for licensure or other authorization to practice
955 medicine in this state and to discipline a physician licensed or
956 otherwise lawfully practicing within this state who, after a
957 hearing, has been adjudged by the board as unqualified due to one
958 or more of the following reasons:

959 (a) Unprofessional conduct as defined in the physician
960 licensure and disciplinary laws, pursuant to Section 73-25-29;

961 (b) Professional incompetency in the practice of
962 medicine or surgery; or



963 (c) Having disciplinary action taken by his peers
964 within any professional medical association or society, whether
965 any such association or society is local, regional, state or
966 national in scope, or being disciplined by a licensed hospital or
967 medical staff of said hospital, or the voluntary surrender or
968 restriction of hospital staff privileges while an investigation or
969 disciplinary proceeding is being conducted by a licensed hospital
970 or medical staff or medical staff committee of said hospital.
971 Provided further, anybody taking action as set forth in this
972 paragraph shall report such action to the board within thirty (30)
973 days of its occurrence.

974 **SECTION 31.** This act shall take effect and be in force from
975 and after July 1, 2018.

