

## House Amendments to Senate Bill No. 2873

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:

20           **SECTION 1.** Section 41-41-3, Mississippi Code of 1972, is  
21 amended as follows:

22           41-41-3. (1) For the purpose of this section, the terms  
23 health-care institution or health-care provider, unemancipated  
24 minor and surrogate shall have the meanings as defined in Section  
25 41-41-203.

26           ( \* \* \*2) Except as provided by subsection (3) of this  
27 section, it is \* \* \* recognized and established that \* \* \* a  
28 health-care institution or health-care provider may provide health  
29 care that is not prohibited by law \* \* \* for an unemancipated  
30 minor only after first obtaining the consent of a parent with  
31 joint or separate legal custody of the minor, a guardian of the  
32 minor, or the minor's surrogate. If a parent with joint or  
33 separate legal custody of the minor, a guardian of the minor, or  
34 the minor's surrogate has not consented or denied consent within  
35 seven (7) days after the first attempt by the health-care provider  
36 or health-care institution to contact the parent, guardian or

37 surrogate at the last known telephone number or their telephone  
38 number provided by the minor or the minor's custodian, or if there  
39 is no known telephone number, twenty-one (21) days after mailing a  
40 request for consent to the parent's, guardian's or surrogate's  
41 last known address or their address provided by the minor or  
42 minor's custodian, which attempts shall be evidenced by verified  
43 documentation, then any one (1) of the following persons who are  
44 reasonably available, in descending order of priority, is  
45 authorized and empowered to consent on behalf of the minor:

46 (a) The minor's custodian;

47 (b) The minor's adult brother or sister; or

48 (c) The minor's grandparent.

49 \* \* \*

50 (3) The consent required by subsection (2) of this section  
51 shall not be required:

52 (a) In any circumstance regarding a person with mental  
53 illness as governed by Sections 41-21-61 through 41-21-109;

54 (b) In an emergency as provided for in Section 41-41-7;

55 (c) When a judicial consent is obtained pursuant to  
56 Section 41-41-9;

57 (d) In relation to minors age sixteen (16) years or  
58 older donating to a blood bank as provided for in Section  
59 41-41-15;

60 (e) In relation to physicians or hospitals  
61 authorizations to test for or diagnose infectious disease as  
62 provided for in Section 41-41-16;

63           (f) In relation to any minor in the custody of the  
64 Department of Child Protection Services (CPS) to which CPS  
65 consents;

66           (g) In relation to any inmate lacking the capacity to  
67 make health care decisions as provided for in Section 47-5-180;

68           (h) In relation to the baby drop-off law, Section  
69 43-15-201 et seq.; or

70           (i) When an athlete is evaluated and treated by an  
71 athletic trainer as defined in Section 73-55-3.

72           ( \* \* \*4) Any female, regardless of age or marital status,  
73 is empowered to give consent for herself in connection with  
74 pregnancy or childbirth.

75           (5) The provisions of this section do not affect other  
76 statutes of this state governing treatment for mental illness of  
77 an individual involuntarily committed to a mental health care  
78 institution.

79           **SECTION 2.** (1) A parent, guardian or surrogate of an  
80 unemancipated minor may bring suit for any violation of Section 1  
81 of this act and may raise Section 1 of this act as a defense in  
82 any judicial or administrative proceeding without regard to  
83 whether the proceeding is brought by or in the name of the state  
84 government, any private person, or any other party.

85           (2) An action under this section may be brought, and relief  
86 may be granted, without regard to whether the person bringing the  
87 action has sought or exhausted available administrative remedies.

88 (3) Any person who successfully asserts a claim or defense  
89 under this section may recover declaratory relief, injunctive  
90 relief, nominal damages, compensatory damages reasonable  
91 attorneys' fees and costs, and any other appropriate relief.

92 (4) Sovereign, governmental and qualified immunities to suit  
93 and from liability are waived and abolished to the extent of  
94 liability created by this section.

95 **SECTION 3.** Section 41-41-17, Mississippi Code of 1972, is  
96 amended as follows:

97 41-41-17. \* \* \* Any adult, as defined in Section  
98 41-41-203(a), \* \* \* or emancipated minor, as defined in Section  
99 41-41-203(e), \* \* \* may consent to participate as a subject in  
100 research if that research is conducted in accordance with federal  
101 law (Title 45 CFR Part 46: Protection of Human Subjects).

102 \* \* \*

103 **SECTION 4.** Section 41-42-7, Mississippi Code of 1972, is  
104 amended as follows:

105 41-42-7. Contraceptive supplies and information may not be  
106 furnished by physicians to any minor \* \* \* except in compliance  
107 with the provisions of Section 41-41-3.

108 **SECTION 5.** Section 41-41-13, Mississippi Code of 1972, which  
109 provides that a physician or nurse practitioner may treat minors  
110 for venereal disease without parental consent, and Section  
111 41-41-14, Mississippi Code of 1972, which provides that a  
112 physician or psychologist may treat certain minors for mental or

113 emotional problems caused or related to alcohol or drugs without  
114 parental consent, are repealed.

115         **SECTION 6.** Section 41-9-69, Mississippi Code of 1972, is  
116 brought forward as follows:

117         41-9-69. (1) Hospital records shall be retained, preserved  
118 and properly stored by hospitals for such periods of reasonable  
119 duration as may be prescribed in rules and regulations adopted by  
120 the licensing agency. Such rules and regulations may provide for  
121 different periods of such retention for the various constituent  
122 parts of any hospital records, and such rules and regulations may  
123 require that an abstract be made of pertinent data from any  
124 hospital records that may be retired as provided herein. Such  
125 rules and regulations may also provide for different periods of  
126 such retention for the various injuries, diseases, infirmities or  
127 conditions primarily causing or associated with the  
128 hospitalization. However, complete hospital records shall be  
129 retained for a period after discharge of the patient of at least  
130 (a) seven (7) years in cases of patients discharged at death,  
131 except as may be otherwise hereinafter provided; (b) ten (10)  
132 years in cases of adult patients of sound mind at the time of  
133 discharge, except as may be otherwise hereinafter provided; (c)  
134 for the period of minority or other known disability of the  
135 patient plus seven (7) additional years, but not to exceed  
136 twenty-eight (28) years, in cases of patients under disability of  
137 minority or otherwise; or (d) for the period of minority or other  
138 known disability of any survivors hereinafter mentioned plus seven

139 (7) additional years, but not to exceed twenty-eight (28) years,  
140 in all cases where the patient was discharged at death, or is  
141 known by the hospital to have died within thirty (30) days after  
142 discharge, and the hospital knows or has reason to believe that  
143 such patient or former patient left one or more survivors under  
144 disability of minority or otherwise who are or are claimed to be  
145 entitled to damages for wrongful death of the patient under  
146 Section 11-7-13, or laws amendatory thereof. Upon the expiration  
147 of the applicable period of retention, any hospital may retire the  
148 hospital record.

149 (2) X-ray film and any other graphic data may be retired  
150 four (4) years after the date of exposure of the X-ray film or  
151 creation of the graphic data if the written and signed findings of  
152 a radiologist who has read such X-ray film or other professional  
153 who has interpreted such graphic data are retained for the same  
154 period as other hospital records under the preceding subsection.  
155 However, before X-ray film or graphic data is retired, the  
156 signature of the patient or his representative consenting to the  
157 retirement of X-rays or graphic data shall be on file, or the  
158 hospital, by certified letter, return receipt requested, shall  
159 advise the patient or his representative of its intent to retire  
160 the X-ray film or graphic data. The letter shall be mailed to the  
161 last known address of the patient or the patient's representative  
162 as reflected in the hospital's records. The patient or his  
163 representative shall have sixty (60) days from the date of the  
164 hospital's letter to request in writing that the X-ray film or

165 graphic data be maintained by the hospital for the same period as  
166 hospital records under the preceding subsection. If such request  
167 is received by the hospital within sixty (60) days from the date  
168 of its letter, the hospital shall abide by such request.  
169 Otherwise, the hospital may retire such X-ray film or graphic data  
170 as it chooses.

171 **SECTION 7.** Section 73-9-13, Mississippi Code of 1972, is  
172 brought forward as follows:

173 73-9-13. The State Board of Dental Examiners shall each year  
174 elect from their number a president, vice president and  
175 secretary-treasurer to serve for the coming year and until their  
176 successors are qualified. Only dentist members of the board may  
177 hold the offices of president and vice president. The board shall  
178 have a seal with appropriate wording to be kept at the offices of  
179 the board. The secretary and the executive director of the board  
180 shall be required to make bond in such sum and with such surety as  
181 the board may determine. It shall be the duty of the executive  
182 director to keep a complete record of the acts and proceedings of  
183 the board and to preserve all papers, documents and correspondence  
184 received by the board relating to its duties and office.

185 The board shall have the following powers and duties:

186 (a) To carry out the purposes and provisions of the  
187 state laws pertaining to dentistry and dental hygiene, and the  
188 practice thereof and matters related thereto, particularly  
189 Sections 73-9-1 through 73-9-117, together with all amendments and  
190 additions thereto.

191           (b) To regulate the practice of dentistry and dental  
192 hygiene and to promulgate reasonable regulations as are necessary  
193 or convenient for the protection of the public; however, the board  
194 shall not adopt any rule or regulation or impose any requirement  
195 regarding the licensing of dentists that conflicts with the  
196 prohibitions in Section 73-49-3.

197           (c) To make rules and regulations by which clinical  
198 facilities within institutions, schools, colleges, universities  
199 and other agencies may be recognized and approved for the practice  
200 of dentistry or of dental hygiene by unlicensed persons therein,  
201 as a precondition to their being excepted from the dental practice  
202 act and authorized in accordance with Section 73-9-3(g) and (h).

203           (d) To provide for the enforcement of and to enforce  
204 the laws of the State of Mississippi and the rules and regulations  
205 of the State Board of Dental Examiners.

206           (e) To compile at least once each calendar year and to  
207 maintain an adequate list of prospective dentist and dental  
208 hygienist appointees for approval by the Governor as provided for  
209 elsewhere by law.

210           (f) To issue licenses and permits to applicants when  
211 found to be qualified.

212           (g) To provide for reregistration of all licenses and  
213 permits duly issued by the board.

214           (h) To maintain an up-to-date list of all licensees and  
215 permit holders in the state, together with their addresses.



216 (i) To examine applicants for the practice of dentistry  
217 or dental hygiene at least annually.

218 (j) To issue licenses or duplicates and  
219 reregistration/renewal certificates, and to collect and account  
220 for fees for same.

221 (k) To maintain an office adequately staffed insofar as  
222 funds are available for the purposes of carrying out the powers  
223 and duties of the board.

224 (l) To provide by appropriate rules and regulations,  
225 within the provisions of the state laws, for revoking or  
226 suspending licenses and permits and a system of fines for lesser  
227 penalties.

228 (m) To prosecute, investigate or initiate prosecution  
229 for violations of the laws of the state pertaining to practice of  
230 dentistry or dental hygiene, or matters affecting the rights and  
231 duties, or related thereto.

232 (n) To provide by rules for the conduct of as much  
233 board business as practicable by mail, which, when so done, shall  
234 be and have the same force and effect as if done in a regular  
235 meeting duly organized.

236 (o) To adopt rules and regulations providing for the  
237 reasonable regulation of advertising by dentists and dental  
238 hygienists.

239 (p) To employ, in its discretion, a duly licensed  
240 attorney to represent the board in individual cases.

241 (q) To employ, in its discretion, technical and  
242 professional personnel to conduct dental office sedation site  
243 visits, administer and monitor state board examinations and carry  
244 out the powers and duties of the board.

245 **SECTION 8.** Section 73-43-11, Mississippi Code of 1972, is  
246 brought forward as follows:

247 73-43-11. The State Board of Medical Licensure shall have  
248 the following powers and responsibilities:

249 (a) Setting policies and professional standards  
250 regarding the medical practice of physicians, osteopaths,  
251 podiatrists and physician assistants practicing with physician  
252 supervision;

253 (b) Considering applications for licensure;

254 (c) Conducting examinations for licensure;

255 (d) Investigating alleged violations of the medical  
256 practice act;

257 (e) Conducting hearings on disciplinary matters  
258 involving violations of state and federal law, probation,  
259 suspension and revocation of licenses;

260 (f) Considering petitions for termination of  
261 probationary and suspension periods, and restoration of revoked  
262 licenses;

263 (g) To promulgate and publish reasonable rules and  
264 regulations necessary to enable it to discharge its functions and  
265 to enforce the provisions of law regulating the practice of  
266 medicine; however, the board shall not adopt any rule or

267 regulation or impose any requirement regarding the licensing of  
268 physicians or osteopaths that conflicts with the prohibitions in  
269 Section 73-49-3;

270 (h) To enter into contracts with any other state or  
271 federal agency, or with any private person, organization or group  
272 capable of contracting, if it finds such action to be in the  
273 public interest and in the furtherance of its responsibilities;

274 (i) Perform the duties prescribed by Sections 73-26-1  
275 through 73-26-5; and

276 (j) Perform the duties prescribed by the Interstate  
277 Medical Licensure Compact, Section 73-25-101.

278 **SECTION 9.** This act shall take effect and be in force from  
279 and after July 1, 2024.

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

1 AN ACT TO AMEND SECTION 41-41-3, MISSISSIPPI CODE OF 1972, TO  
2 PROHIBIT A HEALTH-CARE INSTITUTION OR HEALTH-CARE PROVIDER FROM  
3 PROVIDING HEALTH CARE FOR AN UNEMANCIPATED MINOR WITHOUT FIRST  
4 OBTAINING THE CONSENT OF THE MINOR'S PARENT, GUARDIAN OR  
5 SURROGATE; TO PROVIDE FOR CERTAIN EXCEPTIONS TO THE REQUIREMENT OF  
6 OBTAINING PARENTAL CONSENT; TO AUTHORIZE A PARENT, GUARDIAN OR  
7 SURROGATE OF AN UNEMANCIPATED MINOR TO BRING SUIT FOR ANY  
8 VIOLATION OF THIS ACT; TO AMEND SECTIONS 41-41-17 AND 41-42-7,  
9 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;  
10 TO REPEAL SECTION 41-41-13, MISSISSIPPI CODE OF 1972, WHICH  
11 PROVIDES THAT A PHYSICIAN OR NURSE PRACTITIONER MAY TREAT MINORS  
12 FOR VENEREAL DISEASE WITHOUT PARENTAL CONSENT, AND SECTION  
13 41-41-14, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT A  
14 PHYSICIAN OR PSYCHOLOGIST MAY TREAT CERTAIN MINORS FOR MENTAL OR  
15 EMOTIONAL PROBLEMS CAUSED OR RELATED TO ALCOHOL OR DRUGS WITHOUT  
16 PARENTAL CONSENT; TO BRING FORWARD SECTIONS 41-9-69, 73-9-13 AND  
17 73-43-11, MISSISSIPPI CODE OF 1972, FOR THE PURPOSES OF POSSIBLE  
18 AMENDMENT; AND FOR RELATED PURPOSES.

HR26\SB2873A.1J

Andrew Ketchings  
Clerk of the House of Representatives