

By: Representative Cockerham

To: Judiciary A

HOUSE BILL NO. 674

1 AN ACT RELATING TO THE PRACTICE OF MEDICINE; TO AMEND SECTION
2 73-25-1, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS
3 UNDER THE MEDICAL PRACTICE ACT; TO AMEND SECTIONS 73-25-3 AND
4 73-25-5, MISSISSIPPI CODE OF 1972, TO CLARIFY CERTAIN PROCEDURES
5 TO OBTAIN A LICENSE TO PRACTICE MEDICINE; TO AMEND SECTION
6 73-25-14, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ELECTRONIC
7 NOTICE OF LICENSE RENEWAL; TO REMOVE THE LICENSE RENEWAL FEE
8 EXEMPTION FOR PHYSICIANS OVER THE AGE OF 70; TO PROVIDE PROCEDURES
9 FOR PHYSICIANS TO REQUEST RETIRED STATUS; TO AMEND SECTION
10 73-25-17, MISSISSIPPI CODE OF 1972, TO CLARIFY PROCEDURES FOR THE
11 ISSUANCE OF A TEMPORARY LICENSE TO PRACTICE MEDICINE; TO AMEND
12 SECTION 73-25-18, MISSISSIPPI CODE OF 1972, TO CLARIFY CERTAIN
13 PROVISIONS REGARDING A SPECIAL VOLUNTEER MEDICAL LICENSE; TO AMEND
14 SECTIONS 73-25-19, 73-25-21 AND 73-25-23, MISSISSIPPI CODE OF
15 1972, TO CLARIFY PROCEDURES FOR NONRESIDENT PHYSICIANS AND
16 ISSUANCE OF A LICENSE BY RECIPROCITY; TO AMEND SECTIONS 73-25-27,
17 73-25-28, 73-25-29, 73-25-30 AND 73-25-32, MISSISSIPPI CODE OF
18 1972, TO REVISE CERTAIN PROCEDURES FOR DISCIPLINARY ACTION AGAINST
19 LICENSES, THE ISSUANCE OF SUBPOENAS BY THE BOARD OF MEDICAL
20 LICENSURE, THE GROUNDS FOR DISCIPLINARY ACTION, THE OPTIONS
21 AVAILABLE TO THE BOARD FOLLOWING DISCIPLINARY HEARINGS AGAINST
22 LICENSEES, AND PETITIONS FOR REINSTATEMENT OF LICENSES; TO AMEND
23 SECTION 73-25-33, MISSISSIPPI CODE OF 1972, TO REVISE THE
24 DEFINITION OF THE PRACTICE OF MEDICINE AND CLARIFY THE ACTION OF
25 UNLAWFUL PRACTICE OF MEDICINE AND THE AUTHORITY OF THE BOARD TO
26 SEEK INJUNCTIVE RELIEF AND IMPOSE PENALTIES; TO AMEND SECTION
27 73-25-34, MISSISSIPPI CODE OF 1972, TO DELETE THE EXCEPTION FROM
28 HAVING A MISSISSIPPI LICENSE TO PRACTICE MEDICINE FOR CERTAIN
29 PHYSICIANS OUTSIDE OF THE STATE WHO RENDER SERVICES BY
30 TELEMEDICINE; TO AMEND SECTIONS 73-25-51, 73-25-53, 73-25-55,
31 73-25-57, 73-25-59, 73-25-61, 73-25-63 AND 73-25-65, MISSISSIPPI
32 CODE OF 1972, TO REVISE CERTAIN PROCEDURES UNDER THE DISABLED
33 PHYSICIAN LAW TO APPLY TO ALL PROFESSIONAL LICENSEES UNDER THE
34 BOARD; TO AMEND SECTION 73-25-87, MISSISSIPPI CODE OF 1972, TO



35 REVISE DISCIPLINARY ACTIONS WHICH THE BOARD IS AUTHORIZED TO TAKE;
36 TO AMEND SECTION 73-25-89, MISSISSIPPI CODE OF 1972, TO CHANGE THE
37 TIME FOR A HEARING TO BE HELD WHEN A TEMPORARY ACTION IS TAKEN
38 WITHOUT A HEARING; TO REPEAL SECTION 73-25-7, MISSISSIPPI CODE OF
39 1972, WHICH PROVIDES WHEN AND WHERE LICENSURE EXAMINATIONS ARE
40 CONDUCTED, SECTION 73-25-9, MISSISSIPPI CODE OF 1972, WHICH
41 PRESCRIBES SPECIFIC FEES FOR LICENSURE EXAMINATION, SECTION
42 73-25-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR LOST
43 LICENSES, SECTION 73-25-25, MISSISSIPPI CODE OF 1972, WHICH
44 AUTHORIZES THE ISSUANCE OF A LICENSE FOR A PERSON DESIRING TO
45 PRACTICE OSTEOPATHIC MEDICINE IN THIS STATE, SECTION 73-25-39,
46 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE ACQUISITION OF
47 BOOKS AND STATIONERY BY THE BOARD, AND SECTION 73-25-81,
48 MISSISSIPPI CODE OF 1972, WHICH DEFINES THE MEMBERSHIP OF THE
49 BOARD RESPONSIBLE FOR LICENSURE AND DISCIPLINE OF PHYSICIANS IN
50 THIS STATE; AND FOR RELATED PURPOSES.

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

52 **SECTION 1.** Section 73-25-1, Mississippi Code of 1972, is
53 amended as follows:

54 73-25-1. (1) For the purposes of this chapter, the
55 following terms shall have the following meanings:

56 (a) "Practice of medicine" means the practice of
57 allopathic and osteopathic medicine.

58 (b) "Physician" means a medical doctor or a doctor of
59 osteopathic medicine.

60 (c) "Board" means the Mississippi State Board of
61 Medical Licensure.

62 (2) Every person who desires to practice medicine must first
63 obtain a license to do so from the Mississippi State Board of
64 Medical Licensure * * *.

65 **SECTION 2.** Section 73-25-3, Mississippi Code of 1972, is
66 amended as follows:



67 73-25-3. Every person who desires to obtain a license to
68 practice medicine must apply * * * to the * * * board * * *. If
69 the applicant is found * * * to possess sufficient * * *
70 qualifications, the board shall issue * * * the applicant a
71 license to practice medicine; however, no applicant shall be
72 granted a license unless the applicant holds a diploma from a
73 reputable medical college or college of osteopathic medicine * * *
74 listed in the World Directory of Medical Schools or its successor,
75 or by an equivalent board-approved directory or entity.

76 To qualify for a Mississippi medical license, an applicant
77 must have successfully been cleared for licensure through an
78 investigation that shall consist of * * * verification that the
79 prospective licensee is not guilty of or in violation of any
80 statutory ground for denial of licensure as set forth in Sections
81 73-25-29 and 73-25-83. To assist the board in conducting its
82 licensure investigation, all applicants shall undergo a
83 fingerprint-based criminal history records check of the
84 Mississippi central criminal database and the Federal Bureau of
85 Investigation criminal history database. Each applicant shall
86 submit a full set of the applicant's fingerprints in a form and
87 manner prescribed by the board, which shall be forwarded to the
88 Mississippi Department of Public Safety * * * and the Federal
89 Bureau of Investigation Identification Division for this purpose.

90 Any and all state or national criminal history records
91 information obtained by the board that is not already a matter of



92 public record shall be deemed nonpublic and confidential
93 information restricted to the exclusive use of the board, its
94 members, officers, investigators, agents and attorneys in
95 evaluating the applicant's eligibility or disqualification for
96 licensure, and shall be exempt from the Mississippi Public Records
97 Act of 1983. Except when introduced into evidence in a hearing
98 before the board to determine licensure, no such information or
99 records related thereto shall, except with the written consent of
100 the applicant or by order of a court of competent jurisdiction, be
101 released or otherwise disclosed by the board to any other person
102 or agency.

103 The board shall * * * require a form signed by the applicant
104 consenting to the check of the criminal records and to the use of
105 the fingerprints or other identification methods, and any other
106 identifying information required by the state or national
107 repositories.

108 The board shall charge and collect from the applicant, in
109 addition to all other applicable fees and costs, such amount as
110 may be incurred by the board in requesting and obtaining state and
111 national criminal history records information on the applicant.

112 This section shall not apply to applicants for a special
113 volunteer medical license authorized under Section 73-25-18.

114 **SECTION 3.** Section 73-25-5, Mississippi Code of 1972, is
115 amended as follows:



116 73-25-5. The application for license must include such
117 information as the * * * board * * * requires.

118 Each application or filing made under this section shall
119 include the active and valid social security number(s) of the
120 applicant in accordance with Section 93-11-64 * * *.

121 **SECTION 4.** Section 73-25-14, Mississippi Code of 1972, is
122 amended as follows:

123 73-25-14. * * * Except as provided in Section 33-1-39, the
124 license of every person licensed to practice medicine * * * in the
125 State of Mississippi shall be renewed annually.

126 On or before May 1 of each year, the * * * board * * * shall
127 mail or electronically transmit a notice of renewal of license to
128 every physician * * * to whom a license was issued or renewed
129 during the current licensing year. The notice shall provide
130 instructions for obtaining and submitting applications for
131 renewal. The * * * board * * * is authorized to make applications
132 for renewal available via electronic means. The applicant shall
133 obtain and complete the application and submit it to the board in
134 the manner prescribed by the board in the notice before June 30
135 with the renewal fee of an amount established by the board, but
136 not to exceed * * * Four Hundred Fifty Dollars (\$450.00), along
137 with any penalty fees or other requirements established by the
138 board, and a portion of * * * the fees shall be used to support a
139 program to aid impaired * * * licensees. Upon receipt of the
140 application and any fees, the board shall verify the accuracy of



141 the application and issue to applicant a certificate of renewal
142 for the ensuing year, beginning July 1 and expiring June 30 of the
143 succeeding calendar year. That renewal shall render the holder
144 thereof a legal practitioner as stated on the renewal form.

145 Any physician practicing in the State of Mississippi whose
146 license has lapsed may petition the board for reinstatement of his
147 or her license on a retroactive basis, if the physician was unable
148 to meet the June 30 deadline due to extraordinary or other
149 legitimate reasons, and retroactive reinstatement of licensure
150 shall be granted or may be denied by the board only for good
151 cause. Failure to advise the board of change of address shall not
152 be considered a good cause for reinstatement.

153 A physician who wishes to retain his or her license but not
154 actively practice medicine may request "retired status" for his or
155 her license by submitting the proper paperwork as prescribed by
156 the board with the renewal fee. A physician holding a retired
157 status medical license is exempt from license renewal and from
158 continuing medical education requirements. A licensed
159 retired-status physician shall not practice medicine unless the
160 licensee applies for and is granted reinstatement and pays the
161 reinstatement fee as determined by the board.

162 * * *

163 **SECTION 5.** Section 73-25-17, Mississippi Code of 1972, is
164 amended as follows:



165 73-25-17. (1) * * * The executive * * * director of
166 the * * * board * * * may issue * * * a temporary license to
167 practice medicine * * * in compliance with the rules and
168 regulations of the board. * * * The temporary license of a person
169 enrolled in any * * * Accreditation Council for Graduate Medical
170 Education (ACGME)-approved internship, residency or fellowship
171 program within the state * * * may be renewed annually for the
172 duration of the internship, residency or fellowship program for a
173 period not to exceed * * * seven (7) years, except when in
174 combination with a Ph.D. program.

175 (2) The * * * board * * * may issue a temporary license to
176 practice medicine at a youth camp licensed by the State Board of
177 Health to nonresident physicians and retired resident physicians
178 under the provisions of Section 75-74-8.

179 * * *

180 **SECTION 6.** Section 73-25-18, Mississippi Code of 1972, is
181 amended as follows:

182 73-25-18. (1) (a) There is established a special volunteer
183 medical license for physicians who are retired from active
184 practice, or are currently serving on active duty in the Armed
185 Forces of the United States or in the National Guard or a reserve
186 component of the Armed Forces of the United States, or are working
187 as physicians for the Department of Veterans Affairs, and wish to
188 donate their expertise for the medical care and treatment of
189 indigent and needy persons or persons in medically underserved



190 areas of the state. The special volunteer medical license shall
191 be issued by the State Board of Medical Licensure to eligible
192 physicians without the payment of any application fee, examination
193 fee, license fee or renewal fee, shall be issued for a fiscal year
194 or part thereof, and shall be renewable annually upon approval of
195 the board.

196 (b) A physician must meet the following requirements to
197 be eligible for a special volunteer medical license:

198 (i) Completion of a special volunteer medical
199 license application, including documentation of the physician's
200 medical school or osteopathic school graduation and practice
201 history;

202 (ii) Documentation that the physician * * *
203 otherwise qualifies for an unrestricted license to practice
204 medicine in Mississippi or in another state of the United States
205 and that he or she has never been the subject of any medical
206 disciplinary action in any jurisdiction;

207 (iii) Acknowledgement and documentation that the
208 physician's practice under the special volunteer medical license
209 will be exclusively and totally devoted to providing medical care
210 to needy and indigent persons in Mississippi or persons in
211 medically underserved areas in Mississippi; and

212 (iv) Acknowledgement and documentation that the
213 physician will not receive any payment or compensation, either
214 direct or indirect, or have the expectation of any payment or



215 compensation, for any medical services rendered under the special
216 volunteer medical license.

217 (2) (a) There is established a special volunteer license
218 for physician assistants who are retired from active practice, or
219 are currently serving on active duty in the Armed Forces of the
220 United States or in the National Guard or a reserve component of
221 the Armed Forces of the United States, or are working as physician
222 assistants for the Department of Veterans Affairs, and wish to
223 donate their expertise for the care and treatment of indigent and
224 needy persons or persons in medically underserved areas of the
225 state. The special volunteer physician assistant license shall be
226 issued by the State Board of Medical Licensure to eligible
227 physician assistants without the payment of any application fee,
228 examination fee, license fee or renewal fee, shall be issued for a
229 fiscal year or part thereof, and shall be renewable annually upon
230 approval of the board.

231 (b) A physician assistant must meet the following
232 requirements to be eligible for a special volunteer physician
233 assistant license:

234 (i) Completion of an application for a special
235 volunteer physician assistant license, including documentation of
236 the physician assistant's educational qualifications and practice
237 history;

238 (ii) Documentation that the physician
239 assistant * * * otherwise qualifies for an unrestricted physician



240 assistant license in Mississippi or in another state of the United
241 States and that he or she has never been the subject of any
242 disciplinary action in any jurisdiction;

243 (iii) Acknowledgement and documentation that the
244 physician assistant's practice under the special volunteer
245 physician assistant license will be exclusively and totally
246 devoted to providing care to needy and indigent persons in
247 Mississippi or persons in medically underserved areas in
248 Mississippi; and

249 (iv) Acknowledgement and documentation that the
250 physician assistant will not receive any payment or compensation,
251 either direct or indirect, or have the expectation of any payment
252 or compensation, for any services rendered under the special
253 volunteer physician assistant license.

254 **SECTION 7.** Section 73-25-19, Mississippi Code of 1972, is
255 amended as follows:

256 73-25-19. Nonresident physicians not holding a license from
257 the state shall not be permitted to practice medicine under any
258 circumstances * * *, except when called in consultation by a
259 licensed physician residing in this state or except as authorized
260 under Sections 73-25-121 through 73-25-127. This section shall
261 not apply to any nonresident physician who holds a temporary
262 license to practice medicine at a youth camp issued under the
263 provisions of Section 75-74-8 and Section 73-25-17.



264 **SECTION 8.** Section 73-25-21, Mississippi Code of 1972, is
265 amended as follows:

266 73-25-21. * * *

267 The issuance of a license by reciprocity to a
268 military-trained applicant, military spouse or person who
269 establishes residence in this state shall be subject to the
270 provisions of Section 73-50-1 or 73-50-2, as applicable.

271 **SECTION 9.** Section 73-25-23, Mississippi Code of 1972, is
272 amended as follows:

273 73-25-23. The * * * board * * * is * * * authorized and
274 empowered to grant limited institutional license for the practice
275 of medicine in state institutions to graduates of foreign medical
276 colleges approved by the National Educational Council for Foreign
277 Medical Graduates or its successor, subject to the conditions as
278 set out herein.

279 Any graduate of a foreign medical college approved by the
280 organizations specified in the foregoing paragraph who is employed
281 or is being considered for employment to practice medicine in one
282 or more Mississippi state-supported institution(s) located in the
283 same county shall make application for license to the * * *
284 board * * *. The application shall be made on a form prescribed
285 by the board * * * as required by laws of the State of
286 Mississippi. The application shall also state the institution or
287 institutions in which the applicant has assurance of employment.
288 The * * * board * * * is * * * authorized to establish minimum



289 standards of qualifications including * * * experience and
290 proficiency for such applicants. * * * Upon review of the
291 application, and upon the satisfaction of all requirements set
292 forth by the board, the board may issue a limited license to
293 practice medicine.

294 * * *

295 Such license shall be for one (1) year and shall be in such
296 form as the * * * board * * * prescribes, and shall be issued for
297 practice in a particular institution and shall not be endorsable
298 to another state. The license must be renewed annually, after
299 such review as the * * * board * * * considers necessary. A
300 graduate of a foreign medical school so licensed may hold such
301 limited institutional license no longer than * * * seven (7)
302 years. * * * In addition, the * * * board * * *, in its
303 discretion, may waive the * * * seven-year limitation on limited
304 institutional licenses for any graduate of a foreign medical
305 school who holds such license.

306 It is the intent of this section to enable Mississippi
307 institutions to utilize the services of qualified graduates of
308 foreign medical colleges during the period necessary for them to
309 secure citizenship papers, and to meet other requirements for a
310 regular license, including Educational Council for Foreign Medical
311 Graduates certification. The * * * board * * * is * * *
312 authorized, in its discretion, to refuse to renew, or to revoke



313 such limited license if the holder of such license * * * fails to
314 apply for a regular license after becoming eligible * * *.

315 The * * * board * * * may establish reasonable and uniform
316 license fees and shall make such rules and regulations as it
317 considers necessary to carry out the purposes of this section.

318 * * *

319 **SECTION 10.** Section 73-25-27, Mississippi Code of 1972, is
320 amended as follows:

321 73-25-27. The * * * board * * * after notice and opportunity
322 for a hearing to the licentiate, is authorized to suspend or
323 revoke for any cause named in this chapter any license it has
324 issued, or the renewal thereof, that authorizes any person to
325 practice medicine, osteopathy, or any other method of preventing,
326 diagnosing, relieving, caring for, or treating, or curing disease,
327 injury or other bodily condition. The procedure for suspension of
328 a license for being out of compliance with an order for support,
329 and the procedure for the reissuance or reinstatement of a license
330 suspended for that purpose, and the payment of any fees for the
331 reissuance or reinstatement of a license suspended for that
332 purpose, shall be governed by Section 93-11-157 or 93-11-163, as
333 the case may be. If there is any conflict between any provision
334 of Section 93-11-157 or 93-11-163 and any provision of this
335 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
336 case may be, shall control.



337 The notice shall be effected by * * * certified mail,
338 electronic acknowledgment, * * * personal service or any means
339 authorized in the federal or state rules of civil procedure,
340 setting forth the particular reasons for the proposed action and
341 fixing a date not less than thirty (30) days * * * from the date
342 of the mailing or the service, at which time the licentiate shall
343 be given an opportunity for a prompt and fair hearing. For the
344 purpose of the hearing the board, acting by and through its
345 executive office, may subpoena persons and papers on its own
346 behalf and on behalf of the licentiate, including records obtained
347 under Section 73-25-28 and Section 73-25-83(c), may administer
348 oaths and the testimony when properly transcribed, together with
349 the papers and exhibits, shall be admissible in evidence for or
350 against the licentiate. At the hearing the licentiate may appear
351 by counsel and personally in his own behalf. Any person sworn and
352 examined as a witness in the hearing shall not be held to answer
353 criminally, nor shall any papers or documents produced by the
354 witness be competent evidence in any criminal proceedings against
355 the witness other than for perjury in delivering his evidence.
356 The board or its designee, in the conduct of any hearing, shall
357 not be bound by strict laws or rules of evidence. The board may
358 adopt rules and discovery and procedure governing all proceedings
359 before it. On the basis of any such hearing, or upon default of
360 the licentiate, the board shall make a determination specifying



361 its findings of fact and conclusions of law. The board shall make
362 its determination based upon a preponderance of the evidence.

363 A copy of the determination shall be sent by * * * certified
364 mail * * *, electronic acknowledgement, any means authorized in
365 the federal or state rules of civil procedure served personally
366 upon the licentiate. The decision of the board revoking or
367 suspending the license shall become final thirty (30) days after
368 so mailed or served unless within that period the licentiate
369 appeals the decision to the chancery court, under the provisions
370 of this section. The appeal to the chancery court shall be based
371 solely on the record made before the board. A transcript of the
372 proceedings and evidence, together with exhibits, presented at the
373 hearing before the board in the event of appeal shall be a part of
374 the record before the chancery court. The chancery court shall
375 dispose of the appeal and enter its decision promptly. The
376 hearing on the appeal may, in the discretion of the chancellor, be
377 tried in vacation. Appeals may be taken to the Supreme Court of
378 the State of Mississippi as provided by law from any final action
379 of the chancery court. No such person shall be allowed to
380 practice medicine in violation of any action of the chancery court
381 affirming, in whole or in part, the determination of the board,
382 while any such appeal to the Supreme Court is pending.

383 For the purpose of conducting investigations, the * * *
384 executive director * * * may issue subpoenas to any individual,
385 clinic, hospital, pharmacy or other entity having in its



386 possession papers, documents, medical charts, prescriptions or any
387 other nonfinancial records. * * * Investigatory subpoenas, as
388 provided in this section, may be served either by personal process
389 or by * * * certified mail, and upon service shall command
390 production of the papers and documents to the board at the time
391 and place so specified. The board shall be entitled to the
392 assistance of the chancery court or the chancellor in vacation,
393 which, on petition by the board, shall issue ancillary subpoenas
394 and petitions and may punish as for contempt of court in the event
395 of noncompliance with the subpoenas or petitions.

396 In addition to investigatory subpoenas, the board may seek
397 the issuance of administrative inspection warrants, via the
398 issuance and service processes described in Section 41-29-157, for
399 patient records or other information relevant to the
400 investigation, including billing related to the practice of
401 medicine. Those warrants may be issued under this section in any
402 investigatory matter involving potential violation(s) of the
403 Medical Practice Act and/or the Administrative Code of the board,
404 regardless as to whether controlled substance violations are the
405 subject of the investigation. Any person or entity who refuses to
406 comply with any warrant duly issued under this section shall be in
407 violation of Section 9-1-17, and shall be subject to all fines and
408 penalties stated in that section.

409 For the purpose of conducting hearings, the * * * executive
410 director may subpoena persons and papers on its own behalf and on



411 behalf of the respondent, including records obtained under Section
412 73-25-28 and Section 73-25-83(c), may administer oaths, and may
413 compel the testimony of witnesses. * * * It may issue subpoenas
414 to take testimony, and testimony so taken and sworn to shall be
415 admissible in evidence for and against the respondent. The board
416 shall be entitled to the assistance of the chancery court or the
417 chancellor in vacation, which, on petition by the board, shall
418 issue ancillary subpoenas and petitions and may punish as for
419 contempt of court in the event of noncompliance with the subpoenas
420 or petitions.

421 Unless the court otherwise decrees, a license that has been
422 suspended by the board * * * shall become again valid if and when
423 the board so orders, which it may do on its own motion or on the
424 petition of the respondent. A license that has been revoked shall
425 not be restored to validity except: (1) by order of the board
426 based on petition for reinstatement filed under Section 73-25-32
427 or (2) by order of the chancery court or Supreme Court following
428 appeal. * * * Nothing in this chapter shall be construed as
429 limiting or revoking the authority of any court or of any
430 licensing or registering officer or board, other than the
431 Mississippi State Board of Medical Licensure, to suspend, revoke
432 and reinstate licenses and to cancel registrations under the
433 provisions of Section 41-29-311.

434 **SECTION 11.** Section 73-25-28, Mississippi Code of 1972, is
435 amended as follows:



436 73-25-28. (1) In any case in which disciplinary action
437 against a * * * licensee is being considered by the * * *
438 board * * *, the executive * * * director of the board, or its
439 investigators * * *, upon reasonable cause as defined below, may
440 enter, at a time convenient to all parties, any hospital, clinic,
441 office of a * * * licensee or emergency care facility to inspect
442 and copy patient records, charts, emergency room records or any
443 other document which would assist the board in its investigation
444 of a * * * licensee. Reasonable cause shall be demonstrated by
445 allegations of one or more * * * violation of state statute or the
446 administrative code of the board. Whether reasonable cause exists
447 shall be determined by the executive * * * director and/or the
448 executive committee of the board, and documentation of that
449 determination shall be provided to the hospital, clinic, office or
450 emergency care facility before entry for inspection and copying
451 hereunder.

452 (2) A certified copy of any record inspected or copied
453 pursuant to subsection (1) shall be subject to subpoena by the
454 board to be used as evidence before it in a licensure disciplinary
455 proceeding initiated pursuant to the provisions of Sections
456 73-25-1 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81
457 through 73-25-95 and 73-27-1 through 73-27-19 * * *. All
458 references to a patient's name and address or other information
459 which would identify the patient shall be deleted from the records



460 unless a waiver of the medical privilege is obtained from the
461 patient.

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

469 (4) Notwithstanding any right to privacy, confidentiality,
470 privilege or exemption from public access conferred by this
471 section, Section 73-52-1, or otherwise by statute or at law, the
472 board shall provide to any hospital, as defined in Section 41-9-3,
473 any and all information it may have concerning any physician who
474 has applied for a license, other than information contained in
475 records exempt from the provisions of the Mississippi Public
476 Records Act of 1983 pursuant to Sections 45-29-1 and
477 45-29-3, * * * upon receipt by the board of a written request from
478 the hospital for such information and documentation that the
479 physician has applied for appointment or reappointment to the
480 medical staff of the hospital or staff privileges at the hospital.
481 The board, any member of the board, and its agents or employees,
482 acting without malice in providing the documents or information
483 hereunder, shall be immune from civil or criminal liability.



484 **SECTION 12.** Section 73-25-29, Mississippi Code of 1972, is
485 amended as follows:

486 73-25-29. The grounds for the nonissuance, suspension,
487 revocation or restriction of a license or the denial of
488 reinstatement or renewal of a license are:

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

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

494 (3) Administering, dispensing or prescribing any
495 narcotic drug, or any other drug having addiction-forming or
496 addiction-sustaining liability otherwise than in the course of
497 legitimate professional practice.

498 (4) Conviction of violation of any federal or state law
499 regulating the possession, distribution or use of any narcotic
500 drug or any drug considered a controlled substance under state or
501 federal law, a certified copy of the conviction order or judgment
502 rendered by the trial court being prima facie evidence thereof,
503 notwithstanding the pendency of any appeal.

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

506 (6) Conviction of a felony or misdemeanor involving
507 moral turpitude, a certified copy of the conviction order or



508 judgment rendered by the trial court being prima facie evidence
509 thereof, notwithstanding the pendency of any appeal.

510 (7) Obtaining or attempting to obtain a license by
511 fraud or deception.

512 (8) Unprofessional conduct, which includes, but is not
513 limited to:

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

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

518 (c) Making or willfully causing to be made any
519 flamboyant claims concerning the licensee's professional
520 excellence.

521 (d) Being guilty of any dishonorable, disruptive
522 or unethical conduct likely to impair patient care or deceive,
523 defraud or harm the public.

524 (e) Obtaining a fee as personal compensation or
525 gain from a person on fraudulent representation of a disease or
526 injury condition generally considered incurable by competent
527 medical authority in the light of current scientific knowledge and
528 practice can be cured or offering, undertaking, attempting or
529 agreeing to cure or treat the same by a secret method, which he or
530 she refuses to divulge to the board upon request.

531 (f) Use of any false, fraudulent or forged
532 statement or document, or the use of any fraudulent, deceitful,



533 dishonest or immoral practice in connection with any of the
534 licensing requirements, including the signing in his professional
535 capacity any certificate that is known to be false at the time he
536 or she makes or signs such certificate.

537 (g) Failing to identify a physician's school of
538 practice in all professional uses of his name by use of his earned
539 degree or a description of his or her school of practice.

540 (h) When a licensee makes, or knowingly permits
541 any person to make, an agreement with a patient or person, or any
542 person or entity representing patients or persons, or provides any
543 form of consideration that would prohibit, restrict, discourage or
544 otherwise limit a person's ability to file a complaint with the
545 board; to truthfully and fully answer any questions posed by an
546 agent or representative of the board; or to participate as a
547 witness in a board proceeding.

548 (9) The refusal of a licensing authority of another
549 state or jurisdiction to issue or renew a license, permit or
550 certificate to practice medicine in that jurisdiction or the
551 revocation, suspension or other restriction imposed on a license,
552 permit or certificate issued by such licensing authority which
553 prevents or restricts practice in that jurisdiction, a certified
554 copy of the disciplinary order or action taken by the other state
555 or jurisdiction being prima facie evidence thereof,
556 notwithstanding the pendency of any appeal.



557 (10) Surrender of a license or authorization to
558 practice medicine in another state or jurisdiction or surrender of
559 membership on any medical staff or in any medical or professional
560 association or society while under disciplinary investigation by
561 any of those authorities or bodies for acts or conduct similar to
562 acts or conduct which would constitute grounds for action as
563 defined in this section.

564 (11) Final sanctions imposed by the United States
565 Department of Health and Human Services, Office of Inspector
566 General, Mississippi Division of Medicaid, State Department of
567 Health or any successor federal or state agency or office, based
568 upon a finding of incompetency, gross misconduct or failure to
569 meet professionally recognized standards of health care; a
570 certified copy of the notice of final sanction being prima facie
571 evidence thereof. As used in this paragraph, the term "final
572 sanction" means the written notice to a physician from the United
573 States Department of Health and Human Services, Officer of
574 Inspector General, Mississippi Division of Medicaid, State
575 Department of Health or any successor federal or state agency or
576 office, which implements the exclusion.

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

579 (13) Violation of any provision(s) of the Medical
580 Practice Act or the rules and regulations of the board or of any
581 order, stipulation or agreement with the board.



582 (14) Violation(s) of the provisions of Sections
583 41-121-1 through 41-121-9 relating to deceptive advertisement by
584 health care practitioners.

585 (15) Performing or inducing an abortion on a woman in
586 violation of any provision of Sections 41-41-131 through
587 41-41-145.

588 (16) Performing an abortion on a pregnant woman after
589 determining that the unborn human individual that the pregnant
590 woman is carrying has a detectable fetal heartbeat as provided in
591 Section 41-41-34.1.

592 In addition to the grounds specified above, the board shall
593 be authorized to suspend the license of any licensee for being out
594 of compliance with an order for support, as defined in Section
595 93-11-153. The procedure for suspension of a license for being
596 out of compliance with an order for support, and the procedure for
597 the reissuance or reinstatement of a license suspended for that
598 purpose, and the payment of any fees for the reissuance or
599 reinstatement of a license suspended for that purpose, shall be
600 governed by Section 93-11-157 or 93-11-163, as the case may be.
601 If there is any conflict between any provision of Section
602 93-11-157 or 93-11-163 and any provision of this chapter, the
603 provisions of Section 93-11-157 or 93-11-163, as the case may be,
604 shall control.

605 **SECTION 13.** Section 73-25-30, Mississippi Code of 1972, is
606 amended as follows:



607 73-25-30. (1) The * * * board * * *, in exercising its
608 authority under the provisions of Section 73-25-29, shall have the
609 power to discipline the holder of a license who has been found by
610 the board in violation of that statute after notice and a hearing
611 as provided by law * * *.

612 * * *

613 (2) Upon the execution of a disciplinary order by the board,
614 either following a hearing or in lieu of a hearing, the
615 board * * * may assess the licensee for those reasonable costs
616 that are expended by the board in the investigation and conduct of
617 a proceeding for licensure disciplinary action including, but not
618 limited to, the cost of process service, court reporters, witness
619 fees, expert witnesses, investigators, and other related expenses.
620 Money collected by the board under this section shall be deposited
621 to the credit of the special fund of the board to reimburse the
622 existing current year appropriated budget.

623 (3) An assessment of investigative costs and legal fees
624 under this section shall be paid to the board by the licensee,
625 upon the expiration of the period allowed for appeals under
626 Section 73-25-27, or may be paid sooner if the licensee elects.
627 Cost assessed under this section shall not exceed * * * Fifty
628 Thousand Dollars (\$50,000.00).

629 (4) When an assessment of costs by the board against a
630 licensee in accordance with this section is not paid by the
631 licensee when due under this section, the licensee shall be



632 prohibited from practicing medicine until the full amount is paid.
633 In addition, the board may institute and maintain proceedings in
634 its name for enforcement of payment in the Chancery Court of the
635 First Judicial District of Hinds County. When those proceedings
636 are instituted, the board shall certify the record of its
637 proceedings, together with all documents and evidence, to the
638 chancery court. The matter shall be heard in due course by the
639 court, which shall review the record and make its determination
640 thereon. The hearing on the matter, in the discretion of the
641 chancellor, may be tried in vacation.

642 **SECTION 14.** Section 73-25-32, Mississippi Code of 1972, is
643 amended as follows:

644 73-25-32. (1) A person whose license * * * has been * * *
645 suspended or previously surrendered may petition the * * *
646 board * * * to reinstate this license after a period of not less
647 than one (1) year has elapsed from the date of the * * *
648 suspension or surrender. A person whose license to practice has
649 been revoked may petition the board to reinstate this license
650 after a period of not less than three (3) years or, as determined
651 by the board, not greater than five (5) years has elapsed from the
652 date of the revocation. The procedure for the reinstatement of a
653 license that is suspended for being out of compliance with an
654 order for support, as defined in Section 93-11-153, shall be
655 governed by Section 93-11-157 or 93-11-163, as the case may be.



656 (2) * * * The petition may be heard at the next regular
657 meeting of the board * * * but not earlier than thirty (30) days
658 after the petition was filed. No petition shall be considered
659 while the petitioner is under sentence for any state or federal
660 criminal offense, including any period during which he or she is
661 under probation or parole. The hearing may be continued from time
662 to time as the board * * * finds necessary.

663 (3) In determining whether the disciplinary penalty should
664 be set aside and the terms and conditions, if any, that should be
665 imposed if the disciplinary penalty is set aside, the board * * *
666 may investigate and consider all activities of the petitioner
667 since the disciplinary action was taken * * *, the offense for
668 which he or she was disciplined, * * * activity during the
669 time * * * the petitioner was in good standing, * * * general
670 reputation for truth, professional ability and good character; and
671 it may require the petitioner to pass an oral examination or to
672 submit to professional competency evaluation.

673 (4) The investigation shall require the petitioner to
674 undergo a fingerprint-based criminal history records check of the
675 Mississippi central criminal database and the Federal Bureau of
676 Investigation criminal history database. Each petitioner shall
677 submit a full set of the petitioner's fingerprints in a form and
678 manner prescribed by the board, which shall be forwarded to the
679 Mississippi Department of Public Safety * * * and the Federal
680 Bureau of Investigation Identification Division for this purpose.



681 Any and all state or national criminal history records
682 information obtained by the board that is not already a matter of
683 public record shall be deemed nonpublic and confidential
684 information restricted to the exclusive use of the board, its
685 members, officers, investigators, agents and attorneys in
686 evaluating the applicant's eligibility or disqualification for
687 licensure, and shall be exempt from the Mississippi Public Records
688 Act of 1983. Except when introduced into evidence in a hearing
689 before the board to determine licensure, no such information or
690 records related thereto shall, except with the written consent of
691 the applicant or by order of a court of competent jurisdiction, be
692 released or otherwise disclosed by the board to any other person
693 or agency.

694 The board shall provide to the department the fingerprints of
695 the petitioner, any additional information that may be required by
696 the department, and a form signed by the petitioner consenting to
697 the check of the criminal records and to the use of the
698 fingerprints and other identifying information required by the
699 state or national repositories.

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

704 * * *



705 **SECTION 15.** Section 73-25-33, Mississippi Code of 1972, is
706 amended as follows:

707 73-25-33. (1) The practice of medicine shall mean * * * one
708 or more of the following:

709 (i) Holding oneself out to the public within this
710 state as being able to diagnose, treat, prescribe for, palliate or
711 prevent any human disease, ailment, injury, deformity or physical
712 or mental condition, whether by the use of drugs, surgery,
713 manipulation, technology or any physical, mechanical, or other
714 means whatsoever;

715 (ii) Suggesting, recommending, prescribing, or
716 administering any form of treatment, operation or healing for the
717 intended palliation, relief or cure of any physical or mental
718 disease, ailment, injury, condition or defect of any person, with
719 or without the intention of receiving, either directly or
720 indirectly, any fee, gift or compensation;

721 (iii) Maintaining an office or other place to meet
722 persons or patients for the purpose of examining or treating
723 persons afflicted with disease, injury, defect of the body or
724 mind, or other condition for which treatment is sought;

725 (iv) Using the title "M.D.", "D.O.", "physician",
726 "surgeon", or any other word or abbreviation to indicate or induce
727 others to believe that one is engaged in the diagnosis or
728 treatment of persons afflicted with disease, injury, defect of the



729 body or mind, or other conditions for which treatment is sought;

730 or

731 (v) Performing any kind of surgical operation upon
732 another person.

733 (2) In addition to any other provisions of law, it shall be
734 unlawful for any person to perform any act constituting the
735 practice of medicine without first obtaining a medical license in
736 accordance with the provisions of this chapter and the rules and
737 regulations of the board. Nothing in this subsection shall be
738 construed to limit duly licensed health care professionals from
739 providing medical services within the scope of their authorizing
740 license.

741 (3) In addition to any other civil remedy or criminal
742 penalty provided for by law, the board shall be authorized to seek
743 injunctive relief against the unlawful practice of medicine. The
744 executive director of the board may issue a summons to appear
745 before the board to any person or persons who the executive
746 director has probable cause to believe has violated this section
747 by practicing, or attempting to practice, or offering to practice
748 medicine without a current, valid license or permit, and may
749 subpoena any necessary witnesses for the proceeding. The summons
750 issued by the board shall command each person to whom it is
751 directed to attend and give testimony at a time and place
752 specified in the summons. The summons shall be served upon the
753 individual personally or by certified mail, and shall include a



754 statement of the charges and an explanation of the manner in which
755 the unlicensed person shall be required to respond to the board.
756 Any summonses or witness subpoenas issued by the board for the
757 purposes of this chapter shall be enforceable as to compliance by
758 the Chancery Court of the First Judicial District of Hinds County,
759 Mississippi.

760 (4) In proceedings conducted under subsection (3) of this
761 section, the board may levy for each and every violation a civil
762 penalty upon any unlicensed person who, after a hearing, is found
763 to have practiced medicine without the benefit of a current, valid
764 license. Civil penalties may be issued by the board as follows:

765 (i) For the first violation, a monetary penalty of
766 not more than Twenty-five Thousand Dollars (\$25,000.00).

767 (ii) For the second violation, a monetary penalty
768 of not more than Thirty-five Thousand Dollars (\$35,000.00).

769 (iii) For the third and any subsequent violations,
770 a monetary penalty of not more than Fifty Thousand Dollars
771 (\$50,000.00) per offense.

772 (5) For any violation(s), the board may assess those
773 reasonable costs that are expended by the board in the
774 investigation and conduct of the hearing as provided in this
775 section. Appeals may be made as provided in Sections 73-25-27,
776 73-43-14 and 73-43-17. Any monetary penalty or assessment levied
777 under this section shall be paid to the board by the illegal
778 practitioner upon the expiration of the period allowed for



779 appealing those penalties, or may be paid sooner if the illegal
780 practitioner so chooses. Monetary penalties collected by the
781 board under this section shall be deposited to the credit of the
782 State General Fund. Any monies collected for assessment of costs
783 by the board shall be deposited into the special fund of the
784 board.

785 **SECTION 16.** Section 73-25-34, Mississippi Code of 1972, is
786 amended as follows:

787 73-25-34. (1) For the purposes of this section,
788 telemedicine, or the practice of medicine across state lines,
789 shall be defined to include any one or both of the following:

790 (a) Rendering of a medical opinion concerning diagnosis
791 or treatment of a patient within this state by a physician located
792 outside this state as a result of transmission of individual
793 patient data by electronic or other means from within this state
794 to such physician or his agent; or

795 (b) The rendering of treatment to a patient within this
796 state by a physician located outside this state as a result of
797 transmission of individual patient data by electronic or other
798 means from within this state to such physician or his agent.

799 (2) * * * No person shall engage in the practice of medicine
800 across state lines (telemedicine) in this state, hold himself out
801 as qualified to do the same, or use any title, word or
802 abbreviation to indicate to or induce others to believe that he is
803 duly licensed to practice medicine across state lines in this



804 state unless he has first obtained a license to do so from the
805 State Board of Medical Licensure and has met all educational and
806 licensure requirements as determined by the State Board of Medical
807 Licensure.

808 * * *

809 **SECTION 17.** Section 73-25-51, Mississippi Code of 1972, is
810 amended as follows:

811 73-25-51. Sections 73-25-51 through 73-25-67 shall be known
812 as the "Disabled * * * Licensee Law."

813 **SECTION 18.** Section 73-25-53, Mississippi Code of 1972, is
814 amended as follows:

815 73-25-53. * * * Any person holding a professional license
816 from the board shall be subject to restriction, suspension or
817 revocation * * * in case of inability of the licensee to
818 practice * * * with reasonable skill or safety to patients by
819 reason of one or more of the following:

820 (a) Mental illness;

821 (b) Physical illness, including, but not limited to,
822 deterioration through the aging process, or loss of motor skill;

823 (c) Excessive use or abuse of drugs, including
824 alcohol * * *;

825 (d) Behavioral conduct that could be addressed by
826 treatment.

827 **SECTION 19.** Section 73-25-55, Mississippi Code of 1972, is
828 amended as follows:



829 73-25-55. (1) If the * * * board * * * has reasonable cause
830 to believe that a * * * licensee is unable to practice * * * with
831 reasonable skill and safety to patients because of a condition
832 described in Section 73-25-53, * * * the board * * * shall cause
833 an examination of such * * * licensee to be made as described in
834 subsection (2) of this section and shall, following such
835 examination, take appropriate action within the provisions of
836 Sections 73-25-51 through 73-25-67.

837 (2) Examination of a * * * licensee under this section shall
838 be conducted by an examining committee as provided in the
839 following:

840 (a) Except as otherwise provided in paragraph (b)
841 below, the board * * * shall refer all cases for such examination
842 to the Mississippi State Medical Association or its constituent
843 bodies for examination by an examining committee as created by
844 such association exclusively for the purpose of such examinations.
845 Such examining committee shall be composed of three (3) practicing
846 physicians and shall include at least one (1) psychiatrist if a
847 question of mental illness is involved.

848 (b) If the * * * licensee to be examined is not a
849 member of the Mississippi State Medical Association, or if the
850 Mississippi State Medical Association is unable or unwilling to
851 act on a referral by the board of medical licensure for
852 examination, the board shall designate the members of an examining
853 committee. Such examining committee shall be composed of three



854 (3) practicing physicians and shall include at least one (1)
855 psychiatrist if a question of mental illness is involved.

856 **SECTION 20.** Section 73-25-57, Mississippi Code of 1972, is
857 amended as follows:

858 73-25-57. (1) The examining committee assigned to examine
859 a * * * licensee pursuant to referral by the board under Section
860 73-25-55 shall conduct an examination of such * * * licensee for
861 the purpose of determining the * * * licensee's fitness to
862 practice * * * with reasonable skill and safety to patients,
863 either on a restricted or unrestricted basis, and shall report its
864 findings and recommendations to the board. The committee shall
865 order the * * * licensee to appear before the committee for
866 examination and give * * * ten (10) days' notice of time and place
867 of the examination, together with a statement of the cause for
868 such examination. Such notice shall be served upon the * * *
869 licensee either personally or by registered or certified mail with
870 return receipt requested.

871 (2) If the examining committee, in its discretion,
872 * * * deems an independent mental or physical examination of
873 the * * * licensee necessary to its determination of the fitness
874 of the * * * licensee to practice, the committee shall order
875 the * * * licensee to submit to such examination. Any * * *
876 licensee shall be deemed to have waived all objections to the
877 admissibility of the examining committee's report in any
878 proceedings before the board under Sections 73-25-51 through



879 73-25-67 on the grounds of privileged communication. Any * * *
880 licensee ordered to an examination before the committee under
881 subsection (2) shall be entitled to an independent mental or
882 physical examination if * * * the licensee makes request therefor.

883 (3) Any * * * licensee who submits to a diagnostic mental or
884 physical examination as ordered by the examining committee shall
885 have a right to designate another physician to be present at the
886 examination and make an independent report to the board.

887 (4) Failure of a * * * licensee to comply with a committee
888 order under subsection (2) to appear before it for examination or
889 to submit to mental or physical examination under this section, or
890 the withdrawal of advocacy by the Mississippi Physician Health
891 Program (MPHP) or any successor entity, shall be reported by the
892 committee or the MPHP to the board, and unless due to
893 circumstances beyond the control of the * * * licensee, shall be
894 grounds for suspension by the board * * * until such time as
895 such * * * licensee has complied with the order of the committee
896 or regained advocacy from the MPHP.

897 (5) The examining committee may inspect patient records in
898 accordance with the provisions of Section 73-25-28.

899 (6) All patient records, investigative reports and other
900 documents in possession of the board and examining committee shall
901 be deemed confidential and not subject to subpoena or disclosure
902 unless so ordered by the court from which the subpoena issued, but
903 the court, in its discretion, may limit use or disclosure of such



904 records. Notwithstanding, and to encourage the prompt reporting
905 of disabled practitioners, neither the board nor examining
906 committee shall reveal the identity of any source of information
907 where the source has requested anonymity.

908 **SECTION 21.** Section 73-25-59, Mississippi Code of 1972, is
909 amended as follows:

910 73-25-59. A * * * licensee may request in writing to the
911 board a restriction of his license to practice * * *. The board
912 may grant such request for restriction and shall have authority,
913 if it deems appropriate, to attach conditions to the
914 licensure * * * within specified limitations, and waive the
915 commencement of any proceeding under Section 73-25-63. Removal of
916 a voluntary restriction on licensure * * * shall be subject to the
917 procedure for reinstatement of license in Section 73-25-65.

918 **SECTION 22.** Section 73-25-61, Mississippi Code of 1972, is
919 amended as follows:

920 73-25-61. (1) The examining committee shall report to the
921 board its findings on the examination of the * * * licensee under
922 Section 73-25-57, the determination of the committee as to the
923 fitness of the * * * licensee to * * * practice * * * with
924 reasonable skill and safety to patients, either on a restricted or
925 unrestricted basis, and any management that the committee may
926 recommend. Such recommendation by the committee shall be advisory
927 only and shall not be binding on the board.



928 (2) The board may accept or reject the recommendation of the
929 examining committee to permit a * * * licensee to continue to
930 practice with or without any restriction on his license to
931 practice * * *, or may refer the matter back to the examining
932 committee for further examination and report thereon.

933 (3) In the absence of a voluntary agreement by a * * *
934 licensee under Section 73-25-59 * * *, any * * * licensee shall be
935 entitled to a hearing in formal proceedings before the board and a
936 determination on the evidence as to whether or not restriction,
937 suspension or revocation of licensure shall be imposed.

938 **SECTION 23.** Section 73-25-63, Mississippi Code of 1972, is
939 amended as follows:

940 73-25-63. (1) The board may proceed against a * * *
941 licensee under Sections 73-25-51 through 73-25-67 by serving upon
942 such * * * licensee at least fifteen (15) days' notice of a time
943 and place fixed for a hearing, together with copies of the
944 examining committee's report and diagnosis or a copy of the
945 official notice from the MPHP withdrawing advocacy. Such notice
946 and reports shall be served upon the * * * licensee either
947 personally * * *, by * * * certified mail with return receipt
948 requested, or by electronic acknowledgement.

949 (2) At * * * the hearing the * * * licensee shall have the
950 right to be present, to be represented by counsel, to produce
951 witnesses or evidence in his behalf, to cross-examine witnesses,
952 and to have subpoenas issued by the board.



953 (3) At the conclusion of the hearing, the board shall make a
954 determination of the merits and may issue an order imposing one or
955 more of the following:

956 (a) Make a recommendation that the * * * licensee
957 submit to the care, counseling or treatment by physicians
958 acceptable to the board.

959 (b) Suspend or restrict the license of the * * *
960 licensee for the duration of * * * impairment.

961 (c) Revoke the license of the * * * licensee.

962 (4) The board may temporarily suspend the license of
963 any * * * licensee without a hearing, simultaneously with the
964 institution of proceedings for a hearing under this section, if it
965 finds that the evidence * * * is clear, competent and unequivocal
966 and that * * * the licensee's continuation in practice would
967 constitute an imminent danger to public health and safety.

968 (5) Neither the record of the proceedings nor any order
969 entered against a * * * licensee may be used against him in any
970 other legal proceedings except upon judicial review as provided
971 herein.

972 **SECTION 24.** Section 73-25-65, Mississippi Code of 1972, is
973 amended as follows:

974 73-25-65. (1) A * * * licensee whose licensure has been
975 restricted, suspended or revoked under Sections 73-25-51 through
976 73-25-67, voluntarily or by action of the board, shall have a
977 right, at reasonable intervals, to petition for a reinstatement



978 of * * * license and to demonstrate that * * * the licensee can
979 resume * * * practice * * * with reasonable skill and safety to
980 patients. Such petition shall be made in writing and on a form
981 prescribed by the board. Action of the board on such petition
982 shall be initiated by referral to and examination by the examining
983 committee pursuant to the provisions of Sections 73-25-55 and
984 73-25-57. The board may, upon written recommendation of the
985 examining committee, restore the licensure of the * * * licensee
986 on a general or limited basis or institute a proceeding pursuant
987 to Section 73-25-63 for the determination of the fitness of
988 the * * * licensee to resume * * * practice.

989 (2) All orders of the board entered under Section
990 73-25-63(3), (4) shall be subject to judicial review by appeal to
991 the chancery court of the county of the residence of the * * *
992 licensee involved against whom the order is rendered, within
993 twenty (20) days following the date of entry of the order, said
994 appeal to be taken and perfected in the same manner as appeals
995 from orders of boards of supervisors.

996 **SECTION 25.** Section 73-25-87, Mississippi Code of 1972, is
997 amended as follows:

998 73-25-87. Whenever the board finds any person unqualified
999 because of any of the grounds set forth in * * * this chapter, it
1000 may enter an order imposing one or more of the following:

1001 (a) Deny * * * an application for a license or other
1002 authorization to practice * * *;



1003 (b) Administer a public or private reprimand;

1004 (c) Suspend, limit or restrict * * * a license or other
1005 authorization to practice * * * for up to five (5) years,
1006 including limiting the practice of such person to, or by the
1007 exclusion of, one or more specified branches of medicine,
1008 including limitation on hospital privileges;

1009 (d) Revoke * * * a license or other authorization to
1010 practice * * *;

1011 (e) Require * * * a licensee to submit to care,
1012 counseling or treatment by physicians designated by the board, as
1013 a condition for initial, continued or renewal of licensure or
1014 other authorization to practice * * *;

1015 (f) Require * * * a licensee to participate in a
1016 program of education prescribed by the board; * * *

1017 (g) Require * * * a licensee to practice under the
1018 direction of a physician designated by the board for a specified
1019 period of time * * *;

1020 (h) Place a licensee on probation, the terms of which
1021 may be set by the board; or

1022 (i) Impose a punitive fine not to exceed Twenty-five
1023 Thousand Dollars (\$25,000.00) per offense, with the cumulative
1024 total of all fines imposed not to exceed One Hundred Thousand
1025 Dollars (\$100,000.00). All fines collected under this provision
1026 shall be deposited into the State General Fund.



1027 **SECTION 26.** Section 73-25-89, Mississippi Code of 1972, is
1028 amended as follows:

1029 73-25-89. If the board determines that evidence in its
1030 possession indicates that a * * * licensee's continuation in
1031 practice or unrestricted practice would constitute an immediate
1032 danger to the public, the board may take any of the same actions
1033 on a temporary basis, without a hearing, which it could otherwise
1034 take under Sections 73-25-81 through 73-25-95 following a hearing,
1035 provided that proceedings for a hearing before the board are
1036 initiated simultaneously with such temporary action without a
1037 hearing. * * * In the event of such temporary action without a
1038 hearing, a hearing must be held within * * * sixty (60) days of
1039 such action.

1040 **SECTION 27.** Section 73-25-7, Mississippi Code of 1972, which
1041 provides when and where licensure examinations are conducted, is
1042 repealed.

1043 **SECTION 28.** Section 73-25-9, Mississippi Code of 1972, which
1044 prescribes specific fees for licensure examination, is repealed.

1045 **SECTION 29.** Section 73-25-15, Mississippi Code of 1972,
1046 which provides for lost licenses, is repealed.

1047 **SECTION 30.** Section 73-25-25, Mississippi Code of 1972,
1048 which authorizes the issuance of a license for a person desiring
1049 to practice osteopathic medicine in this state, is repealed.



1050 **SECTION 31.** Section 73-25-39, Mississippi Code of 1972,
1051 which provides for the acquisition of books and stationery by the
1052 board, is repealed.

1053 **SECTION 32.** Section 73-25-81, Mississippi Code of 1972,
1054 which defines the membership of the board responsible for
1055 licensure and discipline of physicians in this state, is repealed.

1056 **SECTION 33.** This act shall take effect and be in force from
1057 and after July 1, 2022.

