

By: Senator(s) Bryan

To: Public Health and
Welfare

SENATE BILL NO. 2308

1 AN ACT TO REENACT SECTIONS 41-121-1 THROUGH 41-121-9,
2 MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE "THE PATIENT'S RIGHT TO
3 INFORMED HEALTH CARE CHOICES ACT"; TO REENACT AND AMEND SECTION
4 41-121-11, MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC
5 REPEALER ON "THE PATIENT'S RIGHT TO INFORMED HEALTH CARE CHOICES
6 ACT"; TO AMEND SECTIONS 73-6-19, 73-9-61, 73-15-29, 73-19-23,
7 73-21-97, 73-26-5, 73-27-13, AND 73-39-77, MISSISSIPPI CODE OF
8 1972, TO EXTEND THE AUTOMATIC REPEALERS ON THE PROVISIONS THAT
9 ESTABLISH VIOLATIONS OF "THE PATIENT'S RIGHT TO INFORMED HEALTH
10 CARE CHOICES ACT" AS SPECIFIC GROUNDS FOR DISCIPLINARY ACTION
11 AGAINST LICENSEES; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 41-121-1, Mississippi Code of 1972, is
14 reenacted as follows:

15 41-121-1. This chapter shall be known and may be cited as
16 "The Patient's Right to Informed Health Care Choices Act."

17 **SECTION 2.** Section 41-121-3, Mississippi Code of 1972, is
18 reenacted as follows:

19 41-121-3. The Legislature finds and declares that:

20 (a) There are a multitude of professional degrees using
21 the term "doctor," including Medical Doctor (M.D.); Doctor of
22 Osteopathic Medicine (D.O.); Doctor of Dental Surgery (D.D.S.);



23 Doctor of Podiatric Medicine (D.P.M.); Doctor of Optometry (O.D.);
24 Doctor of Chiropractic (D.C.); Doctor of Nursing Practice
25 (D.N.P.); Doctor of Pharmacy (Pharm.D.); and other designations
26 which may be used by health care practitioners.

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

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

42 **SECTION 3.** Section 41-121-5, Mississippi Code of 1972, is
43 reenacted as follows:

44 41-121-5. For the purposes of this chapter:

45 (a) "Advertisement" means any communication or
46 statement, whether printed, electronic or oral, that names the
47 health care practitioner in relation to his or her practice,



profession, or institution in which the individual is employed, volunteers or otherwise provides health care services. This includes business cards, letterhead, patient brochures, email, Internet, audio and video, and any other communication or statement used in the course of business or any other definition provided by regulations of the licensing board of proper jurisdiction.

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

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

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

(ii) Practitioners of osteopathic medicine, signified by the letters "D.O." or the words surgeon, osteopathic surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic medicine.



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

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

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

(vi) Practitioners of dentistry, signified by the letters "D.D.S." or "D.M.D.," as appropriate, or the words dentist, doctor of dental surgery, or doctor of dental medicine, as appropriate.

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

(viii) Practitioners of pharmacy, signified by the letters "BSc.Pharm" or "Pharm.D." or the words pharmacists or doctor of pharmacy.

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



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

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

(xii) Psychologists, therapists, speech-language pathologists, counselors, or any other health care practitioner not covered under this section, including, but not limited to, those signified by the letters "Ph.D.," "Ed.D.," "P.T.," "M.P.T." or "Psy.D.," or "Sc.D.," as appropriate to signify the appropriate degree of licensure and degree earned from a regionally accredited institution of higher education in the appropriate field of learning.

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

SECTION 4. Section 41-121-7, Mississippi Code of 1972, is reenacted as follows:

41-121-7. (1) An advertisement for health care services that names a health care practitioner must identify the type of license held according to the definitions under this chapter. The advertisement shall be free from any and all deceptive or misleading information.

(2) A health care practitioner providing health care services in this state must conspicuously post in their office and



affirmatively communicate the practitioner's specific licensure as defined under this chapter. This shall consist of the following: The health care practitioner shall display in his or her office a writing that clearly identifies the type of license held by the health care practitioner. The writing must be of sufficient size so as to be visible and apparent to all current and prospective patients.

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

(4) Health care practitioners working in nonpatient care settings, and who do not have any direct patient care interactions, are not subject to the provisions of this chapter.

SECTION 5. Section 41-121-9, Mississippi Code of 1972, is reenacted as follows:

41-121-9. (1) Failure to comply with any provision under this section shall constitute a violation under this chapter.

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

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



person's licensure, shall constitute a violation under this chapter.

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

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

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

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

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

(9) Notwithstanding the imposition of any penalty, a professional licensing board or other administrative agency with jurisdiction may seek an injunction or other legal means as



appropriate against a person or entity violating this chapter as determined by each respective licensing board.

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

SECTION 6. Section 41-121-11, Mississippi Code of 1972, is reenacted and amended as follows:

41-121-11. Sections 41-121-1 through 41-121-9 shall stand repealed on July 1, * * * 2024.

SECTION 7. Section 73-6-19, Mississippi Code of 1972, is amended as follows:

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

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

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

(c) Fraud or deceit in obtaining a license;

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



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

(f) Unprofessional and unethical conduct;

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

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

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

(j) Professional incompetency in the practice of chiropractic;

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

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



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

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

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

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

(q) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, * * * 2024.

(2) Any holder of such certificate or any applicant therefor against whom is preferred any of the designated charges shall be furnished a copy of the complaint and shall receive a formal hearing in Jackson, Mississippi, before the board, at which time he may be represented by counsel and examine witnesses. The board is authorized to administer oaths as may be necessary for the proper conduct of any such hearing. In addition, the board is authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers. The process issued by the board shall extend to all parts of the state. Where



in any proceeding before the board any witness shall fail or refuse to attend upon subpoena issued by the board, shall refuse to testify, or shall refuse to produce any books and papers, the production of which is called for by the subpoena, the attendance of such witness and the giving of his testimony and the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(3) In addition to any other investigators the board employs, the board shall appoint one or more licensed chiropractors to act for the board in investigating the conduct relating to the competency of a chiropractor, whenever disciplinary action is being considered for professional incompetence and unprofessional conduct.

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

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

(b) Administer a public or private reprimand;

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



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

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

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

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

(5) Any person whose application for a license or whose license to practice chiropractic has been cancelled, revoked or suspended by the board within thirty (30) days from the date of such final decision shall have the right of a de novo appeal to the circuit court of his county of residence or the Circuit Court of the First Judicial District of Hinds County, Mississippi. If there is an appeal, such appeal may, in the discretion of and on motion to the circuit court, act as a supersedeas. The circuit court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may, in the discretion of the circuit judge, be tried in vacation. Either party shall have the right of appeal to the Supreme Court as provided by law from any decision of the circuit court.



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

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

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

The power and authority of the board to assess and levy such monetary penalties under this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations. A licensee shall have the right of appeal from the assessment and levy of a monetary penalty as provided in this section to the circuit court under the same conditions as a right of appeal is provided for in this section for appeals from an adverse ruling, or order, or decision of the board. Any monetary penalty assessed and levied under this



319 section shall not take effect until after the time for appeal has
320 expired, and an appeal of the assessment and levy of such a
321 monetary penalty shall act as a supersedeas.

322 (7) In addition to the grounds specified in subsection (1)
323 of this section, the board shall be authorized to suspend the
324 license of any licensee for being out of compliance with an order
325 for support, as defined in Section 93-11-153. The procedure for
326 suspension of a license for being out of compliance with an order
327 for support, and the procedure for the reissuance or reinstatement
328 of a license suspended for that purpose, and the payment of any
329 fees for the reissuance or reinstatement of a license suspended
330 for that purpose, shall be governed by Section 93-11-157 or
331 93-11-163, as the case may be. Actions taken by the board in
332 suspending a license when required by Section 93-11-157 or
333 93-11-163 are not actions from which an appeal may be taken under
334 this section. Any appeal of a license suspension that is required
335 by Section 93-11-157 or 93-11-163 shall be taken in accordance
336 with the appeal procedure specified in Section 93-11-157 or
337 93-11-163, as the case may be, rather than the procedure specified
338 in this section. If there is any conflict between any provision
339 of Section 93-11-157 or 93-11-163 and any provision of this
340 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
341 case may be, shall control.

342 **SECTION 8.** Section 73-9-61, Mississippi Code of 1972, is
343 amended as follows:



73-9-61. (1) Upon satisfactory proof, and in accordance with statutory provisions elsewhere set out for such hearings and protecting the rights of the accused as well as the public, the State Board of Dental Examiners may deny the issuance or renewal of a license or may revoke or suspend the license of any licensed dentist or dental hygienist practicing in the State of Mississippi, or take any other action in relation to the license as the board may deem proper under the circumstances, for any of the following reasons:

(a) Misrepresentation in obtaining a license, or attempting to obtain, obtaining, attempting to renew or renewing a license or professional credential by making any material misrepresentation, including the signing in his or her professional capacity any certificate that is known to be false at the time he or she makes or signs the certificate.

(b) Willful violation of any of the rules or regulations duly promulgated by the board, or of any of the rules or regulations duly promulgated by the appropriate dental licensure agency of another state or jurisdiction.

(c) Being impaired in the ability to practice dentistry or dental hygiene with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.



368 (d) Administering, dispensing or prescribing any
369 prescriptive medication or drug outside the course of legitimate
370 professional dental practice.

371 (e) Being convicted or found guilty of or entering a
372 plea of nolo contendere to, regardless of adjudication, a
373 violation of any federal or state law regulating the possession,
374 distribution or use of any narcotic drug or any drug considered a
375 controlled substance under state or federal law, a certified copy
376 of the conviction order or judgment rendered by the trial court
377 being prima facie evidence thereof, notwithstanding the pendency
378 of any appeal.

379 (f) Practicing incompetently or negligently, regardless
380 of whether there is actual harm to the patient.

381 (g) Being convicted or found guilty of or entering a
382 plea of nolo contendere to, regardless of adjudication, a crime in
383 any jurisdiction that relates to the practice of dentistry or
384 dental hygiene, a certified copy of the conviction order or
385 judgment rendered by the trial court being prima facie evidence
386 thereof, notwithstanding the pendency of any appeal.

387 (h) Being convicted or found guilty of or entering a
388 plea of nolo contendere to, regardless of adjudication, a felony
389 in any jurisdiction, a certified copy of the conviction order or
390 judgment rendered by the trial court being prima facie evidence
391 thereof, notwithstanding the pendency of any appeal.



(i) Delegating professional responsibilities to a person who is not qualified by training, experience or licensure to perform them.

(j) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice dentistry or dental hygiene in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by the licensing authority that prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(k) Surrender of a license or authorization to practice dentistry or dental hygiene in another state or jurisdiction when the board has reasonable cause to believe that the surrender is made to avoid or in anticipation of a disciplinary action.

(l) Any unprofessional conduct to be determined by the board on a case-by-case basis, which shall include, but not be restricted to, the following:

(i) Committing any crime involving moral turpitude.

(ii) Practicing deceit or other fraud upon the public.

(iii) Practicing dentistry or dental hygiene under a false or assumed name.



(iv) Advertising that is false, deceptive or misleading.

(v) Announcing a specialized practice shall be considered advertising that tends to deceive or mislead the public unless the dentist announcing as a specialist conforms to other statutory provisions and the duly promulgated rules or regulations of the board pertaining to practice of dentistry in the State of Mississippi.

(m) Failure to provide and maintain reasonable sanitary facilities and conditions or failure to follow board rules regarding infection control.

(n) Committing any act which would constitute sexual misconduct upon a patient or upon ancillary staff. For purposes of this subsection, the term sexual misconduct means:

(i) Use of the licensee-patient relationship to engage or attempt to engage the patient in sexual activity; or

(ii) Conduct of a licensee that is intended to intimidate, coerce, influence or trick any person employed by or for the licensee in a dental practice or educational setting for the purpose of engaging in sexual activity or activity intended for the sexual gratification of the licensee.

(o) Violation of a lawful order of the board previously entered in a disciplinary or licensure hearing; failure to cooperate with any lawful request or investigation by the board; or failure to comply with a lawfully issued subpoena of the board.



(p) Willful, obstinate and continuing refusal to cooperate with the board in observing its rules and regulations in promptly paying all legal license or other fees required by law.

(q) Practicing dentistry or dental hygiene while the person's license is suspended.

(r) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, * * * 2024.

(2) In lieu of revocation of a license as provided for above, the board may suspend the license of the offending dentist or dental hygienist, suspend the sedation permit of the offending dentist, or take any other action in relation to his or her license as the board may deem proper under the circumstances.

(3) When a license to practice dentistry or dental hygiene is revoked or suspended by the board, the board may, in its discretion, stay the revocation or suspension and simultaneously place the licensee on probation upon the condition that the licensee shall not violate the laws of the State of Mississippi pertaining to the practice of dentistry or dental hygiene and shall not violate the rules and regulations of the board and shall not violate any terms in relation to his or her license as may be set by the board.

(4) In a proceeding conducted under this section by the board for the denial, revocation or suspension of a license to



practice dentistry or dental hygiene, the board shall have the power and authority for the grounds stated for that denial, revocation or suspension, and in addition thereto or in lieu of that denial, revocation or suspension may assess and levy upon any person licensed to practice dentistry or dental hygiene in the State of Mississippi, a monetary penalty, as follows:

(a) For the first violation of any of * * * paragraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

(b) For the second violation of any of * * * paragraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

(c) For the third and any subsequent violation of any of * * * paragraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00).

(d) For any violation of any of * * * paragraphs (a) through (q) of subsection (1) of this section, those reasonable costs that are expended by the board in the investigation and conduct of a proceeding for licensure revocation or suspension,



including, but not limited to, the cost of process service, court reporters, expert witnesses and investigators.

(5) The power and authority of the board to assess and levy monetary penalties under this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations except as provided in this section.

(6) A licensee shall have the right of appeal from the assessment and levy of a monetary penalty as provided in this section under the same conditions as a right of appeal is provided elsewhere for appeals from an adverse ruling, order or decision of the board.

(7) Any monetary penalty assessed and levied under this section shall not take effect until after the time for appeal has expired. In the event of an appeal, the appeal shall act as a supersedeas.

(8) A monetary penalty assessed and levied under this section shall be paid to the board by the licensee upon the expiration of the period allowed for appeal of those penalties under this section or may be paid sooner if the licensee elects. With the exception of subsection (4)(d) of this section, monetary penalties collected by the board under this section shall be deposited to the credit of the General Fund of the State Treasury. Any monies collected by the board under subsection (4)(d) of this



516 section shall be deposited into the special fund operating account
517 of the board.

518 (9) When payment of a monetary penalty assessed and levied
519 by the board against a licensee in accordance with this section is
520 not paid by the licensee when due under this section, the board
521 shall have power to institute and maintain proceedings in its name
522 for enforcement of payment in the chancery court of the county and
523 judicial district of residence of the licensee, and if the
524 licensee is a nonresident of the State of Mississippi, the
525 proceedings shall be in the Chancery Court of the First Judicial
526 District of Hinds County, Mississippi.

527 (10) In addition to the reasons specified in subsection (1)
528 of this section, the board shall be authorized to suspend the
529 license of any licensee for being out of compliance with an order
530 for support, as defined in Section 93-11-153. The procedure for
531 suspension of a license for being out of compliance with an order
532 for support, and the procedure for the reissuance or reinstatement
533 of a license suspended for that purpose, and the payment of any
534 fees for the reissuance or reinstatement of a license suspended
535 for that purpose, shall be governed by Section 93-11-157 or
536 93-11-163, as the case may be. If there is any conflict between
537 any provision of Section 93-11-157 or 93-11-163 and any provision
538 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
539 as the case may be, shall control.



(11) All grounds for disciplinary action, including imposition of fines and assessment of costs as enumerated above, shall also apply to any other license or permit issued by the board under this chapter or regulations duly adopted by the board.

SECTION 9. Section 73-15-29, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(d) Has had a license or privilege to practice as a registered nurse or a licensed practical nurse suspended or



565 revoked in any jurisdiction, has voluntarily surrendered such
566 license or privilege to practice in any jurisdiction, has been
567 placed on probation as a registered nurse or licensed practical
568 nurse in any jurisdiction or has been placed under a disciplinary
569 order(s) in any manner as a registered nurse or licensed practical
570 nurse in any jurisdiction, (a certified copy of the order of
571 suspension, revocation, probation or disciplinary action shall be
572 prima facie evidence of such action);

573 (e) Has negligently or willfully practiced nursing in a
574 manner that fails to meet generally accepted standards of such
575 nursing practice;

576 (f) Has negligently or willfully violated any order,
577 rule or regulation of the board pertaining to nursing practice or
578 licensure;

579 (g) Has falsified or in a repeatedly negligent manner
580 made incorrect entries or failed to make essential entries on
581 records;

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

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



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

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

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

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

(n) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, * * * 2024.

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

(a) Denying application for a license or other authorization to practice nursing or practical nursing;

(b) Administering a reprimand;

(c) Suspending or restricting the license or other authorization to practice as a registered nurse or licensed practical nurse for up to two (2) years without review;



(d) Revoking the license or other authorization to practice nursing or practical nursing;

(e) Requiring the disciplinee to submit to care, counseling or treatment by persons and/or agencies approved or designated by the board as a condition for initial, continued or renewed licensure or other authorization to practice nursing or practical nursing;

(f) Requiring the disciplinee to participate in a program of education prescribed by the board as a condition for initial, continued or renewed licensure or other authorization to practice;

(g) Requiring the disciplinee to practice under the supervision of a registered nurse for a specified period of time; or

(h) Imposing a fine not to exceed Five Hundred Dollars (\$500.00).

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license or privilege to practice of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license or privilege to practice for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a



639 license or privilege to practice suspended for that purpose, shall
640 be governed by Section 93-11-157 or 93-11-163, as the case may be.
641 If there is any conflict between any provision of Section
642 93-11-157 or 93-11-163 and any provision of this article, the
643 provisions of Section 93-11-157 or 93-11-163, as the case may be,
644 shall control.

645 (4) If the public health, safety or welfare imperatively
646 requires emergency action and the board incorporates a finding to
647 that effect in an order, the board may order summary suspension of
648 a license pending proceedings for revocation or other action.
649 These proceedings shall be promptly instituted and determined by
650 the board.

651 (5) The board may establish by rule an alternative to
652 discipline program for licensees who have an impairment as a
653 result of substance abuse or a mental health condition, which
654 program shall include at least the following components:

655 (a) Participation in the program is voluntary with the
656 licensee, and the licensee must enter the program before the board
657 holds a disciplinary action hearing regarding the licensee;

658 (b) The full cost of participation in the program,
659 including the cost of any care, counseling, treatment and/or
660 education received by the licensee, shall be borne by the
661 licensee;

662 (c) All of the procedures and records regarding the
663 licensee's participation in the program shall be confidential,



shall not be disclosed and shall be exempt from the provisions of the Mississippi Public Records Act of 1983; and

(d) A licensee may not participate in the program more often than one (1) time during any period of five (5) years or such longer period as set by the board.

SECTION 10. Section 73-19-23, Mississippi Code of 1972, is amended as follows:

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

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

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



689 (b) Cheating on or attempting to subvert the optometric
690 licensing examination(s).

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

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

697 (e) Conduct likely to deceive, defraud or harm the
698 public.

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

703 (g) Willfully or negligently violating the
704 confidentiality between doctor and patient, except as required by
705 law.

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

708 (i) Being found to be a person with mental illness or
709 with an intellectual disability by any court of competent
710 jurisdiction.

711 (j) The use of any false, fraudulent, deceptive or
712 misleading statement in any document connected with the practice
713 of optometry.



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

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

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

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

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

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

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

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

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



(t) The designation of any person licensed under this chapter, other than by the terms "optometrist," "Doctor of Optometry" or "O.D.," which through June 30, * * * 2024, shall include any violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.

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

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

(3) Any person who is a holder of a certificate of licensure or who is an applicant for examination for a certificate of licensure, against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing in Jackson, Mississippi, before the board, at which hearing he may be represented by counsel. At the hearing, witnesses may be examined for and against the accused respecting those charges, and the hearing orders or appeals will be conducted according to the procedure now provided in Section 73-25-27. The suspension of a certificate of licensure by reason of the use of stimulants or narcotics may be removed when the holder of the certificate has been adjudged by the board to be cured and capable of practicing optometry.



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

SECTION 11. Section 73-21-97, Mississippi Code of 1972, is amended as follows:

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

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

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



787 (c) Being found guilty by a court of competent
788 jurisdiction of one or more of the following:
789 (i) A felony;
790 (ii) Any act involving moral turpitude or gross
791 immorality; or
792 (iii) Violation of pharmacy or drug laws of this
793 state or rules or regulations pertaining thereto, or of statutes,
794 rules or regulations of any other state or the federal government;
795 (d) Fraud or intentional misrepresentation by a
796 licensee or permit holder in securing the issuance or renewal of a
797 license or permit;
798 (e) Engaging or aiding and abetting an individual to
799 engage in the practice of pharmacy without a license;
800 (f) Violation of any of the provisions of this chapter
801 or rules or regulations adopted pursuant to this chapter;
802 (g) Failure to comply with lawful orders of the board;
803 (h) Negligently or willfully acting in a manner
804 inconsistent with the health or safety of the public;
805 (i) Addiction to or dependence on alcohol or controlled
806 substances or the unauthorized use or possession of controlled
807 substances;
808 (j) Misappropriation of any prescription drug;
809 (k) Being found guilty by the licensing agency in
810 another state of violating the statutes, rules or regulations of
811 that jurisdiction;



(l) The unlawful or unauthorized possession of a controlled substance;

(m) Willful failure to submit drug monitoring information or willful submission of incorrect dispensing information as required by the Prescription Monitoring Program under Section 73-21-127;

(n) Failure to obtain the license, registration or permit required by this chapter; or

(o) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, * * * 2024.

(2) In lieu of suspension, revocation or restriction of a license as provided for above, the board may warn or reprimand the offending pharmacist.

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license, registration or permit of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license, registration or permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license, registration or permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license, registration or permit suspended for that purpose,



shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 12. Section 73-26-5, Mississippi Code of 1972, is amended as follows:

73-26-5. (1) The board shall promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of physician assistants. Those rules shall include, but are not limited to: qualifications for licensure for physician assistants; scope of practice of physician assistants; supervision of physician assistants; identification of physician assistants; grounds for disciplinary actions and discipline of physician assistants, which through June 30, * * * 2024, shall specifically include discipline for violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners; and setting and charging reasonable fees for licensure and license renewals for physician assistants. However, nothing in this chapter or in rules adopted by the board shall authorize physician assistants to administer or monitor general inhaled anesthesia, epidural anesthesia, spinal anesthesia or monitored anesthesia as utilized in surgical procedures. In addition, the board shall not adopt



any rule or regulation or impose any requirement regarding the licensing of physician assistants that conflicts with the prohibitions in Section 73-49-3. The board shall promulgate rules for licensure and license renewals in accordance with Section 33-1-39.

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

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

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

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

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



887 (c) Administering, dispensing or prescribing any
888 narcotic drug, or any other drug having addiction-forming or
889 addiction-sustaining liability otherwise than in the course of
890 legitimate professional practice.

891 (d) Conviction of violation of any federal or state law
892 regulating the possession, distribution or use of any narcotic
893 drug or any drug considered a controlled substance under state or
894 federal law.

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

897 (f) Conviction of a felony or misdemeanor involving
898 moral turpitude.

899 (g) Obtaining or attempting to obtain a license by
900 fraud or deception.

901 (h) Unprofessional conduct, which includes, but is not
902 limited to:

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

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

907 (iii) Making or willfully causing to be made any
908 flamboyant claims concerning the licensee's professional
909 excellence.

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



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

919 (vi) Use of any false, fraudulent or forged
920 statement or document, or the use of any fraudulent, deceitful,
921 dishonest or immoral practice in connection with any of the
922 licensing requirements, including the signing in his professional
923 capacity any certificate that is known to be false at the time he
924 makes or signs such certificate.

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

928 (i) The refusal of a licensing authority of another
929 state to issue or renew a license, permit or certificate to
930 practice podiatry in that state or the revocation, suspension or
931 other restriction imposed on a license, permit or certificate
932 issued by such licensing authority which prevents or restricts
933 practice in that state.

934 (j) Violation(s) of the provisions of Sections 41-121-1
935 through 41-121-9 relating to deceptive advertisement by health



936 care practitioners. This paragraph shall stand repealed on July
937 1, * * * 2024.

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

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

947 (4) In addition to the grounds specified in subsection (1)
948 of this section, the board shall be authorized to suspend the
949 license of any licensee for being out of compliance with an order
950 for support, as defined in Section 93-11-153. The procedure for
951 suspension of a license for being out of compliance with an order
952 for support, and the procedure for the reissuance or reinstatement
953 of a license suspended for that purpose, and the payment of any
954 fees for the reissuance or reinstatement of a license suspended
955 for that purpose, shall be governed by Section 93-11-157 or
956 93-11-163, as the case may be. If there is any conflict between
957 any provision of Section 93-11-157 or 93-11-163 and any provision
958 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
959 as the case may be, shall control.



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

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

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

(b) The inability to practice veterinary medicine with reasonable skill and safety because of a physical or mental disability, including deterioration of mental capacity, loss of motor skills or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.

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

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

(i) Any felony;

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

(iii) Any crime of moral turpitude;



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

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

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

(f) Aiding the unlawful practice of veterinary medicine.

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

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

(i) Failure to keep accurate patient records.

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

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



1008 (1) Failure to permit the board or its agents to enter
1009 and inspect veterinary premises and equipment, including practice
1010 vehicles, as set by rules promulgated by the board.

1011 (m) Revocation, suspension or limitation of a license
1012 to practice veterinary medicine by another state, territory or
1013 district of the United States.

1014 (n) Loss or suspension of accreditation by any federal
1015 or state agency.

1016 (o) Unprofessional conduct as defined in regulations
1017 adopted by the board.

1018 (p) The dispensing, distribution, prescription or
1019 administration of any veterinary prescription drug, or the
1020 extralabel use of any drug in the absence of a
1021 veterinarian-client-patient relationship.

1022 (q) Violations of state or federal drug laws.

1023 (r) Violations of any order of the board.

1024 (s) Violations of this chapter or of the rules
1025 promulgated under this chapter.

1026 (t) Violation(s) of the provisions of Sections 41-121-1
1027 through 41-121-9 relating to deceptive advertisement by health
1028 care practitioners. This paragraph shall stand repealed on July
1029 1, * * * 2024.

1030 (2) A certified copy of any judgment of conviction or
1031 finding of guilt by a court of competent jurisdiction or by a
1032 governmental agency, or agency authorized to issue licenses or



1033 permits, including the United States Department of Agriculture,
1034 Animal and Plant Health Inspection Service, the Mississippi Board
1035 of Animal Health and the Mississippi Board of Health, of a
1036 veterinarian or veterinary technician of any matters listed in
1037 this section shall be admissible in evidence in any hearing held
1038 by the board to discipline such veterinarian or technician and
1039 shall constitute prima facie evidence of the commission of any
1040 such act.

1041 **SECTION 15.** This act shall take effect and be in force from
1042 and after July 1, 2020.

