

By: Representative Holland

To: Public Health and Human Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1062

1 AN ACT TO AMEND SECTION 73-15-17, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE MISSISSIPPI BOARD OF NURSING TO MAINTAIN AN
3 OFFICE IN THE GREATER JACKSON AREA; TO AMEND SECTION 73-15-18,
4 MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN COMPONENTS OF THE
5 NURSING WORKFORCE PROGRAM OF THE BOARD; TO AMEND SECTION 73-15-27,
6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE BOARD SHALL SEND
7 LICENSEES A NOTICE OF RENEWAL OF LICENSURE INSTEAD OF AN
8 APPLICATION FOR RENEWAL; TO AMEND SECTION 73-15-29, MISSISSIPPI
9 CODE OF 1972, TO AUTHORIZE THE BOARD TO ORDER SUMMARY SUSPENSION
10 OF A LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION IF
11 THE PUBLIC HEALTH, SAFETY OR WELFARE IMPERATIVELY REQUIRES
12 EMERGENCY ACTION; TO AMEND SECTION 73-15-35, MISSISSIPPI CODE OF
13 1972, TO AUTHORIZE COUNTY PROSECUTING ATTORNEYS TO MAINTAIN
14 ACTIONS TO ENJOIN PERSONS WHO PRACTICE NURSING WITHOUT A LICENSE;
15 AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 73-15-17, Mississippi Code of 1972, is
18 amended as follows:

19 73-15-17. The Mississippi Board of Nursing is authorized and
20 empowered to:

21 (a) Adopt and from time to time revise such rules and
22 regulations consistent with the law as shall be necessary to
23 govern its proceedings and carry into effect the provisions of
24 this chapter.

25 (b) Require the secretary to keep records of all
26 meetings of the board and keep a record of all proceedings, and to
27 prepare a register of registered nurses and a register of licensed
28 practical nurses, all nurses appearing thereon to be duly licensed
29 under this chapter, and which registers shall be open for public
30 inspection at all reasonable times.

31 (c) Issue subpoenas, require attendance of witnesses,
32 and administer oaths of persons giving testimony.

33 (d) Cause the prosecution of all persons violating the
34 provisions of this chapter, and incur such necessary expenses
35 therefor.

36 (e) Conduct hearings upon charges calling for
37 discipline of a licensee or revocation of a license or of the
38 privilege to practice.

39 (f) Present a true and full report to the Governor and
40 the Legislature, together with statement of receipts and
41 disbursements on or before February 1 of each year.

42 (g) Maintain an office in the greater Jackson area for
43 the administration of this chapter.

44 (h) File an annual list of all certificates of
45 registration issued by the board with the Secretary of State's
46 office for both registered nurses and licensed practical nurses.

47 (i) File an annual list of all certificates of
48 registration issued by the board to registered nurses, including
49 addresses of the persons with the Mississippi Nurses' Association;
50 and file a similar list of all certificates of registration issued
51 to licensed practical nurses, including addresses of the persons,
52 with the Mississippi Federation of Licensed Practical Nurses and
53 the Mississippi Licensed Practical Nurses Association.

54 (j) Adopt a seal which shall be in the form of a circle
55 with the image of an eagle in the center, and around the margin
56 the words "Mississippi Board of Nursing," and under the image of
57 the eagle the word "Official." The seal shall be affixed to
58 certificates and warrants issued by the board, and to all records
59 sent up on appeal from its decisions.

60 (k) Schedule dates and locations for state board
61 examinations for examining qualified applicants for licensure.

62 (l) Examine, license and renew licenses of duly
63 qualified applicants.

64 (m) Appoint and employ a qualified person who shall not
65 be a member of the board to serve as executive director, define

66 the duties, fix the compensation, and delegate to him or her those
67 activities that will expedite the functions of the board. The
68 executive director shall meet all the qualifications for board
69 members, and shall in addition:

70 (i) Have had at least a master's degree in
71 nursing, eight (8) years' experience as a registered nurse, five
72 (5) of which shall be in teaching or in administration, or a
73 combination thereof; and

74 (ii) Have been actively engaged in nursing for at
75 least five (5) years immediately preceding appointment.

76 (n) Employ, discharge, define duties, and fix
77 compensation of such other persons as may be necessary to carry
78 out the provisions of this chapter.

79 (o) Secure the services of research consultants as
80 deemed necessary who shall receive a per diem, travel and other
81 necessary expenses incurred while engaged by the board.

82 (p) To enter into contracts with any other state or
83 federal agency or with any private person, organization or group
84 capable of contracting, if it finds such action to be in the
85 public interest and in the furtherance of its responsibilities.

86 **SECTION 2.** Section 73-15-18, Mississippi Code of 1972, is
87 amended as follows:

88 73-15-18. (1) The Mississippi Board of Nursing is
89 designated as the state agency responsible for the administration
90 and supervision of the Nursing Workforce Program as an educational
91 curriculum in the State of Mississippi. It is the intent of the
92 Legislature to develop a nursing workforce able to carry out the
93 scope of service and leadership tasks required of the profession
94 by promoting a strong educational infrastructure between nursing
95 practice and nursing education.

96 (2) The Mississippi Board of Nursing is authorized to
97 establish an Office of Nursing Workforce within the administrative
98 framework of the board for the purpose of providing coordination

99 and consultation to nursing education and practice. The Nursing
100 Workforce Program shall encompass five (5) interdependent
101 components:

102 (a) Develop and facilitate implementation of a state
103 educational program directed toward nursing educators regarding
104 health care delivery system changes * * * and the impact these
105 changes will have on curriculum and on the service needs of
106 nurses.

107 (b) Determine the continuing education needs of the
108 nursing workforce * * * and facilitate such continuing education
109 coursework through the university/college schools of nursing in
110 the state and the community/junior college nursing programs in the
111 state.

112 (c) Promote and coordinate through the schools of
113 nursing opportunities for nurses prepared at the associate degree
114 and bachelor degree levels to obtain higher degrees.

115 (d) Apply for and administer grants from public and
116 private sources for the development of the Nursing Workforce
117 Program prescribed in this section.

118 (e) Establish systems to ensure an adequate supply of
119 nurses to meet the health care needs of the citizens of
120 Mississippi. This will include, but is not limited to, gathering
121 and quantifying dependable data on current nursing workforce
122 capacities and forecasting future requirements. The Office of
123 Nursing Workforce will report its findings annually to the
124 Mississippi Legislature.

125 (3) Pursuant to the provisions of subsections (1) and (2),
126 the Board of Nursing is authorized to provide for the services of
127 an Office of Nursing Workforce Director and such other
128 professional and nonprofessional staff as may be needed and as
129 funds are available to the Board of Nursing to implement the
130 Nursing Workforce Program prescribed in this section. It shall be
131 the responsibility of such professional staff to coordinate

132 efforts of the bachelor degree schools of nursing, the associate
133 degree schools of nursing and other appropriate agencies in the
134 State of Mississippi to implement the Nursing Workforce Program.

135 (4) The Board of Nursing shall appoint a Nursing Workforce
136 Advisory Committee composed of health care professionals, health
137 agency administrators, nursing educators and other appropriate
138 individuals to provide technical advice to the Office of Nursing
139 Workforce created in this section. The members of the committee
140 shall be appointed by the Board of Nursing from a list of nominees
141 submitted by appropriate nursing and health care organizations in
142 the State of Mississippi. The members of the committee shall
143 receive no compensation for their services, but may be reimbursed
144 for actual travel expenses and mileage authorized by law for
145 necessary committee business.

146 (5) All funds made available to the Board of Nursing for the
147 purpose of nursing workforce shall be administered by the board
148 office for that purpose. The Board of Nursing is authorized to
149 enter into contract with any private person, organization or
150 entity capable of contracting for the purpose of administering
151 this section.

152 (6) The Nursing Workforce Program and the Office of Nursing
153 Workforce provided for in this section will be established and
154 implemented only if sufficient funds are appropriated to or
155 otherwise available to the Board of Nursing for that purpose.

156 **SECTION 3.** Section 73-15-27, Mississippi Code of 1972, is
157 amended as follows:

158 73-15-27. The license of every person licensed under the
159 provisions of this chapter shall be renewed biennially except as
160 hereinafter provided:

161 (a) Registered nurses:

162 (i) The license to practice as a registered nurse
163 shall be valid for two (2) calendar years, beginning January 1 of
164 each uneven-numbered year and expiring December 31 in each

165 even-numbered year of the biennial period and subject to renewal
166 for each period of two (2) years thereafter.

167 (ii) A notice for renewal of licensure will be
168 mailed by the board on or before November 1 of the year the
169 license expires to every person to whom a license was issued or
170 renewed during the biennial period. An application shall be
171 completed and returned to the board by December 31 of that year
172 with the biennial renewal fee to be set at the discretion of the
173 board, but not to exceed Fifty Dollars (\$50.00).

174 (iii) Upon receipt of the application and fee, the
175 board shall verify the accuracy of the application and issue to
176 the applicant a certificate of renewal for the ensuing period of
177 two (2) years. Such renewal shall render the holder thereof the
178 right to practice as a registered nurse.

179 (iv) A registered nurse may request in writing to
180 the board that his or her license be placed on inactive status.
181 The board may grant such request and shall have authority, in its
182 discretion, to attach conditions to the licensure of such
183 registered nurse while on inactive status. A biennial renewal fee
184 for inactive registered nurses shall be set at the discretion of
185 the board, not to exceed Fifty Dollars (\$50.00).

186 (v) Any registered nurse applying for a license,
187 renewal of an active license, reinstatement of a lapsed license,
188 or change from inactive to active status may be required to
189 provide evidence of continuing basic nursing competencies when
190 such nurse has not practiced nursing for compensation or performed
191 the function of a registered nurse in a voluntary capacity with or
192 without compensation within the five-year period immediately prior
193 to such application for a license, renewal, reinstatement or
194 change of status.

195 (vi) Any registered nurse who permits his or her
196 license to lapse by failing to renew the license as provided above
197 may be reinstated by the board on satisfactory explanation for

198 such failure to renew his or her license, by compliance with all
199 other applicable provisions of this chapter, by completion of a
200 reinstatement form, and upon payment of a reinstatement fee not to
201 exceed One Hundred Dollars (\$100.00), which shall not include the
202 renewal fee for the current biennial period. Any registered nurse
203 who permits his or her license to lapse shall be notified by the
204 board within fifteen (15) days of such lapse.

205 (vii) Any person practicing as a registered nurse
206 during the time his or her license has lapsed shall be considered
207 in violation of this chapter and shall be subject to the penalties
208 provided for violation of this chapter, provided the registered
209 nurse has not submitted the required reinstatement form and fees
210 within fifteen (15) days after notification by the board of such
211 lapse.

212 (b) Licensed practical nurses:

213 (i) The license to practice as a licensed
214 practical nurse shall be valid for two (2) calendar years,
215 beginning January 1 of each even-numbered year and expiring
216 December 31 in each uneven-numbered year of the biennial period
217 and subject to renewal for each period of two (2) years
218 thereafter.

219 (ii) A notice for renewal of licensure will be
220 mailed by the board on or before November 1 of the year the
221 license expires to every person to whom a license was issued or
222 renewed during the biennial period. An application shall be
223 completed and returned to the board by December 31 of that year
224 with the biennial renewal fee to be set at the discretion of the
225 board, but not to exceed Fifty Dollars (\$50.00).

226 (iii) Upon receipt of the application and fee, the
227 board shall verify the accuracy of the application and issue to
228 the applicant a certificate of renewal for the ensuing period of
229 two (2) years. Such renewal shall render the holder thereof the
230 right to practice as a licensed practical nurse.

231 (iv) A licensed practical nurse may request in
232 writing to the board that his or her license be placed on inactive
233 status. The board may grant such request and shall have
234 authority, in its discretion, to attach conditions to the
235 licensure of such licensed practical nurse while on inactive
236 status. A biennial renewal fee for inactive licensed practical
237 nurses shall be set at the discretion of the board, not to exceed
238 Fifty Dollars (\$50.00).

239 (v) Any licensed practical nurse applying for a
240 license, renewal of an active license, reinstatement of a lapsed
241 license, or change from inactive to active status may be required
242 to provide evidence of continuing basic nursing competencies when
243 such nurse has not practiced nursing for compensation or performed
244 the function of a licensed practical nurse in a voluntary capacity
245 with or without compensation within the five-year period
246 immediately prior to such application for a license, renewal,
247 reinstatement or change of status.

248 (vi) Any licensed practical nurse who permits his
249 or her license to lapse by failing to renew the license as
250 provided above may be reinstated by the board upon satisfactory
251 explanation for such failure to renew his or her license, by
252 compliance with all other applicable provisions of this chapter,
253 by completion of a reinstatement form, and upon payment of the
254 reinstatement fee not to exceed One Hundred Dollars (\$100.00),
255 which shall not include the renewal fee for the current biennial
256 period. Any licensed practical nurse who permits his or her
257 license to lapse shall be notified by the board within fifteen
258 (15) days of such lapse.

259 (vii) Any person practicing as a licensed
260 practical nurse during the time his or her license has lapsed
261 shall be considered an illegal practitioner and shall be subject
262 to the penalties provided for violation of this chapter, provided
263 the licensed practical nurse has not submitted the required

264 reinstatement form and fees within fifteen (15) days after
265 notification by the board of such lapse.

266 **SECTION 4.** Section 73-15-29, Mississippi Code of 1972, is
267 amended as follows:

268 73-15-29. (1) The board shall have power to revoke, suspend
269 or refuse to renew any license issued by the board, or to revoke
270 or suspend any privilege to practice, or to deny an application
271 for a license, or to fine, place on probation and/or discipline a
272 licensee, in any manner specified in this chapter, upon proof that
273 such person:

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

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

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

285 (d) Has had a license or privilege to practice as a
286 registered nurse or a licensed practical nurse suspended or
287 revoked in any jurisdiction, has voluntarily surrendered such
288 license or privilege to practice in any jurisdiction, has been
289 placed on probation as a registered nurse or licensed practical
290 nurse in any jurisdiction or has been placed under a disciplinary
291 order(s) in any manner as a registered nurse or licensed practical
292 nurse in any jurisdiction, (a certified copy of the order of
293 suspension, revocation, probation or disciplinary action shall be
294 prima facie evidence of such action);

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

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

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

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

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

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

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

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

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

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

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

- 328 (b) Administering a reprimand;
- 329 (c) Suspending or restricting the license or other
330 authorization to practice as a registered nurse or licensed
331 practical nurse for up to two (2) years without review;
- 332 (d) Revoking the license or other authorization to
333 practice nursing or practical nursing;
- 334 (e) Requiring the discipline to submit to care,
335 counseling or treatment by persons and/or agencies approved or
336 designated by the board as a condition for initial, continued or
337 renewed licensure or other authorization to practice nursing or
338 practical nursing;
- 339 (f) Requiring the discipline to participate in a
340 program of education prescribed by the board as a condition for
341 initial, continued or renewed licensure or other authorization to
342 practice;
- 343 (g) Requiring the discipline to practice under the
344 supervision of a registered nurse for a specified period of time;
345 or
- 346 (h) Imposing a fine not to exceed Five Hundred Dollars
347 (\$500.00).

348 (3) In addition to the grounds specified in subsection (1)
349 of this section, the board shall be authorized to suspend the
350 license or privilege to practice of any licensee for being out of
351 compliance with an order for support, as defined in Section
352 93-11-153. The procedure for suspension of a license or privilege
353 to practice for being out of compliance with an order for support,
354 and the procedure for the reissuance or reinstatement of a license
355 or privilege to practice suspended for that purpose, and the
356 payment of any fees for the reissuance or reinstatement of a
357 license or privilege to practice suspended for that purpose, shall
358 be governed by Section 93-11-157 or 93-11-163, as the case may be.
359 If there is any conflict between any provision of Section
360 93-11-157 or 93-11-163 and any provision of this chapter, the

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

363 (4) If the public health, safety or welfare imperatively
364 requires emergency action and the board incorporates a finding to
365 that effect in an order, the board may order summary suspension of
366 a license pending proceedings for revocation or other action.
367 These proceedings shall be promptly instituted and determined by
368 the board.

369 **SECTION 5.** Section 73-15-35, Mississippi Code of 1972, is
370 amended as follows:

371 73-15-35. The practice of nursing as a registered nurse or
372 the practice of nursing as a licensed practical nurse by any
373 person who has not been issued a license or who does not hold the
374 privilege to practice under the provisions of this chapter, or
375 whose license or privilege to practice has been suspended or
376 revoked, or has expired and not been reinstated, or has
377 negligently or willfully practiced nursing in a manner that fails
378 to meet generally accepted standards of such nursing practice, is
379 declared to be a danger to the public health and welfare and shall
380 be enjoined through appropriate court action. In addition to and
381 not in lieu of any other civil, criminal or disciplinary remedy,
382 the Attorney General, the Board of Nursing or the prosecuting
383 attorney of any county where a person is practicing or purporting
384 to practice as a registered nurse or as a licensed practical nurse
385 in violation of this chapter may, in accordance with the laws of
386 this state governing injunctions, maintain an action to enjoin
387 that person from practicing as a registered nurse or a licensed
388 practical nurse until in compliance with this chapter. The court
389 may issue a temporary injunction without notice or without bond
390 enjoining a defendant from further practicing as a registered
391 nurse or a licensed practical nurse. If it is established to the
392 satisfaction of the court that the defendant has been or is
393 practicing as a registered nurse or a licensed practical nurse

394 without being licensed or privileged to practice and in good
395 standing as provided herein, the court may enter a decree
396 perpetually enjoining the defendant from such further activities,
397 and a subsequent violation of which may be considered as contempt
398 of court by any court of competent jurisdiction. Such injunction
399 and contempt proceedings may be in addition to and not in lieu of
400 any other penalties and remedies provided by this chapter.

401 **SECTION 6.** This act shall take effect and be in force from
402 and after July 1, 2006.