

House Amendments to Senate Bill No. 2699

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

45 **SECTION 1.** Section 41-121-11, Mississippi Code of 1972,
46 which is the repealer on the Patient's Right to Informed Health
47 Care Choices Act relating to advertisements for health care
48 services, is repealed.

49 **SECTION 2.** Section 41-121-1, Mississippi Code of 1972, is
50 reenacted as follows:

51 41-121-1. This chapter shall be known and may be cited as
52 "The Patient's Right to Informed Health Care Choices Act."

53 **SECTION 3.** Section 41-121-3, Mississippi Code of 1972, is
54 reenacted and amended as follows:

55 41-121-3. The Legislature finds and declares that:

56 (a) There are a multitude of professional degrees using
57 the term "doctor," including Medical Doctor (M.D.); Doctor of
58 Osteopathic Medicine (D.O.); Doctor of Dental Surgery (D.D.S.);
59 Doctor of Podiatric Medicine (D.P.M.); Doctor of Optometry (O.D.);
60 Doctor of Chiropractic (D.C.); Doctor of Nursing Practice

(D.N.P.); Doctor of Pharmacy (Pharm.D.); and other designations which may be used by health care practitioners.

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

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

SECTION 4. Section 41-121-5, Mississippi Code of 1972, is reenacted as follows:

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

(a) "Advertisement" means any communication or statement, whether printed, electronic or oral, that names the 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 5. 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 6. 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 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. * * *

(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

315 such final decision shall have the right of a de novo appeal to
316 the circuit court of his county of residence or the Circuit Court
317 of the First Judicial District of Hinds County, Mississippi. If
318 there is an appeal, such appeal may, in the discretion of and on
319 motion to the circuit court, act as a supersedeas. The circuit
320 court shall dispose of the appeal and enter its decision promptly.
321 The hearing on the appeal may, in the discretion of the circuit
322 judge, be tried in vacation. Either party shall have the right of
323 appeal to the Supreme Court as provided by law from any decision
324 of the circuit court.

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

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

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

341 The power and authority of the board to assess and levy such
342 monetary penalties under this section shall not be affected or
343 diminished by any other proceeding, civil or criminal, concerning
344 the same violation or violations. A licensee shall have the right
345 of appeal from the assessment and levy of a monetary penalty as
346 provided in this section to the circuit court under the same
347 conditions as a right of appeal is provided for in this section
348 for appeals from an adverse ruling, or order, or decision of the
349 board. Any monetary penalty assessed and levied under this
350 section shall not take effect until after the time for appeal has
351 expired, and an appeal of the assessment and levy of such a
352 monetary penalty shall act as a supersedeas.

353 (7) In addition to the grounds specified in subsection (1)
354 of this section, the board shall be authorized to suspend the
355 license of any licensee for being out of compliance with an order
356 for support, as defined in Section 93-11-153. The procedure for
357 suspension of a license for being out of compliance with an order
358 for support, and the procedure for the reissuance or reinstatement
359 of a license suspended for that purpose, and the payment of any
360 fees for the reissuance or reinstatement of a license suspended
361 for that purpose, shall be governed by Section 93-11-157 or
362 93-11-163, as the case may be. Actions taken by the board in
363 suspending a license when required by Section 93-11-157 or
364 93-11-163 are not actions from which an appeal may be taken under
365 this section. Any appeal of a license suspension that is required
366 by Section 93-11-157 or 93-11-163 shall be taken in accordance

with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. 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 8. Section 73-9-61, Mississippi Code of 1972, is 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.

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

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

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

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

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

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

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

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

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

442 (i) Committing any crime involving moral
443 turpitude.

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

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

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

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

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

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

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

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

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

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

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

478 (r) Violation(s) of the provisions of Sections 41-121-1
479 through 41-121-9 relating to deceptive advertisement by health
480 care practitioners. * * *

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

486 (3) When a license to practice dentistry or dental hygiene
487 is revoked or suspended by the board, the board may, in its
488 discretion, stay the revocation or suspension and simultaneously
489 place the licensee on probation upon the condition that the
490 licensee shall not violate the laws of the State of Mississippi
491 pertaining to the practice of dentistry or dental hygiene and
492 shall not violate the rules and regulations of the board and shall
493 not violate any terms in relation to his or her license as may be
494 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

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

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

(10) In addition to the reasons specified in subsection (1) 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.

(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 revoked in any jurisdiction, has voluntarily surrendered such license or privilege to practice in any jurisdiction, has been placed on probation as a registered nurse or licensed practical

nurse in any jurisdiction or has been placed under a disciplinary order(s) in any manner as a registered nurse or licensed practical nurse in any jurisdiction, (a certified copy of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action);

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

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

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

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

(i) Has a physical, mental or emotional condition that renders the licensee unable to perform nursing services or duties 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;

(n) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners * * *; or

(o) Violation(s) of any provision of Title 41, Chapter 141, Mississippi Code of 1972.

(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 license or privilege to practice 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 article, the

674 provisions of Section 93-11-157 or 93-11-163, as the case may be,
675 shall control.

676 (4) If the public health, safety or welfare imperatively
677 requires emergency action and the board incorporates a finding to
678 that effect in an order, the board may order summary suspension of
679 a license pending proceedings for revocation or other action.
680 These proceedings shall be promptly instituted and determined by
681 the board.

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

686 (a) Participation in the program is voluntary with the
687 licensee, and the licensee must enter the program before the board
688 holds a disciplinary action hearing regarding the licensee;

689 (b) The full cost of participation in the program,
690 including the cost of any care, counseling, treatment and/or
691 education received by the licensee, shall be borne by the
692 licensee;

693 (c) All of the procedures and records regarding the
694 licensee's participation in the program shall be confidential,
695 shall not be disclosed and shall be exempt from the provisions of
696 the Mississippi Public Records Act of 1983; and

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

(6) A nurse practitioner who provides a written certification as authorized under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder shall not be subject to any disciplinary action under this section solely due to providing the written certification.

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

73-19-23. (1) (a) 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.

(b) The board shall conduct a criminal history records check on licensure applicants and on licensees whose licenses are subject to investigation.

(i) The applicant or licensee shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant or licensee shall submit a full set of the applicant's fingerprints

in a form or manner prescribed by the board, which shall be forwarded to the Bureau of Investigation Identification Division for this purpose.

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

(iii) The board shall provide to the department the fingerprints of the applicant or licensee, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

(iv) The board shall charge and collect from the applicant or licensee, in addition to all other applicable fees and costs, such amount as may be incurred by the board in

requesting and obtaining state and national criminal history records information on the applicant or licensee.

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

820 (3) Any person who is a holder of a certificate of licensure
821 or who is an applicant for examination for a certificate of
822 licensure, against whom is preferred any charges, shall be
823 furnished by the board with a copy of the complaint and shall have
824 a hearing in Jackson, Mississippi, before the board, at which
825 hearing he may be represented by counsel. At the hearing,
826 witnesses may be examined for and against the accused respecting
827 those charges, and the hearing orders or appeals will be conducted

828 according to the procedure now provided in Section 73-25-27. The
829 suspension of a certificate of licensure by reason of the use of
830 stimulants or narcotics may be removed when the holder of the
831 certificate has been adjudged by the board to be cured and capable
832 of practicing optometry.

833 (4) In addition to the reasons specified in subsections (1)
834 and (2) of this section, the board shall be authorized to suspend
835 the license of any licensee for being out of compliance with an
836 order for support, as defined in Section 93-11-153. The procedure
837 for suspension of a license for being out of compliance with an
838 order for support, and the procedure for the reissuance or
839 reinstatement of a license suspended for that purpose, and the
840 payment of any fees for the reissuance or reinstatement of a
841 license suspended for that purpose, shall be governed by Section
842 93-11-157 or 93-11-163, as the case may be. If there is any
843 conflict between any provision of Section 93-11-157 or 93-11-163
844 and any provision of this chapter, the provisions of Section
845 93-11-157 or 93-11-163, as the case may be, shall control.

846 (5) A licensee who provides a written certification as
847 authorized under the Mississippi Medical Cannabis Act and in
848 compliance with rules and regulations adopted thereunder shall not
849 be subject to any disciplinary action under this section solely
850 due to providing the written certification.

851 **SECTION 11.** Section 73-21-97, Mississippi Code of 1972, is
852 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;

(c) Being found guilty by a court of competent jurisdiction of one or more of the following:

(i) A felony;

(ii) Any act involving moral turpitude or gross immorality; or

(iii) Violation of pharmacy or drug laws of this state or rules or regulations pertaining thereto, or of statutes, rules or regulations of any other state or the federal government;

(d) Fraud or intentional misrepresentation by a licensee or permit holder in securing the issuance or renewal of a license or permit;

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license;

(f) Violation of any of the provisions of this chapter or rules or regulations adopted pursuant to this chapter;

(g) Failure to comply with lawful orders of the board;

(h) Negligently or willfully acting in a manner inconsistent with the health or safety of the public;

(i) Addiction to or dependence on alcohol or controlled substances or the unauthorized use or possession of controlled substances;

(j) Misappropriation of any prescription drug;

(k) Being found guilty by the licensing agency in another state of violating the statutes, rules or regulations of 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. * * *.

(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 * * * 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:

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

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

960 (c) Administering, dispensing or prescribing any
961 narcotic drug, or any other drug having addiction-forming or
962 addiction-sustaining liability otherwise than in the course of
963 legitimate professional practice.

964 (d) Conviction of violation of any federal or state law
965 regulating the possession, distribution or use of any narcotic
966 drug or any drug considered a controlled substance under state or
967 federal law.

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

970 (f) Conviction of a felony or misdemeanor involving
971 moral turpitude.

972 (g) Obtaining or attempting to obtain a license by
973 fraud or deception.

974 (h) Unprofessional conduct, which includes, but is not
975 limited to:

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

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

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

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

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

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

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

(i) The refusal of a licensing authority of another state to issue or renew a license, permit or certificate to practice podiatry in that state or the revocation, suspension or other restriction imposed on a license, permit or certificate

issued by such licensing authority which prevents or restricts practice in that state.

(j) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. * * *

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

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

(4) In addition to the grounds specified in subsection (1) 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 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;

1056 (iv) Any crime involving unlawful sexual contact,
1057 child abuse, the use or threatened use of a weapon, the infliction
1058 of injury, indecent exposure, perjury, false reporting, criminal
1059 impersonation, forgery and any other crime involving a lack of
1060 truthfulness, veracity or honesty, intimidation of a victim or
1061 witness, larceny, or alcohol or drugs.

1062 For the purposes of this paragraph, a plea of guilty or a
1063 plea of nolo contendere accepted by the court shall be considered
1064 as a conviction.

1065 (e) Incompetence, gross negligence or other malpractice
1066 in the practice of veterinary medicine.

1067 (f) Aiding the unlawful practice of veterinary
1068 medicine.

1069 (g) Fraud or dishonesty in the application or reporting
1070 of any test for disease in animals.

1071 (h) Failure to report, as required by law, or making
1072 false or misleading report of, any contagious or infectious
1073 disease.

1074 (i) Failure to keep accurate patient records.

1075 (j) Dishonesty or gross negligence in the performance
1076 of food safety inspections or in the issuance of any health or
1077 inspection certificates.

1078 (k) Failure to keep veterinary premises and equipment,
1079 including practice vehicles, in a clean and sanitary condition.

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

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

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

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

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

(q) Violations of state or federal drug laws.

(r) Violations of any order of the board.

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

(t) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. * * *.

(2) A certified copy of any judgment of conviction or finding of guilt by a court of competent jurisdiction or by a governmental agency, or agency authorized to issue licenses or permits, including the United States Department of Agriculture, Animal and Plant Health Inspection Service, the Mississippi Board

1106 of Animal Health and the Mississippi Board of Health, of a
1107 veterinarian or veterinary technician of any matters listed in
1108 this section shall be admissible in evidence in any hearing held
1109 by the board to discipline such veterinarian or technician and
1110 shall constitute prima facie evidence of the commission of any
1111 such act.

1112 **SECTION 15.** **Short Title.** This chapter shall be known and
1113 may be cited as the Mississippi Genetic Counselor Practice Act.

1114 **SECTION 16.** **Definitions.** For the purposes of this chapter,
1115 the following terms shall have the meanings as defined in this
1116 section:

1117 (a) "Board" means the State Board of Health.

1118 (b) "Department" means the State Department of Health.

1119 (c) "Advisory Council" means the Mississippi Council of
1120 Advisors in Genetic Counseling established in this chapter.

1121 (d) "ABGC" means the American Board of Genetic
1122 Counseling, its successor or equivalent.

1123 (e) "ABMG" means the American Board of Medical
1124 Genetics, its successor or equivalent.

1125 (f) "NSGC" means the National Society of Genetic
1126 Counselors, its successor or equivalent.

1127 (g) "Active candidate status (ACS)" means a person who
1128 has met the requirements established by the ABGC to take the ABGC
1129 certification examination in general genetics and genetic
1130 counseling and has been granted this designation by ABGC.

1131 (h) "CEU" means continuing education unit as defined by
1132 the NSGC.

1133 (i) "Licensed genetic counselor" means a person
1134 licensed under this chapter and regulations promulgated under this
1135 chapter.

1136 (j) "Provisionally licensed genetic counselor" means a
1137 person provisionally licensed under this chapter and regulations
1138 promulgated under this chapter.

1139 (k) "Examination for licensure" means the ABGC or ABMG
1140 certification exam.

1141 (l) "Genetic counseling intern" means a student
1142 enrolled in a genetic counseling program accredited by ABGC or
1143 ABMG.

1144 (m) "License" means the document of licensure issued by
1145 the board.

1146 **SECTION 17. Scope of practice.** The practice of "genetic
1147 counseling" means the provision of services by an individual who
1148 qualifies for a license under this chapter. It includes:

1149 (a) Obtaining and interpreting individual, family,
1150 medical, and developmental histories;

1151 (b) Determining the mode of inheritance and risk of
1152 transmission of genetic conditions and birth defects;

1153 (c) Discussing the inheritance, features, natural
1154 history, means of diagnosis, and management of these conditions;

(d) Identifying, ordering, coordinating, and explaining the clinical implications of genetic laboratory tests and other diagnostic studies;

(e) Assessing psychosocial factors, and recognizing social, educational and cultural issues;

(f) Evaluating the client's or family's responses to the condition or risk of recurrence and provide client-centered counseling and anticipatory guidance;

(g) Communicating information to their clients in an understandable manner;

(h) Facilitating informed decision making about testing and management;

(i) Identifying and effectively using community resources that provide medical, educational, financial, and psychosocial support and advocacy; and

(j) Providing accurate written documentation of medical, genetic, and counseling information for families and health care professionals.

SECTION 18. Licensure required. (1) The board shall establish a licensure process no later than January 1, 2026. After the time that the licensure process is established, a license issued under this chapter is required to engage in the practice of genetic counseling. Genetic counselors who are practicing in Mississippi on July 1, 2025, are allowed to continue their current practice until the licensure process is established

by the board, at such time they shall be required to seek
licensure.

(2) Except in the case of a provisional genetic counselor
license issued under Section 20 of this act, all licenses shall be
issued for a two-year period upon the payment of the licensing fee
prescribed by the board, and shall be renewed upon the filing of a
renewal application and the payment of the licensing renewal fee.

(3) A genetic counselor whose license is suspended or
revoked or whose surrender of license with or without prejudice
has been accepted by the board shall promptly deliver the original
license and current biennial registration to the board.

(4) No person shall hold himself or herself out as a genetic
counselor unless he or she is licensed in accordance with this
chapter. No person who is not so licensed may use, in connection
with his or her name or place of business, the title "genetic
counselor", "licensed genetic counselor", "gene counselor",
"genetic consultant", "genetic associate" or any words, letters,
abbreviations or insignia indicating or implying that a person
holds a genetic counseling license.

SECTION 19. Qualifications for licensure. (1) The board
shall require the following as a minimum to qualify for genetic
counseling licensure. Each applicant under this chapter shall:

- (a) Submit an application prescribed by the board;
- (b) Pay a fee determined by the board;
- (c) Provide satisfactory evidence of having
certification as a:

1206 (i) Genetic counselor by the ABGC or ABMG; or
1207 (ii) Geneticist by the ABMG; and
1208 (d) Meet educational requirements, which shall include
1209 a bachelor's and master's degree.

1210 (2) An applicant who is licensed or registered as a genetic
1211 counselor under the laws of another state, territory or
1212 jurisdiction of the United States, which in the opinion of the
1213 board imposes substantially the same licensing requirements as
1214 this chapter, may be licensed under this chapter. The issuance of
1215 a license by reciprocity to a military-trained applicant, military
1216 spouse or person who establishes residence in this state shall be
1217 subject to the provisions of Section 73-50-1 or 73-50-2, as
1218 applicable.

1219 (3) The board may provide for the late renewal of a license
1220 upon the payment of a late fee in accordance with its rules and
1221 regulations, but no such late renewal of a license may be granted
1222 more than one (1) year after its expiration.

1223 (4) A suspended license shall be subject to expiration and
1224 may be renewed as provided in this section, but such renewal shall
1225 not entitle the licensee, while the license remains suspended and
1226 until it is reinstated, to engage in the licensed activity, or in
1227 any other conduct or activity in violation of the order of
1228 judgment by which the license was suspended. If a license revoked
1229 on disciplinary grounds is reinstated, the licensee, as a
1230 condition of reinstatement, shall pay the renewal fee and any late
1231 fee that may be applicable.

(5) An individual who does not otherwise qualify for licensure under this chapter but who has worked as a genetic counselor for a minimum of ten (10) years before July 1, 2025, may apply to the board for licensure but shall provide documentation of the following:

(a) A master's or higher degree in genetics or related field of study;

(b) Has never failed the ABMG/ABGC certification examination;

(c) Three (3) letters of recommendation from at least one (1) genetic counselor who qualifies for licensure under this chapter, and either a clinical geneticist certified by ABMG or medical geneticist certified by ABMG. All individuals submitting letters of recommendation must have worked with the applicant in an employment setting during the last five (5) years and can attest to the applicant's competency in providing genetic counseling services; and

(d) Attendance of NSGC/ABGC approved CEU programs within the last five (5) years.

SECTION 20. Provisional licensed genetic counselor. (1)

The board may grant a provisional genetic counselor license to a person who has been granted ACS:

(a) Upon filing an approved application with the board; and

(b) Payment of a fee to be determined by the board.

(2) Such license shall be valid for one (1) year from the date of its issue and may be renewed for an additional one (1) year if an applicant fails the ABGC or ABMG certification exam.

(3) Such provisional license shall expire automatically upon the earliest of the following:

(a) Issuance of a full license;

(b) Thirty (30) days after the applicant fails to pass the certification examination; or

(c) The date printed on the temporary license.

(4) A provisionally licensed genetic counselor must work under the general supervision of a licensed genetic counselor or a licensed physician at all times during which the provisional licensed genetic counselor performs genetic counseling.

SECTION 21. Continuing Education Requirements. (1) Each applicant shall present satisfactory evidence when seeking license renewal that in the period since the license was issued or last renewed the applicant has completed twelve and five-tenths (12.5) hours of NSGC or ABMG continuing education units (CEUs) and/or other means as approved by NSGC for re-certification by ABGC or ABMG every five (5) years, prorated for the length of the license.

(2) The board shall make exceptions for licensees from the continuing education requirements, including waiver of all or a portion of these requirements or the granting of an extension of time in which to complete these requirements, upon a finding of good cause following receipt of a written request for exception

based upon emergency or hardship. Emergency or hardship cases include, but are not limited to:

(a) Long term personal illness or illness involving a close relative or person for whom the licensee has caregiving responsibilities;

(b) Where the licensee can demonstrate that the required course(s) are not reasonably available; and

(c) Other demonstrated economic, technological or legal hardships that substantially relate to the ability to perform or complete the continuing education requirements.

SECTION 22. Certain exemptions from licensure. (1) The provisions of this chapter shall not apply to the following:

(a) Any person licensed by the state to practice in a profession other than that of genetic counseling, such as a licensed physician or nurse practitioner, when acting within the scope of the person's profession and doing work of a nature consistent with the person's training. However, the person shall not hold himself or herself out to the public as a genetic counselor;

(b) Any person employed as a genetic counselor by the federal government or an agency thereof if such person provides genetic counseling services solely under the direction and control of the organization by which he or she is employed; or

(c) A student or intern enrolled in an ABGC accredited genetic counseling educational program if genetic counseling services performed by the student are an integral part of the

1308 student's course of study and are performed under the direct
1309 supervision of a licensed genetic counselor assigned to supervise
1310 the student and who is on duty and available in the assigned
1311 patient care area, and if the person is designated by a title
1312 "genetic counseling intern."

1313 (2) A nonresident genetic counselor may practice genetic
1314 counseling in Mississippi for no more than a total of five (5)
1315 days per calendar year with current licensure from another state.

1316 **SECTION 23. Council of Advisors in Genetic Counseling**

1317 **established.** (1) (a) There is established the Mississippi
1318 Council of Advisors in Genetic Counseling under the jurisdiction
1319 of the board. The purpose of the council is to advise the board
1320 and department on matters relating to the administration and
1321 interpretation of the provisions of this chapter.

1322 (b) The council shall be comprised of three (3) to five
1323 (5) members, with the majority of the council being licensed
1324 genetic counselors and shall include at least one (1) licensed
1325 physician. If the council has five (5) members, the council may
1326 include a public member.

1327 (c) Each council member shall serve a term of three (3)
1328 years. However, the terms of initial appointees shall be
1329 staggered so that no more than one (1) member's term expires in
1330 any one (1) year. No council member may be appointed to more than
1331 three (3) consecutive full terms. If a vacancy occurs, the board
1332 shall appoint a person to fill the unexpired term.

1333 (d) A person is eligible for appointment as a public
1334 member if the person or the person's spouse:

1335 (i) Is not employed by and does not participate in
1336 the management of an agency or business entity that provides
1337 health care services or that sells, manufactures or distributes
1338 health care supplies or equipment; and

1339 (ii) Does not own, control or have a direct or
1340 indirect interest in more than ten percent (10%) of a business
1341 entity that provides health care services or that sells,
1342 manufactures or distributes health care supplies or equipment.

1343 (2) The board shall appoint the initial advisory council
1344 members not later than September 1, 2025.

1345 (3) The council shall meet at least annually or as deemed
1346 necessary to conduct business. Meetings may be convened at the
1347 call of the chairman or the written request of a majority of the
1348 council members, or at the request of the department.

1349 (4) A majority of the members of the council shall
1350 constitute a quorum for all purposes.

1351 (5) Members of the council shall receive no compensation for
1352 services performed on the council, but may be reimbursed for
1353 necessary and actual expenses incurred in connection with
1354 attendance at meetings of the council or for authorized business
1355 of the council, in accordance with Section 25-3-41, from funds
1356 made available to the board for such purpose.

1357 (6) It shall be a ground for removal from the council if a
1358 member:

(a) Does not have at the time of appointment the qualifications required for appointment to the council;

(b) Does not maintain during service on the council the qualifications required for appointment to the council;

(c) Violates a prohibition established by this chapter; or

(d) Fails to attend council meetings for a period of one (1) year.

SECTION 24. State Board of Health powers and duties. (1)

(a) The board shall adopt, amend, promulgate and enforce such rules, regulations and standards governing genetic counselors as may be necessary to further the accomplishment of the purpose of this chapter, and in so doing shall consider the corresponding recommendations of the advisory council.

(b) The board shall publish and disseminate to all licensees, in an appropriate manner, the licensure standards prescribed by this chapter, any amendments thereto, and such rules and regulations as the board may adopt, within sixty (60) days of their adoption.

(2) The board shall adopt a code of ethics for genetic counselors based upon the NSGC "Code of Ethics for the Profession of Genetic Counselors."

(3) The board shall issue and renew licenses to any person who meets the requirements of this chapter.

(4) (a) The board may deny or refuse to renew a license, or suspend or revoke a license, or issue orders to cease or desist

1385 from certain conduct, or issue warnings or reprimands where the
1386 licensee or applicant for license has been convicted of unlawful
1387 conduct or has demonstrated unprofessional conduct that has
1388 endangered or is likely to endanger the health, welfare or safety
1389 of the public. Such conduct includes:

- 1390 (i) Obtaining a license by means of fraud,
1391 misrepresentation or concealment of material facts;
- 1392 (ii) Being guilty of unprofessional conduct as
1393 defined by the rules and established by the board or violating the
1394 Code of Ethics of the NSGC;
- 1395 (iii) Being convicted of a crime in any court
1396 other than a misdemeanor;
- 1397 (iv) Violating any lawful order, rule or
1398 regulation rendered or adopted by the board; or
- 1399 (v) Violating any provision of this chapter.

1400 (b) Such denial, refusal to renew, suspension,
1401 revocation, order to cease and desist from designated conduct, or
1402 warning or reprimand may be ordered by the board in a decision
1403 made after a hearing in the manner provided by the rules and
1404 regulations adopted by the board. One (1) year from the date of
1405 the revocation of a license, application may be made to the board
1406 for reinstatement. The board shall have discretion to accept or
1407 reject an application for reinstatement and may, but shall not be
1408 required to, hold a hearing to consider such reinstatement.

1409 (5) (a) The board shall have full authority to investigate
1410 and evaluate each and every applicant applying for a license to

1411 practice genetic counseling, with the advice of the advisory
1412 council.

1413 (b) The board shall have the authority to issue
1414 subpoenas, examine witnesses and administer oaths, and shall, at
1415 its discretion, investigate allegations or practices violating the
1416 provisions of this chapter, and in so doing shall have power to
1417 seek injunctive relief to prohibit any person from providing
1418 services as a licensed genetic counselor without being licensed as
1419 provided under this chapter.

1420 (6) A license certificate issued by the board is the
1421 property of the board and must be surrendered on demand.

1422 **SECTION 25.** **Penalties.** Any person who violates any
1423 provision of this chapter shall, upon conviction thereof, be
1424 guilty of a misdemeanor and shall be punished by a fine of not
1425 more than One Thousand Dollars (\$1,000.00), or imprisoned in the
1426 county jail for a period not exceeding six (6) months, or both.

1427 **SECTION 26.** Sections 15 through 25 of this act shall be
1428 codified as a new chapter in Title 73, Mississippi Code of 1972.

1429 **SECTION 27.** (1) A task force is established to conduct a
1430 study of alternative funding programs and their effect on patient
1431 access to affordable prescription drugs in Mississippi. The task
1432 force shall consist of the members of the Mississippi Rare Disease
1433 Advisory Council or their designees.

1434 (2) The council's physician member shall chair the task
1435 force, and the council staff shall provide the task force with
1436 administrative support.

1437 (3) A majority of the members of the task force constitutes
1438 a quorum, and all actions of the task force shall require a
1439 majority vote of the members present and voting.

1440 (4) The chair shall convene the first meeting by May 15,
1441 2025. Members shall serve without compensation but may receive
1442 travel reimbursement per Section 25-3-41.

1443 (5) The study shall assess: (a) Alternative funding programs
1444 and their effect on patient access to affordable prescription
1445 drugs; and (b) The impact of those programs on patient assistance
1446 programs for prescription medications and insurance coverage.

1447 (6) The task force shall submit a report of its findings and
1448 recommendations by December 1, 2025, to the Governor, the Speaker
1449 of the House of Representatives, the Lieutenant Governor, the
1450 House and Senate Chairs of the Public Health Committees, and the
1451 House and Senate Chairs of the Medicaid Committees.

1452 (7) The task force shall be dissolved upon submission of its
1453 report."

1454 **SECTION 28.** This act shall take effect and be in force from
1455 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO REPEAL SECTION 41-121-11, MISSISSIPPI CODE OF 1972,
2 WHICH IS THE REPEALER ON THE PATIENT'S RIGHT TO INFORMED HEALTH
3 CARE CHOICES ACT RELATING TO ADVERTISEMENTS FOR HEALTH CARE
4 SERVICES; TO REENACT SECTIONS 41-121-1 THROUGH 41-121-9,
5 MISSISSIPPI CODE OF 1972, WHICH ARE THE PATIENT'S RIGHT TO
6 INFORMED HEALTH CARE CHOICES ACT; TO AMEND REENACTED SECTION
7 41-121-3, MISSISSIPPI CODE OF 1972, TO MAKE A MINOR,
8 NONSUBSTANTIVE CHANGE; TO AMEND SECTIONS 73-6-19, 73-9-61,

9 73-15-29, 73-19-23, 73-21-97, 73-26-5, 73-27-13 AND 73-39-77,
10 MISSISSIPPI CODE OF 1972, TO DELETE THE REPEALERS ON THE
11 PROVISIONS THAT MAKE VIOLATIONS OF THE PATIENT'S RIGHT TO INFORMED
12 HEALTH CARE CHOICES ACT BY HEALTH CARE PRACTITIONERS SPECIFIC
13 GROUNDS FOR DISCIPLINARY ACTION AGAINST LICENSEES; TO CREATE THE
14 MISSISSIPPI GENETIC COUNSELOR PRACTICE ACT; TO PROVIDE FOR THE
15 LICENSURE AND REGULATION OF GENETIC COUNSELORS BY THE STATE BOARD
16 OF HEALTH; TO DEFINE CERTAIN TERMS AND DEFINE THE SCOPE OF
17 PRACTICE OF GENETIC COUNSELING; TO PROVIDE THAT FROM AND AFTER
18 JANUARY 1, 2025, A LICENSE ISSUED UNDER THIS ACT IS REQUIRED TO
19 ENGAGE IN THE PRACTICE OF GENETIC COUNSELING; TO PROHIBIT PERSONS
20 FROM HOLDING THEMSELVES OUT AS GENETIC COUNSELORS UNLESS THEY ARE
21 LICENSED IN ACCORDANCE WITH THIS ACT; TO PRESCRIBE THE MINIMUM
22 QUALIFICATIONS FOR GENETIC COUNSELING LICENSURE; TO PROVIDE FOR
23 RECIPROCAL LICENSURE FOR PERSONS WHO ARE LICENSED OR REGISTERED AS
24 A GENETIC COUNSELOR UNDER THE LAWS OF ANOTHER STATE; TO AUTHORIZE
25 THE BOARD TO GRANT PROVISIONAL GENETIC COUNSELOR LICENSES FOR
26 PERSONS WHO HAVE BEEN GRANTED ACTIVE CANDIDATE STATUS; TO
27 PRESCRIBE CONTINUING EDUCATION REQUIREMENTS FOR LICENSEES; TO
28 PROVIDE EXEMPTIONS FROM LICENSURE FOR CERTAIN PERSONS; TO CREATE
29 THE MISSISSIPPI COUNCIL OF ADVISORS IN GENETIC COUNSELING TO
30 ADVISE THE BOARD AND DEPARTMENT ON MATTERS RELATING TO THE
31 ADMINISTRATION AND INTERPRETATION OF THE PROVISIONS OF THIS ACT;
32 TO PRESCRIBE THE POWERS AND DUTIES OF THE BOARD IN ADMINISTERING
33 THE PROVISIONS OF THIS ACT; TO AUTHORIZE THE BOARD TO DENY,
34 SUSPEND OR REVOKE LICENSES FOR CERTAIN CONDUCT; TO AUTHORIZE THE
35 BOARD TO RECEIVE AND PROCESS COMPLAINTS AND INVESTIGATE
36 ALLEGATIONS OR PRACTICES VIOLATING THE PROVISIONS OF THIS ACT; TO
37 AUTHORIZE THE BOARD TO SEEK INJUNCTIVE RELIEF TO PROHIBIT PERSONS
38 FROM PROVIDING SERVICES AS A GENETIC COUNSELOR WITHOUT BEING
39 LICENSED UNDER THIS ACT; TO PROVIDE CRIMINAL PENALTIES FOR
40 VIOLATIONS OF THIS ACT; TO CREATE A TASK FORCE TO STUDY
41 ALTERNATIVE FUNDING PROGRAMS AND THEIR EFFECT ON PATIENT ACCESS TO
42 AFFORDABLE PRESCRIPTION DRUGS IN MISSISSIPPI; AND FOR RELATED
43 PURPOSES.

HR43\SB2699PH.J

Andrew Ketchings
Clerk of the House of Representatives