

By: Representative Moak

To: Public Health and Welfare

HOUSE BILL NO. 683

1 AN ACT TO BE KNOWN AS THE PAIN RELIEF ACT; TO PROVIDE THAT
 2 THE LICENSING BOARDS OF PHYSICIANS, NURSES, DENTISTS, PODIATRISTS
 3 AND PHARMACISTS SHALL NOT BRING ANY DISCIPLINARY ACTION AGAINST A
 4 LICENSEE, AND STATE CRIMINAL PROSECUTIONS SHALL NOT BE BROUGHT
 5 AGAINST THOSE LICENSEES, FOR PRESCRIBING, DISPENSING OR
 6 ADMINISTERING TREATMENT FOR THE THERAPEUTIC PURPOSE OF RELIEVING
 7 INTRACTABLE PAIN, IF THE LICENSEES CAN DEMONSTRATE THAT THEIR
 8 PRACTICE SUBSTANTIALLY COMPLIED WITH AN ACCEPTED GUIDELINE FOR
 9 PAIN MANAGEMENT; TO AMEND SECTIONS 73-9-61, 73-15-29, 73-21-97,
 10 73-25-29 AND 73-27-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO
 11 THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

13 SECTION 1. This act may be cited as the Pain Relief Act.

14 SECTION 2. For the purposes of the act:

15 (a) "Board" means the State Board of Medical Licensure,
 16 the Mississippi Board of Nursing, the State Board of Dental
 17 Examiners or the State Board of Pharmacy.

18 (b) "Physician" means any physician or osteopath
 19 licensed by the State Board of Medical Licensure.

20 (c) "Nurse" means any nurse licensed by the Mississippi
 21 Board of Nursing, including advanced practice nurses.

22 (d) "Dentist" means any dentist licensed by the State
 23 Board of Dental Examiners.

24 (e) "Podiatrist" means any podiatrist licensed by the
 25 State Board of Medical Licensure.

26 (f) "Pharmacist" means any pharmacist licensed by the
 27 State Board of Pharmacy.

28 (g) "Intractable pain" means a state of pain, even if
 29 temporary, in which reasonable efforts to remove or remedy the
 30 cause of the pain have failed or have proven inadequate.



31 (h) "Clinical expert" means one who by reason of
32 specialized education or substantial relevant experience in pain
33 management has knowledge regarding current standards, practices,
34 and guidelines.

35 (i) "Accepted guideline" means a care or practice
36 guideline for pain management developed by a nationally recognized
37 clinical or professional association, or a specialty society or
38 government sponsored agency that has developed practice or care
39 guidelines based on original research or on review of existing
40 research and expert opinion. If no currently accepted guidelines
41 are available, then rules, policies, guidelines, or regulations
42 issued the board may serve the function of such guidelines for
43 purposes of this act. Such board rules, policies, guidelines, or
44 regulations must conform to the intent of this act. Guidelines
45 established primarily for purposes of coverage, payment, or
46 reimbursement do not qualify as "accepted practice or care
47 guidelines" when offered to limit treatment options otherwise
48 covered within this act.

49 (j) "Therapeutic purpose" means the use of
50 pharmaceutical and nonpharmaceutical medical treatment that
51 conforms substantially to accepted guidelines for pain management.

52 (k) "Disciplinary action" includes both informal and
53 formal, and both remedial and punitive actions taken by a board
54 against a health care provider.

55 (l) "Health care provider" means a licensed
56 professional as defined in paragraph (b), (c), (d), (e), and (f)
57 of this section.

58 SECTION 3. (1) Neither disciplinary action nor state
59 criminal prosecution shall be brought against a health care
60 provider for prescribing, dispensing or administering medical
61 treatment for the therapeutic purpose of relieving intractable
62 pain who can demonstrate by reference to an accepted guideline
63 that his or her practice substantially complied with that



64 guideline and with the standards of practice identified in Section
65 4 of this act. The showing of substantial compliance with an
66 accepted guideline may be rebutted only by clinical expert
67 testimony.

68 (2) If a disciplinary action or criminal prosecution is
69 pursued, the board or prosecutor shall produce clinical expert
70 testimony supporting the finding or charge of violation of
71 disciplinary standards or other legal requirements on the part of
72 the health care provider. Evidence of noncompliance with an
73 accepted guideline is not sufficient alone to support disciplinary
74 or criminal action.

75 (3) The provisions of this section shall apply to health
76 care providers in the treatment of all patients for intractable
77 pain regardless of the patient's prior or current chemical
78 dependency or addiction. The board may develop and issue rules,
79 regulations, policies or guidelines establishing standards and
80 procedures for the application of this act to the care and
81 treatment of chemically dependent individuals.

82 SECTION 4. Nothing in this act shall prohibit discipline or
83 prosecution of a health care provider for:

84 (a) Failing to maintain complete, accurate and current
85 records documenting the physical examination and medical history
86 of the patient, the basis for the clinical diagnosis of the
87 patient, and the treatment plan for the patient;

88 (b) Writing false or fictitious prescriptions for
89 controlled substances scheduled in the federal Comprehensive Drug
90 Abuse Prevention and Control Act of 1970, 21 USCS 801 et seq. or
91 in the Uniform Controlled Substances Law (41-29-101 et seq.);

92 (c) Prescribing, administering or dispensing
93 pharmaceutical in violation of the provisions of the federal
94 Comprehensive Drug Abuse Prevention and Control Act of 1970, 21
95 USCS 801 et seq. or in the Uniform Controlled Substances Law
96 (41-29-101 et seq.); or



97 (d) Diverting medication prescribed for a patient to
98 the provider's own personal use.

99 SECTION 5. The board shall make reasonable efforts to notify
100 health care providers under its jurisdiction of the existence of
101 this act. At a minimum, the board shall inform any health care
102 provider investigated in relation to the provider's practices in
103 the management of pain of the existence of this act.

104 SECTION 6. Nothing in this act shall be construed as
105 expanding the authorized scope of practice of any health care
106 provider.

107 SECTION 7. Section 73-9-61, Mississippi Code of 1972, is
108 amended as follows:

109 73-9-61. (1) Upon satisfactory proof, and in accordance
110 with statutory provisions elsewhere set out for such hearings and
111 protecting the rights of accused as well as the public, the State
112 Board of Dental Examiners may deny the issuance or renewal of a
113 license or may revoke or suspend the license of any licensed
114 dentist or dental hygienist practicing in the State of
115 Mississippi, or take any other action in relation to the license
116 as the board may deem proper under the circumstances, for any of
117 the following reasons:

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

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

128 (c) Being impaired in the ability to practice dentistry
129 or dental hygiene with reasonable skill and safety to patients by



130 reason of illness or use of alcohol, drugs, narcotics, chemicals,
131 or any other type of material or as a result of any mental or
132 physical condition.

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

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

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

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

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

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

160 (j) The refusal of a licensing authority of another
161 state or jurisdiction to issue or renew a license, permit or
162 certificate to practice dentistry or dental hygiene in that



163 jurisdiction or the revocation, suspension or other restriction
164 imposed on a license, permit or certificate issued by such
165 licensing authority which prevents or restricts practice in that
166 jurisdiction, a certified copy of the disciplinary order or action
167 taken by the other state or jurisdiction being prima facie
168 evidence thereof, notwithstanding the pendency of any appeal.

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

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

176 (i) Committing any crime involving moral
177 turpitude.

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

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

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

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

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

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



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

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

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

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

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

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

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

226 (4) In a proceeding conducted under this section by the
227 board for the denial, revocation or suspension of a license to
228 practice dentistry or dental hygiene, the board shall have the



229 power and authority for the grounds stated for such denial,
230 revocation or suspension, and in addition thereto or in lieu of
231 such denial, revocation or suspension may assess and levy upon any
232 person licensed to practice dentistry or dental hygiene in the
233 State of Mississippi, a monetary penalty, as follows:

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

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

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

248 (d) For any violation of any of subparagraphs (a)
249 through (q) of subsection (1) of this section, those reasonable
250 costs that are expended by the board in the investigation and
251 conduct of a proceeding for licensure revocation or suspension,
252 including but not limited to the cost of process service, court
253 reporters, expert witnesses and investigators.

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

259 (6) A licensee shall have the right of appeal from the
260 assessment and levy of a monetary penalty as provided in this
261 section under the same conditions as a right of appeal is provided



262 elsewhere for appeals from an adverse ruling, order or decision of
263 the board.

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

268 (8) A monetary penalty assessed and levied under this
269 section shall be paid to the board by the licensee upon the
270 expiration of the period allowed for appeal of such penalties
271 under this section or may be paid sooner if the licensee elects.
272 With the exception of subsection (4)(d) of this section, monetary
273 penalties collected by the board under this section shall be
274 deposited to the credit of the General Fund of the State Treasury.
275 Any monies collected by the board under subsection (4)(d) of this
276 section shall be deposited into the special fund operating account
277 of the board.

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

287 (10) In addition to the reasons specified in subsection (1)
288 of this section, the board shall be authorized to suspend the
289 license of any licensee for being out of compliance with an order
290 for support, as defined in Section 93-11-153. The procedure for
291 suspension of a license for being out of compliance with an order
292 for support, and the procedure for the reissuance or reinstatement
293 of a license suspended for that purpose, and the payment of any
294 fees for the reissuance or reinstatement of a license suspended



295 for that purpose, shall be governed by Section 93-11-157 or
296 93-11-163, as the case may be. If there is any conflict between
297 any provision of Section 93-11-157 or 93-11-163 and any provision
298 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
299 as the case may be, shall control.

300 (11) The board shall not bring any disciplinary action
301 against a dentist for prescribing, dispensing or administering
302 treatment for the therapeutic purpose of relieving intractable
303 pain if the prescribing, dispensing or administering of that
304 treatment is within the scope of practice of the dentist and it is
305 done in accordance with Section 3 of this act.

306 SECTION 8. Section 73-15-29, Mississippi Code of 1972, is
307 amended as follows:

308 73-15-29. (1) The board shall have power to revoke, suspend
309 or refuse to renew any license issued by the board, or to revoke
310 or suspend any privilege to practice, or to deny an application
311 for a license, or to fine, place on probation and/or discipline a
312 licensee, in any manner specified in this chapter, upon proof that
313 such person:

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

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

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

325 (d) Has had a license or privilege to practice as a
326 registered nurse or a licensed practical nurse suspended or
327 revoked in any jurisdiction, has voluntarily surrendered such



328 license or privilege to practice in any jurisdiction, has been
329 placed on probation as a registered nurse or licensed practical
330 nurse in any jurisdiction or has been placed under a disciplinary
331 order(s) in any manner as a registered nurse or licensed practical
332 nurse in any jurisdiction, (a certified copy of the order of
333 suspension, revocation, probation or disciplinary action shall be
334 prima facie evidence of such action);

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

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

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

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

348 (i) Has a physical, mental or emotional disability that
349 renders the licensee unable to perform nursing services or duties
350 with reasonable skill and safety;

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

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

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



361 (m) Has violated any provision of this chapter.

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

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

368 (b) Administering a reprimand;

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

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

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

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

383 (g) Requiring the discipline to practice under the
384 supervision of a registered nurse for a specified period of time;
385 or

386 (h) Imposing a fine not to exceed Five Hundred Dollars
387 (\$500.00).

388 (3) In addition to the grounds specified in subsection (1)
389 of this section, the board shall be authorized to suspend the
390 license or privilege to practice of any licensee for being out of
391 compliance with an order for support, as defined in Section
392 93-11-153. The procedure for suspension of a license or privilege
393 to practice for being out of compliance with an order for support,



394 and the procedure for the reissuance or reinstatement of a license
395 or privilege to practice suspended for that purpose, and the
396 payment of any fees for the reissuance or reinstatement of a
397 license or privilege to practice suspended for that purpose, shall
398 be governed by Section 93-11-157 or 93-11-163, as the case may be.
399 If there is any conflict between any provision of Section
400 93-11-157 or 93-11-163 and any provision of this chapter, the
401 provisions of Section 93-11-157 or 93-11-163, as the case may be,
402 shall control.

403 (4) The board shall not bring any disciplinary action
404 against a nurse for prescribing, dispensing or administering
405 treatment for the therapeutic purpose of relieving intractable
406 pain if the prescribing, dispensing or administering of that
407 treatment is within the scope of practice of the nurse and it is
408 done in accordance with Section 3 of this act.

409 SECTION 9. Section 73-21-97, Mississippi Code of 1972, is
410 amended as follows:

411 73-21-97. (1) The board may refuse to issue or renew, or
412 may suspend, reprimand, revoke or restrict the license,
413 registration or permit of any person upon one or more of the
414 following grounds:

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

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

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

422 (i) A felony;

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



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

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

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

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

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

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

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

441 (j) Misappropriation of any prescription drug;

442 (k) Being found guilty by the licensing agency in
443 another state of violating the statutes, rules or regulations of
444 that jurisdiction; or

445 (l) The unlawful or unauthorized possession of a
446 controlled substance.

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

450 (3) In addition to the grounds specified in subsection (1)
451 of this section, the board shall be authorized to suspend the
452 license, registration or permit of any person for being out of
453 compliance with an order for support, as defined in Section
454 93-11-153. The procedure for suspension of a license,
455 registration or permit for being out of compliance with an order
456 for support, and the procedure for the reissuance or reinstatement
457 of a license, registration or permit suspended for that purpose,



458 and the payment of any fees for the reissuance or reinstatement of
459 a license, registration or permit suspended for that purpose,
460 shall be governed by Section 93-11-157 or 93-11-163, as the case
461 may be. If there is any conflict between any provision of Section
462 93-11-157 or 93-11-163 and any provision of this chapter, the
463 provisions of Section 93-11-157 or 93-11-163, as the case may be,
464 shall control.

465 (4) The board shall not bring any disciplinary action
466 against a pharmacist for dispensing or administering treatment for
467 the therapeutic purpose of relieving intractable pain if the
468 dispensing or administering of that treatment is within the scope
469 of practice of the pharmacist and it is done in accordance with
470 Section 3 of this act.

471 SECTION 10. Section 73-25-29, Mississippi Code of 1972, is
472 amended as follows:

473 73-25-29. The grounds for the nonissuance, suspension,
474 revocation or restriction of a license or the denial of
475 reinstatement or renewal of a license are:

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

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

480 (3) Administering, dispensing or prescribing any narcotic
481 drug, or any other drug having addiction-forming or
482 addiction-sustaining liability otherwise than in the course of
483 legitimate professional practice.

484 (4) Conviction of violation of any federal or state law
485 regulating the possession, distribution or use of any narcotic
486 drug or any drug considered a controlled substance under state or
487 federal law, a certified copy of the conviction order or judgment
488 rendered by the trial court being prima facie evidence thereof,
489 notwithstanding the pendency of any appeal.



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

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

496 (7) Obtaining or attempting to obtain a license by fraud or
497 deception.

498 (8) Unprofessional conduct, which includes, but is not
499 limited to:

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

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

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

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

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

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



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

525 (9) The refusal of a licensing authority of another state or
526 jurisdiction to issue or renew a license, permit or certificate to
527 practice medicine in that jurisdiction or the revocation,
528 suspension or other restriction imposed on a license, permit or
529 certificate issued by such licensing authority which prevents or
530 restricts practice in that jurisdiction, a certified copy of the
531 disciplinary order or action taken by the other state or
532 jurisdiction being prima facie evidence thereof, notwithstanding
533 the pendency of any appeal.

534 (10) Surrender of a license or authorization to practice
535 medicine in another state or jurisdiction or surrender of
536 membership on any medical staff or in any medical or professional
537 association or society while under disciplinary investigation by
538 any of those authorities or bodies for acts or conduct similar to
539 acts or conduct which would constitute grounds for action as
540 defined in this section.

541 (11) Final sanctions imposed by the United States Department
542 of Health and Human Services, Office of Inspector General or any
543 successor federal agency or office, based upon a finding of
544 incompetency, gross misconduct or failure to meet professionally
545 recognized standards of health care; a certified copy of the
546 notice of final sanction being prima facie evidence thereof. As
547 used in this paragraph, the term "final sanction" means the
548 written notice to a physician from the United States Department of
549 Health and Human Services, Officer of Inspector General or any
550 successor federal agency or office, which implements the
551 exclusion.

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



554 (13) Violation of any provision(s) of the Medical Practice
555 Act or the rules and regulations of the board or of any order,
556 stipulation or agreement with the board.

557 In addition to the grounds specified above, the board shall
558 be authorized to suspend the license of any licensee for being out
559 of compliance with an order for support, as defined in Section
560 93-11-153. The procedure for suspension of a license for being
561 out of compliance with an order for support, and the procedure for
562 the reissuance or reinstatement of a license suspended for that
563 purpose, and the payment of any fees for the reissuance or
564 reinstatement of a license suspended for that purpose, shall be
565 governed by Section 93-11-157 or 93-11-163, as the case may be.
566 If there is any conflict between any provision of Section
567 93-11-157 or 93-11-163 and any provision of this chapter, the
568 provisions of Section 93-11-157 or 93-11-163, as the case may be,
569 shall control.

570 The board shall not bring any disciplinary action against a
571 physician or osteopath for prescribing, dispensing or
572 administering medical treatment for the therapeutic purpose of
573 relieving intractable pain if the prescribing, dispensing or
574 administering of that treatment is within the scope of practice of
575 the physician or osteopath and it is done in accordance with
576 Section 3 of this act.

577 SECTION 11. Section 73-27-13, Mississippi Code of 1972, is
578 amended as follows:

579 73-27-13. (1) The State Board of Medical Licensure may
580 refuse to issue, suspend, revoke or otherwise restrict any license
581 provided for in this chapter, with the advice of the advisory
582 committee, based upon the following grounds:

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



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

588 (c) Administering, dispensing or prescribing any
589 narcotic drug, or any other drug having addiction-forming or
590 addiction-sustaining liability otherwise than in the course of
591 legitimate professional practice.

592 (d) Conviction of violation of any federal or state law
593 regulating the possession, distribution or use of any narcotic
594 drug or any drug considered a controlled substance under state or
595 federal law.

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

598 (f) Conviction of a felony or misdemeanor involving
599 moral turpitude.

600 (g) Obtaining or attempting to obtain a license by
601 fraud or deception.

602 (h) Unprofessional conduct, which includes, but is not
603 limited to:

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

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

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

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

613 (v) Obtaining a fee as personal compensation or
614 gain from a person on fraudulent representation a disease or
615 injury condition generally considered incurable by competent
616 medical authority in the light of current scientific knowledge and
617 practice can be cured or offering, undertaking, attempting or



618 agreeing to cure or treat the same by a secret method, which he
619 refuses to divulge to the board upon request.

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

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

629 (i) The refusal of a licensing authority of another
630 state to issue or renew a license, permit or certificate to
631 practice podiatry in that state or the revocation, suspension or
632 other restriction imposed on a license, permit or certificate
633 issued by such licensing authority which prevents or restricts
634 practice in that state.

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

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

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



651 fees for the reissuance or reinstatement of a license suspended
652 for that purpose, shall be governed by Section 93-11-157 or
653 93-11-163, as the case may be. If there is any conflict between
654 any provision of Section 93-11-157 or 93-11-163 and any provision
655 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
656 as the case may be, shall control.

657 (5) The board shall not bring any disciplinary action
658 against a podiatrist for prescribing, dispensing or administering
659 treatment for the therapeutic purpose of relieving intractable
660 pain if the prescribing, dispensing or administering of that
661 treatment is within the scope of practice of the podiatrist and it
662 is done in accordance with Section 3 of this act.

663 SECTION 12. This act shall take effect and be in force from
664 and after July 1, 2001.

