

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2873

BY: Committee

**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.

