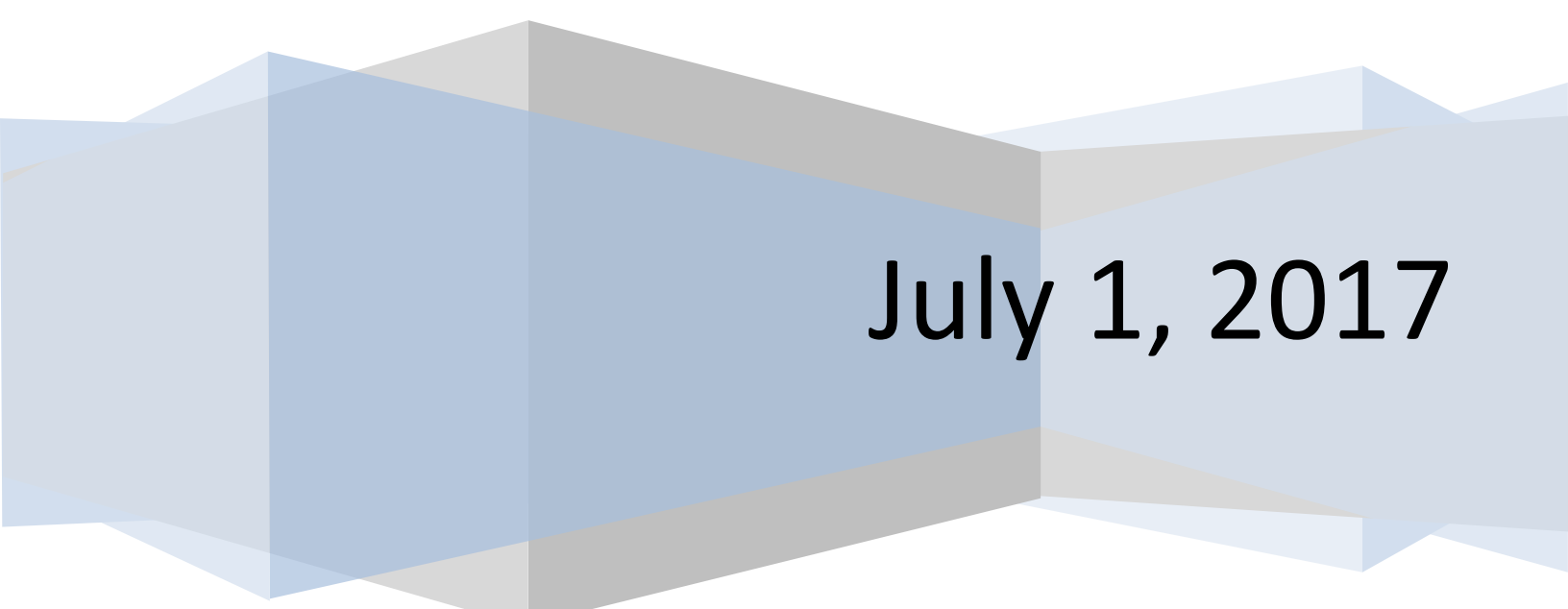


Mississippi State Board of Medical Licensure

# Mississippi Code of 1972

As Amended



July 1, 2017

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## **2.1 DISABLED PHYSICIANS**

### **§73-25-51. SHORT TITLE**

**SECTIONS 73-25-51 THROUGH 73-25-67 SHALL BE KNOWN AS THE "DISABLED PHYSICIAN LAW."**

*Approved April 8, 1975.*

### **§73-25-53. CONDITIONS WARRANTING RESTRICTION, SUSPENSION OR REVOCATION OF LICENSE**

The license of any physician to practice medicine in this state shall be subject to restriction, suspension or revocation, as hereinafter provided, in case of inability of the licensee to practice medicine with reasonable skill or safety to patients by reason of one of more of the following:

- (a) Mental illness;
- (b) Physical illness, including but not limited to deterioration through the aging process, or loss of motor skill;
- (c) Excessive use or abuse of drugs, including alcohol.

*Approved April 8, 1975.*

### **§73-25-55. REFERRAL OF PHYSICIAN TO EXAMINING COMMITTEE**

- (1) If the State Board of Medical Licensure has reasonable cause to believe that a physician licensed to practice medicine in this state is unable to practice medicine with reasonable skill and safety to patients because of a condition described in Section 73-25-53, such Board of Medical Licensure shall cause an examination of such physician to be made as described in subsection (2) of this section and shall, following such examination, take appropriate action within the provisions of Sections 73-25-51 through 73-25-67.
- (2) Examination of a physician under this section shall be conducted by an examining committee as provided in the following:
  - (a) Except as otherwise provided in paragraph (b) below, the Board of Medical Licensure shall refer all cases for such examination to the Mississippi State Medical Association or its constituent bodies for examination by an examining committee as created by such association exclusively for the purpose of such examinations. Such examining committee shall be composed of three (3) practicing physicians and shall include at least one (1) psychiatrist if a question of mental illness is involved.
  - (b) If the physician to be examined is not a member of the Mississippi State Medical Association, or if the Mississippi State Medical Association is unable or unwilling to act on a referral by the Board of Medical Licensure for examination, the Board shall designate the members of an examining committee. Such examining committee shall be composed of three (3) practicing physicians and shall include at least one (1) psychiatrist if a question of mental illness is involved.

*Approved July 1, 1980.*

**§73-25-57. EXAMINATION OF PHYSICIAN; CONFIDENTIALITY OF RECORDS**

- (1) The examining committee assigned to examine a physician pursuant to referral by the Board under Section 73-25-55 shall conduct an examination of such physician for the purpose of determining the physician's fitness to practice medicine with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and shall report its findings and recommendations to the Board. The committee shall order the physician to appear before the committee for examination and give him ten (10) days' notice of time and place of the examination, together with a statement of the cause for such examination. Such notice shall be served upon the physician either personally or by registered or certified mail with return receipt requested.
- (2) If the examining committee, in its discretion, should deem an independent mental or physical examination of the physician necessary to its determination of the fitness of the physician to practice, the committee shall order the physician to submit to such examination. Any person licensed to practice medicine in this state shall be deemed to have waived all objections to the admissibility of the examining committee's report in any proceedings before the Board under Sections 73-25-51 through 73-25-67 on the grounds of privileged communication. Any physician ordered to an examination before the committee under subsection (2) shall be entitled to an independent mental or physical examination if he makes request therefor.
- (3) Any physician who submits to a diagnostic mental or physical examination as ordered by the examining committee shall have a right to designate another physician to be present at the examination and make an independent report to the Board.
- (4) Failure of a physician to comply with a committee order under subsection (2) to appear before it for examination or to submit to mental or physical examination under this section shall be reported by the committee to the Board, and unless due to circumstances beyond the control of the physician, shall be grounds for suspension by the Board of the physician's license to practice medicine in this state until such time as such physician has complied with the order of the committee.
- (5) The examining committee may inspect patient records in accordance with the provisions of Section 73-25-28.
- (6) All patient records, investigative reports and other documents in possession of the Board and examining committee shall be deemed confidential and not subject to subpoena or disclosure unless so ordered by the court from which the subpoena issued, but the court, in its discretion, may limit use or disclosure of such records. Notwithstanding, and to encourage the prompt reporting of disabled practitioners, neither the Board nor examining committee shall reveal the identity of any source of information where the source has requested anonymity.

**§73-25-59. PHYSICIAN MAY REQUEST RESTRICTION OF LICENSE**

A physician may request in writing to the Board a restriction of his license to practice medicine. The Board may grant such request for restriction and shall have authority, if it deems appropriate, to attach conditions to the licensure of the physician to practice medicine within specified limitations, and waive the commencement of any proceeding under Section 73-25-63. Removal of a voluntary restriction on licensure to practice medicine shall be

subject to the procedure for reinstatement of license in Section 73-25-65.

*Approved April 8, 1975.*

**§73-25-61. EXAMINING COMMITTEE TO REPORT FINDINGS AND DETERMINATION**

- (1) The examining committee shall report to the Board its findings on the examination of the physician under Section 73-25-57, the determination of the committee as to the fitness of the physician to engage in the practice of medicine with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and any management that the committee may recommend. Such recommendation by the committee shall be advisory only and shall not be binding on the Board.
- (2) The Board may accept or reject the recommendation of the examining committee to permit a physician to continue to practice with or without any restriction on his license to practice medicine, or may refer the matter back to the examining committee for further examination and report thereon.
- (3) In the absence of a voluntary agreement by a physician under Section 73-25-59 for restriction of the licensure of such physician to practice medicine, any physician shall be entitled to a hearing in formal proceedings before the Board and a determination on the evidence as to whether or not restriction, suspension or revocation of licensure shall be imposed.

*Approved April 8, 1975.*

**§73-25-63. HEARING BEFORE STATE BOARD OF HEALTH (MEDICAL LICENSURE);  
TEMPORARY SUSPENSION OF LICENSE PENDING HEARING**

- (1) The Board may proceed against a physician under Sections 73-25-51 to 73-25-67 by serving upon such physician at least fifteen (15) days' notice of a time and place fixed for a hearing, together with copies of the examining committee's report and diagnosis. Such notice and reports shall be served upon the physician either personally or by registered or certified mail with return receipt requested.
- (2) At said hearing the physician shall have the right to be present, to be represented by counsel, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board.
- (3) At the conclusion of the hearing, the Board shall make a determination of the merits and may issue an order imposing one or more of the following:
  - (a) Make a recommendation that the physician submit to the care, counseling or treatment by physicians acceptable to the Board.
  - (b) Suspend or restrict the license of the physician to practice medicine for the duration of his impairment.
  - (c) Revoke the license of the physician to practice medicine.
- (4) The Board may temporarily suspend the license of any physician without a hearing, simultaneously with the institution of proceedings for a hearing under this section, if it finds that the evidence in support of the examining committee's determination is clear, competent and unequivocal and that his continuation in practice would constitute an imminent danger to public health and safety.

- (5) Neither the record of the proceedings nor any order entered against a physician may be used against him in any other legal proceedings except upon judicial review as provided herein.

*Approved April 8, 1975.*

**§73-25-65. REINSTATEMENT; JUDICIAL REVIEW**

- (1) A physician whose licensure has been restricted, suspended or revoked under Sections 73-25-51 through 73-25-67, voluntarily or by action of the Board, shall have a right, at reasonable intervals, to petition for reinstatement of his license and to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients. Such petition shall be made in writing and on a form prescribed by the Board. Action of the Board on such petition shall be initiated by referral to and examination by the examining committee pursuant to the provisions of Sections 73-25-55 and 73-25-57. The Board may, upon written recommendation of the examining committee, restore the licensure of the physician on a general or limited basis or institute a proceeding pursuant to Section 73-25-63 for the determination of the fitness of the physician to resume his practice.
- (2) All orders of the Board entered under Section 73-25-63(3), (4) shall be subject to judicial review by appeal to the chancery court of the county of the residence of the physician involved against whom the order is rendered, within twenty (20) days following the date of entry of the order, said appeal to be taken and perfected in the same manner as appeals from orders of boards of supervisors.

*Approved April 8, 1975.*

**§73-25-67. CIVIL IMMUNITIES**

There shall be no liability on the part of and no action for damages against:

- (a) Any member of the examining committee or the Board for any action undertaken or performed by such member within the scope of the functions of such committee or the Board under Sections 73-25-51 through 73-25-67 when acting without malice and in the reasonable belief that the action taken by him is warranted; or
- (b) Any person providing information to the committee or to the Board without malice in the reasonable belief that such information is accurate.

*Approved April 8, 1975.*

## **2.2 MEDICAL DISCIPLINE AT BEHEST OF PHYSICIAN MEMBERS OF STATE BOARD OF MEDICAL LICENSURE**

### **§73-25-81. DEFINITIONS**

For purposes of Sections 73-25-81 through 73-25-95, the "Board" shall mean the physician members of the Mississippi State Board of Medical Licensure who have authority for the licensure and discipline of physicians in the state.

### **§73-25-83. GROUND FOR DISCIPLINARY ACTION BY BOARD**

The Board shall have authority to deny an application for licensure or other authorization to practice medicine in this state and to discipline a physician licensed or otherwise lawfully practicing within this state who, after a hearing, has been adjudged by the Board as unqualified due to one or more of the following reasons:

- (a) Unprofessional conduct as defined in the physician licensure and disciplinary laws, pursuant to Section 73-25-29;
- (b) Professional incompetency in the practice of medicine or surgery; or
- (c) Having disciplinary action taken by his peers within any professional medical association or society, whether any such association or society is local, regional, state or national in scope, or being disciplined by a licensed hospital or medical staff of said hospital, or the voluntary surrender or restriction of hospital staff privileges while an investigation or disciplinary proceeding is being conducted by a licensed hospital or medical staff or medical staff committee of said hospital. Provided further, anybody taking action as set forth in this paragraph shall report such action to the Board within thirty (30) days of its occurrence.

### **§73-25-85. APPOINTMENT BY BOARD OF PHYSICIANS TO INVESTIGATE PROFESSIONAL COMPETENCY OF PHYSICIAN**

- (1) In addition to any other investigators the Board employs, the Board shall appoint one or more licensed physicians to act for the Board in investigating the conduct relating to the competency of a physician, whenever disciplinary action is being considered for professional incompetence.
- (2) Any investigator employed by the Board or any licensed physician appointed to act for the Board may inspect patient records in accordance with the provisions of Section 73-25-28.

### **§73-25-87. DISCIPLINARY ACTION WHICH BOARD IS AUTHORIZED TO TAKE**

Whenever the Board finds any person unqualified because of any of the grounds set forth in Section 73-25-83, it may enter an order imposing one or more of the following:

- (a) Deny his application for a license or other authorization to practice medicine;
- (b) Administer a public or private reprimand;
- (c) Suspend, limit or restrict his license or other authorization to practice medicine for up to five (5) years, including limiting the practice of such person to, or by the exclusion of, one or more specified branches of medicine, including limitation on hospital privileges;

- (d) Revoke his license or other authorization to practice medicine;
- (e) Require him to submit to care, counseling or treatment by physicians designated by the Board, as a condition for initial, continued or renewal of licensure or other authorization to practice medicine;
- (f) Require him to participate in a program of education prescribed by the Board; or
- (g) Require him to practice under the direction of a physician designated by the Board for a specified period of time.

*Approved March 29, 1977.*

**§73-25-89. TEMPORARY DISCIPLINARY ACTION WITHOUT HEARING**

If the Board determines that evidence in its possession indicates that a physician's continuation in practice or unrestricted practice would constitute an immediate danger to the public, the Board may take any of the same actions on a temporary basis, without a hearing, which it could otherwise take under Sections 73-25-81 through 73-25-95 following a hearing, provided proceedings for a hearing before the Board are initiated simultaneously with such temporary action without a hearing. Provided, further, that in the event of such temporary action without a hearing, a hearing must be held within fifteen (15) days of such action.

*Approved March 29, 1977.*

**§73-25-91. CIVIL AND CRIMINAL IMMUNITIES**

Any entity, organization or person, including the Board, any member of the Board, its agents or employees, and including any entity or organization or its members referred to in Section 73-25-83, acting without malice in making any report or other information available to the Board pursuant to law, or who assists in the organization, investigation or preparation of such report or information, or assists the Board in carrying out any of its duties or functions provided by law shall be immune from civil or criminal liability, except that unlawful disclosure of confidential information possessed by the Board may be a misdemeanor if otherwise so provided by law.

*Approved March 29, 1977.*

**§73-25-93. SUSPENSION, DENIAL, REVOCATION, OR LIMITATION OF PHYSICIAN'S HOSPITAL PRIVILEGES**

- (1) Any hospital licensed pursuant to Sections 41-9-1 et seq. is authorized to suspend, deny, revoke or limit the hospital privileges of any physician practicing or applying to practice therein, if the governing Board of such hospital, after consultation with the medical staff considers such physician to be unqualified because of any of the acts set forth in Section 73-25-83; provided, however, that the procedures for such actions shall comply with the hospital and/or medical staff bylaw requirements for due process.
- (2) There shall be no liability on the part of, and no cause of any action of any nature arising against, any hospital, hospital medical staff or hospital disciplinary body or members thereof, or their agents or employees, for any action taken without malice in

carrying out the provisions of Sections 73-25-81 through 73-25-95.

*Approved March 29, 1977.*

**§73-25-95. APPEALS**

Any person against whom disciplinary action is taken pursuant to Sections 73-25-81 through 73-25-95 shall have the right of judicial appeal as provided in Section 73-25-27 relating to judicial appeal of Board decisions. Provided, further, that no such person shall be allowed to practice medicine or deliver health care services in violation of any disciplinary order or action of the Board while any such appeal is pending.

*Approved March 29, 1977.*

**§73-51-1. INJUNCTION TO PROHIBIT UNLICENSED PRACTICE OF PROFESSION**

An action for an injunction may be brought and maintained in the name of any state board authorized to hold examinations and grant licenses to practice any profession to enjoin and prohibit any person from the practice of any profession required to be licensed by said board, when such person is practicing said profession and has not been granted a license therefor.

**§73-51-3. FILING, HEARING AND DETERMINATION OF ACTION FOR INJUNCTION**

An action for an injunction authorized by Section 73-51-1 shall be filed and heard either in the county in which the defendant resides or in which he practices the profession sought to be enjoined, and no bond shall be required, and no damages, fees or other costs shall be taxed against said board for the bringing of such suit. The court or judge shall not issue a temporary restraining order or injunction under this chapter, but shall hear and decide said matter on its merits either in term time or vacation as soon as possible.

**§97-23-43. PROFESSION; PRACTICING WITHOUT LICENSE**

If any person shall practice as an attorney and counselor-at-law, or shall practice as a physician or surgeon, or shall practice as a dentist, or shall practice as a pharmacist, without having first been examined and obtained a license as required by law, he shall, on conviction, of the first offense, be punished by a fine of not less than one hundred (\$100.00) dollars or more than two hundred (\$200.00) dollars or by imprisonment in the county jail not less than three months or more than twelve months or both; and such person, upon conviction of the second offense against this section, shall be punished by a fine of not less than two hundred (\$200.00) dollars or more than five hundred (\$500.00) dollars or by imprisonment in the penitentiary not less than one year or more than two years; and such person, upon conviction of any succeeding offense, shall be punished in the discretion of the court; provided, however, that such punishment shall in no case exceed the payment of a fine of five thousand dollars (\$5,000.00) or imprisonment for five years.

## 2.3 INTERSTATE MEDICAL LICENSURE COMPACT

### §73-25-101. INTERSTATE MEDICAL LICENSURE COMPACT CREATED

The Interstate Medical Licensure Compact is enacted into law and entered into by this state with any and all states legally joining in the Compact in accordance with its terms, in the form substantially as follows:

#### INTERSTATE MEDICAL LICENSURE COMPACT

##### *SECTION 1*

###### **Purpose**

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

##### *SECTION 2*

###### **Definitions**

In this Compact:

- (a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to Section 11 for its governance, or for directing and controlling its actions and conduct.
- (b) "Commissioner" means the voting representative appointed by each member board pursuant to Section 11.
- (c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.
- (d) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.
- (e) "Interstate Commission" means the interstate commission created pursuant to Section 11.
- (f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.
- (g) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.



- (h) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.
- (i) "Member state" means a state that has enacted the Compact.
- (j) "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state.
- (k) "Physician" means any person who:
  - (1) Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;
  - (2) Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three (3) attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;
  - (3) Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;
  - (4) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;
  - (5) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;
  - (6) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
  - (7) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;
  - (8) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and
  - (9) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.
- (l) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.
- (m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 12 of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.
- (n) "State" means any state, commonwealth, district, or territory of the United States.
- (o) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

### *SECTION 3*

#### **Eligibility**

- (a) A physician must meet the eligibility requirements as defined in Section 2(k) to receive an expedited license under the terms and provisions of the Compact.
- (b) A physician who does not meet the requirements of Section 2(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

### *SECTION 4*

#### **Designation of State of Principal License**

- (a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:
  - (1) The state of primary residence for the physician, or
  - (2) The state where at least twenty-five percent (25%) of the practice of medicine occurs, or
  - (3) The location of the physician's employer, or
  - (4) If no state qualifies under subsection (1), subsection (2), or subsection (3), the state designated as state of residence for purpose of federal income tax.
- (b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a).
- (c) The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

### *SECTION 5*

#### **Application and Issuance of Expedited Licensure**

- (a) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.
- (b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission.
  - (i) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.
  - (ii) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data

checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with United States Code of Federal Regulation Section 731.202.

- (iii) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.
- (c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.
- (d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.
- (e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.
- (f) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.
- (g) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

## *SECTION 6*

### **Fees for Expedited Licensure**

- (a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.
- (b) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

## *SECTION 7*

### **Renewal and Continued Participation**

- (a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician:
  - (1) Maintains a full and unrestricted license in a state of principal license;
  - (2) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;
  - (3) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license; and
  - (4) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

- (b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.
- (c) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.
- (d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.
- (e) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.
- (f) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

## *SECTION 8*

### **Coordinated Information System**

- (a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under Section 5.
- (b) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.
- (c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.
- (d) Member boards may report any nonpublic complaint, disciplinary, or investigatory information not required by subsection (c) to the Interstate Commission.
- (e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.
- (f) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.
- (g) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

## *SECTION 9*

### **Joint Investigations**

- (a) Licensure and disciplinary records of physicians are deemed investigative.
- (b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.
- (c) A subpoena issued by a member state shall be enforceable in other member states.
- (d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.
- (e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

## *SECTION 10*

### **Disciplinary Actions**

- (a) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.
- (b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.
- (c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:
  - (i) Impose the same or lesser sanction(s) against the physician so long as such sanctions are consistent with the Medical Practice Act of that state; or
  - (ii) Pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.
- (d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action under the Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the Medical Practice Act of that state.

### *SECTION 11*

#### **Interstate Medical Licensure Compact Commission**

- (a) The member states create the "Interstate Medical Licensure Compact Commission."
- (b) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.
- (c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.
- (d) The Interstate Commission shall consist of two voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member

- state, the member state shall appoint one (1) representative from each member board. A Commissioner shall be a(n):
- (1) Allopathic or osteopathic physician appointed to a member board;
  - (2) Executive director, executive secretary, or similar executive of a member board;
  - or
  - (3) Member of the public appointed to a member board.
- (e) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the Commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.
  - (f) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.
  - (g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of Commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A Commissioner shall not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).
  - (h) The Interstate Commission shall provide public notice of all meetings and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds (2/3) vote of the Commissioners present that an open meeting would be likely to:
    - (1) Relate solely to the internal personnel practices and procedures of the Interstate Commission;
    - (2) Discuss matters specifically exempted from disclosure by federal statute;
    - (3) Discuss trade secrets, commercial, or financial information that is privileged or confidential;
    - (4) Involve accusing a person of a crime, or formally censuring a person;
    - (5) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
    - (6) Discuss investigative records compiled for law enforcement purposes; or
    - (7) Specifically relate to the participation in a civil action or other legal proceeding.
  - (i) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.
  - (j) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.
  - (k) The Interstate Commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive

committee shall oversee the administration of the Compact including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

- (l) The Interstate Commission may establish other committees for governance and administration of the Compact.

## *SECTION 12*

### **Powers and Duties of the Interstate Commission**

The Interstate Commission shall have the duty and power to:

- (a) Oversee and maintain the administration of the Compact;
- (b) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;
- (c) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions;
- (d) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;
- (e) Establish and appoint committees, including but not limited to an executive committee as required by Section 11, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;
- (f) Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission;
- (g) Establish and maintain one or more offices;
- (h) Borrow, accept, hire, or contract for services of personnel;
- (i) Purchase and maintain insurance and bonds;
- (j) Employ an executive director who shall have such powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;
- (k) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
- (l) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the Interstate Commission;
- (m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;
- (n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (o) Establish a budget and make expenditures;
- (p) Adopt a seal and bylaws governing the management and operation of the Interstate Commission;
- (q) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall

also include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission;

- (r) Coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation;
- (s) Maintain records in accordance with the bylaws;
- (t) Seek and obtain trademarks, copyrights, and patents; and
- (u) Perform such functions as may be necessary or appropriate to achieve the purposes of the Compact.

### *SECTION 13*

#### **Finance Powers**

- (a) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.
- (b) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.
- (c) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.
- (d) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the Interstate Commission.

### *SECTION 14*

#### **Organization and Operation of the Interstate Commission**

- (a) The Interstate Commission shall, by a majority of Commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within twelve (12) months of the first Interstate Commission meeting.
- (b) The Interstate Commission shall elect or appoint annually from among its Commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission.
- (c) Officers selected in subsection (b) shall serve without remuneration from the Interstate Commission.
- (d) The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate



Commission employment, duties, or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

- (1) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.
- (2) The Interstate Commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.
- (3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## *SECTION 15*

### **Rulemaking Functions of the Interstate Commission**

- (a) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

- (b) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.
- (c) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

## *SECTION 16*

### **Oversight of Interstate Compact**

- (a) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.
- (b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the Interstate Commission.
- (c) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

## *SECTION 17*

### **Enforcement of Interstate Compact**

- (a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.
- (b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

- (c) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

## *SECTION 18*

### **Default Procedures**

- (a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Interstate Commission promulgated under the Compact.
- (b) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall:
  - (1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and
  - (2) Provide remedial training and specific technical assistance regarding the default.
- (c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
- (d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
- (e) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.
- (f) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.
- (g) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
- (h) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

## *SECTION 19*

### **Dispute Resolution**

- (a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.
- (b) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

## *SECTION 20*

### **Member States, Effective Date and Amendment**

- (a) Any state is eligible to become a member state of the Compact.
- (b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.
- (c) The governors of nonmember states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the Compact by all states.
- (d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

## *SECTION 21*

### **Withdrawal**

- (a) Once effective, the Compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.
- (b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state.
- (c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.
- (d) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (c).
- (e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.
- (f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Interstate Commission.
- (g) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to

physicians who designated the withdrawing member state as the state of principal license.

#### *SECTION 22*

##### **Dissolution**

- (a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one (1) member state.
- (b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

#### *SECTION 23*

##### **Severability and Construction**

- (a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.
- (b) The provisions of the Compact shall be liberally construed to effectuate its purposes.
- (c) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

#### *SECTION 24*

##### **Binding Effect of Compact and Other Laws**

- (a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.
- (b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.
- (c) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.
- (d) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
- (e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

*Approved May 16, 2016.*

##### **§73-25-102. "MEMBER BOARD" DEFINED**

The term "member board," as referred to in the Interstate Medical Licensure Compact, shall mean the Mississippi State Board of Medical Licensure established under Section 73-43-1 et seq., acting through its executive director.

*Approved May 16, 2016.*

## 2.4 LICENSURE OF PHYSICIANS AND OSTEOPATHS

### §73-25-1. DUTY TO OBTAIN LICENSE

Every person who desires to practice medicine must first obtain a license to do so from the State Board of Medical Licensure, but this section shall not apply to physicians now holding permanent license, the same having been recorded as required by law.

### §73-25-3. HOW LICENSE OBTAINED; CRIMINAL HISTORY RECORDS CHECK AND FINGERPRINTING REQUIRED; EDUCATIONAL REQUIREMENTS

Every person who desires to obtain a license to practice medicine must apply therefor, in writing, to the State Board of Medical Licensure at least ten (10) days before the date of the examination and must be examined by the Board according to the methods deemed by it to be the most practical and expeditious to test the applicants' qualifications. If the applicant is found by the Board, upon examination, to possess sufficient learning in those branches and to be of good moral character, the Board shall issue him a license to practice medicine; however, no applicant shall be granted a license unless the applicant holds a diploma from a reputable medical college or college of osteopathic medicine that requires a four-year course of at least thirty-two (32) weeks for each session, or its equivalent.

To qualify for a Mississippi medical license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Sections 73-25-29 and 73-25-83. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board, which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

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

The Board shall provide to the Department the fingerprints of the applicant, any additional information which may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the applicant, in addition to all other applicable fees

and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history record information on the applicant.

This section shall not apply to applicants for a special volunteer medical license authorized under Section 73-25-18.

**§73-25-5. APPLICATION FOR LICENSE**

The application for license must include such information as the State Board of Medical Licensure shall require.

Each application or filing made under this section shall include the Social Security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

**§73-25-7. EXAMINATIONS; WHEN AND WHERE CONDUCTED**

The State Board of Medical Licensure shall meet at the capitol at least once each year for the purpose of examining applicants for license to practice medicine or osteopathic medicine and shall continue in session until all applicants are examined.

**§73-25-9. FEES FOR EXAMINATION**

Every person who shall apply for license to practice medicine shall, before he will be entitled to be examined, pay a fee to be set by the State Board of Medical Licensure, not to exceed two hundred fifty dollars (\$250.00).

In addition to fees for examination as provided for above, the State Board of Medical Licensure is authorized to charge applicants an amount equivalent to the cost to the State Board of Medical Licensure of purchasing and administering any national examinations approved by the Federation of State Medical Boards.

**§73-25-11. FORM OF LICENSE**

A license to practice medicine shall be of such form and include such information as the State Board of Medical Licensure may prescribe.

**§73-25-13. REPEALED**

*Approved April 4, 2016*

**§73-25-14. ANNUAL RENEWAL OF LICENSE; REQUIREMENTS FOR REINSTATEMENT AFTER LAPSE; CRIMINAL HISTORY RECORDS CHECK AND FINGERPRINTING**

- (1) Except as provided in Section 33-1-39, the license of every person licensed to practice medicine or osteopathy in the state of Mississippi shall be renewed annually.

On or before May 1 of each year, the State Board of Medical Licensure shall mail a notice of renewal of license to every physician or osteopath to whom a license was issued or renewed during the current licensing year. The notice shall provide instructions for obtaining and submitting applications for renewal. The State Board of

- Medical Licensure is authorized to make applications for renewal available via electronic means. The applicant shall obtain and complete the application and submit it to the Board in the manner prescribed by the Board in the notice before June 30 with the renewal fee of an amount established by the Board, but not to exceed Three Hundred Dollars (\$300.00), a portion of which fee shall be used to support a program to aid impaired physicians and osteopaths. The payment of the annual license renewal fee shall be optional with all physicians over the age of seventy (70) years. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. That renewal shall render the holder thereof a legal practitioner as stated on the renewal form.
- (2) Any physician or osteopath practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the Board on satisfactory explanation for the failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year, and shall be assessed a fine of Twenty-five Dollars (\$25.00) plus an additional fine of Five Dollars (\$5.00) for each month thereafter that the license renewal remains delinquent.
  - (3) Any physician or osteopath not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the Board on satisfactory explanation for the failure to renew, by completion of a reinstatement form and upon payment of the arrearages for the previous five (5) years and the renewal fee for the current year.
  - (4) Any physician or osteopath who allows his or her license to lapse shall be notified by the Board within thirty (30) days of that lapse.
  - (5) Any person practicing as a licensed physician or osteopath during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to penalties provided for violation of the Medical Practice Act, if he or she had not submitted the required reinstatement form and fee within fifteen (15) days after notification by the Board of the lapse.
  - (6) Any physician or osteopath practicing in the state of Mississippi whose license has lapsed and is deemed an illegal practitioner under subsection (5) of this section may petition the Board for reinstatement of his or her license on a retroactive basis, if the physician or osteopath was unable to meet the June 30 deadline due to extraordinary or other legitimate reasons, and retroactive reinstatement of licensure shall be granted or may be denied by the Board only for good cause. Failure to advise the Board of change of address shall not be considered a basis of reinstatement.
  - (7) None of the fees or fines provided for in this section shall be applicable to the renewal of a special volunteer medical license authorized under Section 73-25-18.
  - (8) Fees collected under the provisions of this section shall be used by the Board to defray expenses of administering the licensure provisions of the Medical Practice Act (Title 73, Chapter 25, Mississippi Code of 1972) and to support a program to aid impaired physicians and osteopaths in an amount determined by the Board.
  - (9) In order for a physician or osteopath whose medical license has been expired for five (5) years or more to qualify for reinstatement of license, the physician or osteopath



must have successfully been cleared for reinstatement through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Sections 73-25-29 and 73-25-83. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

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

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

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

**§73-25-15. LOST LICENSE MAY BE SUPPLIED**

If a license to practice medicine be issued and be lost, or if the holder of a license fails to have the same recorded within sixty (60) days as required by law, the State Board of Medical Licensure may, in its discretion, issue a new license.

**§73-25-17. TEMPORARY LICENSE**

- (1) Except as otherwise provided in subsections (2) through (5) below, the executive officer of the State Board of Medical Licensure may issue under his signature a temporary license to practice medicine which shall be valid until the next succeeding meeting of the Board for examining applicants; and such license shall show the date of its issuance, otherwise it shall be void. Only one (1) temporary license shall ever be issued to the same person pursuant to this subsection, and it shall always be made

to an individual and not to a partnership; provided, however, that the temporary license of a person enrolled in any American Medical Association-approved internship, residency or fellowship program within the state, other than the fellowship program set forth in subsection (3) below, may be renewed annually for the duration of the internship, residency or fellowship program for a period not to exceed five (5) years.

- (2) The State Board of Medical Licensure may issue a temporary license to practice medicine at a youth camp licensed by the State Board of Health to nonresident physicians and retired resident physicians under the provisions of Section 75-74-8.
- (3) The State Board of Medical Licensure may issue a temporary license to practice medicine to physicians who have been admitted for treatment in a drug and/or alcohol treatment program approved by the Board, or who are enrolled in the fellowship of addictionology in the Mississippi State Medical Association Impaired Professionals Program; provided that, if the applicant is a nonresident of the state said applicant shall hold a valid license to practice medicine in another state and the medical licensing authority of that state shall certify to the Board of Medical Licensure in writing that such license is in good standing. A temporary license issued under this subsection shall be valid for a period of ninety (90) days but may be renewed every ninety (90) days for the duration of the fellowship or treatment program, provided that if the applicant discontinues treatment or leaves the fellowship program the temporary license shall automatically become null and void. The Board may rescind or extend this temporary license for cause.

A temporary license issued to a physician under this subsection shall be limited to only the out-patient phase of the treatment program or that period of time necessary to complete the fellowship of addictionology and shall authorize that physician to whom the license is issued to administer treatment and care within the scope of the drug and/or alcohol treatment program or fellowship in an institutional setting and shall not authorize the physician to otherwise practice in this state. A physician licensed under this subsection shall not apply to the U.S. Drug Enforcement Administration for a controlled substances registration certificate and must be under the supervision of another physician holding a valid and permanent license in this state.

- (4) A physician who has had his permanent license to practice in this state revoked or suspended by the Board due to habitual personal use of intoxicating liquors or narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability, may be granted a temporary license pursuant to subsection (3) above, provided the issuance of such a temporary license is not in conflict with the prior disciplinary order of the Board rendered against the physician.
- (5) The applicant applying for a ninety-day temporary license to practice while in treatment in an approved drug and/or alcohol treatment program or while enrolled in the fellowship of addictionology shall pay a fee not to exceed fifty dollars (\$50.00) to the Board. No additional fee shall be charged for an extension.

**§75-74-8. TEMPORARY LICENSES FOR NONRESIDENT OR RETIRED PHYSICIANS ... TO PRACTICE AT YOUTH CAMPS**

- (1) Any nonresident physician who is not licensed to practice medicine in this state and any resident physician who is retired from the active practice of medicine in this state may be issued a temporary license by the State Board of Medical Licensure to practice medicine at a youth camp licensed by the State Board of Health under this chapter while serving as a volunteer at such a camp, provided that any such nonresident physician shall hold a valid license to practice medicine in another state and the medical licensing authority of that state shall certify to the Board of Medical Licensure in writing that such license is in good standing, and that any such retired resident physician shall be in good standing with the Board of Medical Licensure.
- (2) ....
- (3) A temporary license issued under subsection (1) ... of this section shall authorize the physician ... to whom the license is issued to administer treatment and care within the scope of his training to campers and employees of the youth camp, but shall not authorize the physician ... to otherwise practice in the state. Such temporary license shall be valid only during the time that the physician ... is in residence at the camp, but in no event shall such license be valid for more than ninety (90) days. A new temporary license shall be obtained by a physician ... each time that he serves as a volunteer at a youth camp. The fee for each such license shall be twenty-five dollars (\$25.00), which shall be payable to the Board from which the license is obtained.

**§73-25-18. SPECIAL VOLUNTEER MEDICAL LICENSE FOR PHYSICIANS AND PHYSICIAN ASSISTANTS WHO ARE RETIRED OR ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES OR IN THE NATIONAL GUARD OR A RESERVE COMPONENT OF THE ARMED FORCES OR ARE WORKING AS PHYSICIANS OR PHYSICIAN ASSISTANTS FOR THE DEPARTMENT OF VETERAN AFFAIRS**

- (1) (a) There is established a special volunteer medical license for physicians who are retired from active practice, or are currently serving on active duty in the Armed Forces of the United States or in the National Guard or a reserve component of the Armed Forces of the United States, or are working as physicians for the Department of Veterans Affairs, and wish to donate their expertise for the medical care and treatment of indigent and needy persons or persons in medically underserved areas of the state. The special volunteer medical license shall be issued by the State Board of Medical Licensure to eligible physicians without the payment of any application fee, examination fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually upon approval of the Board.
- (b) A physician must meet the following requirements to be eligible for a special volunteer medical license:
  - (i) Completion of a special volunteer medical license application, including documentation of the physician's medical school or osteopathic school graduation and practice history;
  - (ii) Documentation that the physician has been previously issued an unrestricted license to practice medicine in Mississippi or in another state of the United States and that he or she has never been the subject of any medical

- disciplinary action in any jurisdiction;
  - (iii) Acknowledgment and documentation that the physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in Mississippi or persons in medically underserved areas in Mississippi; and
  - (iv) Acknowledgment and documentation that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical services rendered under the special volunteer medical license.
- (2) (a) There is established a special volunteer license for physician assistants who are retired from active practice, or are currently serving on active duty in the Armed Forces of the United States or in the National Guard or a reserve component of the Armed Forces of the United States, or are working as physician assistants for the Department of Veterans Affairs, and wish to donate their expertise for the care and treatment of indigent and needy persons or persons in medically underserved areas of the state. The special volunteer physician assistant license shall be issued by the State Board of Medical Licensure to eligible physician assistants without the payment of any application fee, examination fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually upon approval of the board.
- (b) A physician assistant must meet the following requirements to be eligible for a special volunteer physician assistant license:
- (i) Completion of an application for a special volunteer physician assistant license, including documentation of the physician assistant's educational qualifications and practice history;
  - (ii) Documentation that the physician assistant has been previously issued an unrestricted physician assistant license in Mississippi or in another state of the United States and that he or she has never been the subject of any disciplinary action in any jurisdiction;
  - (iii) Acknowledgment and documentation that the physician assistant's practice under the special volunteer physician assistant license will be exclusively and totally devoted to providing care to needy and indigent persons in Mississippi or persons in medically underserved areas in Mississippi; and
  - (iv) Acknowledgment and documentation that the physician assistant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any services rendered under the special volunteer physician assistant license.

**§73-25-19. NONRESIDENTS**

Nonresident physicians not holding license from the state shall not be permitted to practice medicine under any circumstances after remaining in the state for five (5) days, except when called in consultation by a licensed physician residing in this state. This section shall not apply to any nonresident physician who holds a temporary license to practice medicine at a youth camp issued under the provisions of Section 75-74-8 and Section 73-25-17.

**§73-25-21. LICENSEES FROM OTHER STATES OR CANADA MAY BE GRANTED LICENSE WITHOUT EXAMINATION; AFFILIATION WITH BOARDS OF MEDICAL EXAMINERS**

The State Board of Medical Licensure may grant license to practice medicine without examination as to learning to graduates in medicine or osteopathic medicine who hold license to practice medicine from another state, provided the requirements in such state are equal to those required by the State Board of Medical Licensure. The State Board of Medical Licensure may affiliate with and recognize for the purpose of waiving examination diplomates of the National Board of Medical Examiners, or the National Board of Examiners for Osteopathic Physicians and Surgeons in granting license to practice medicine in Mississippi. In addition, the Board may grant a license to practice medicine without examination to licentiates of the Medical Council of Canada (LMCC) who are graduates of Canadian medical schools which are accredited by the Liaison Committee on Medical Education, as sponsored by the American Medical Association and the Association of American Medical Colleges, and by the Committee for Accreditation of Canadian Medical Schools, as sponsored by the Canadian Medical Association and the Association of Canadian Medical Colleges.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

**§73-25-23. LICENSING OF GRADUATES OF FOREIGN MEDICAL SCHOOLS**

The State Board of Medical Licensure is hereby authorized and empowered to grant limited institutional license for the practice of medicine in state institutions to graduates of foreign medical colleges approved by the National Educational Council for Foreign Medical Graduates or its successor, subject to the conditions as set out herein.

Any graduate of a foreign medical college approved by the organizations specified in the foregoing paragraph who is employed or is being considered for employment to practice medicine in one or more Mississippi state-supported institution(s) located in the same county shall make application for license to the State Board of Medical Licensure. The application shall be made on a form prescribed by the Board of Medical Licensure as required by laws of the state of Mississippi. The application shall also state the institution or institutions in which the applicant has assurance of employment. The State Board of Medical Licensure is hereby authorized to establish minimum standards of qualifications including moral, experience and proficiency for such applicants. The application and the Board's recommendation shall be forwarded to the board of trustees and director of the institution(s) in which the applicant wishes to practice.

Upon receipt of such approved application from the State Board of Medical Licensure, the board of trustees or the governing authority and director of the institution or health center shall submit the application for review to the local medical society, the member of the Board of Trustees of the State Medical Association of that district and the member of the State Board of Medical Licensure of the district in which the institution is located. A formal recommendation from each of these, along with that of the board of trustees and director of

the institution, shall become a part of the application, and shall then be returned to the State Board of Medical Licensure. If a majority of the recommendations are in favor of the applicant, the State Board of Medical Licensure may, in its discretion, issue a limited license to practice medicine. The holder of such a license shall be subject to all the laws of the state of Mississippi governing the practice of medicine.

Such license shall be for one (1) year and shall be in such form as the State Board of Medical Licensure shall prescribe, and shall be issued for practice in a particular institution and shall not be endorsable to another state. The license must be renewed annually, after such review as the State Board of Medical Licensure considers necessary. A graduate of a foreign medical school so licensed may hold such limited institutional license no longer than five (5) years. However, any graduate of a foreign medical school so licensed and employed by any state institution on January 1, 1981, shall not be subject to the five-year limitation created hereby. In addition, the State Board of Medical Licensure, in its discretion, may waive the five-year limitation on limited institutional licenses for any graduate of a foreign medical school who holds such license.

It is the intent of this section to enable Mississippi institutions to utilize the services of qualified graduates of foreign medical colleges during the period necessary for them to secure citizenship papers, and to meet other requirements for a regular license, including Educational Council for Foreign Medical Graduates certification. The State Board of Medical Licensure is hereby authorized, in its discretion, to refuse to renew, or to revoke such limited license if the holder of such license has failed to avail himself of the opportunity to take the examination for regular licensure after becoming eligible for such examination.

The State Board of Medical Licensure may establish reasonable and uniform license fees and shall make such rules and regulations as it considers necessary to carry out the purposes of this section.

The State Board of Medical Licensure is hereby authorized and directed to grant a full license for the practice of medicine to a graduate of a foreign medical school who has previously been granted an institutional license in one or more Mississippi state supported institutions for a twenty-nine-year period of time and who on July 1, 2001, was serving as director of a Mississippi state-supported hospital and who has passed the clinical competency part of the Flex Examination for the state of Mississippi.

#### **§73-25-25. OSTEOPATHS**

Any person desiring to practice osteopathic medicine in this state must first obtain a license from the State Board of Medical Licensure by passing the same examination as those applying to practice medicine. The State Board of Medical Licensure shall also license doctors of osteopathy who meet the conditions of Sections 73-25-17, 73-25-19 or 73-25-21. License to practice osteopathic medicine must be recorded as required by law for license to practice medicine, with like penalty on failure to so record.

**§73-25-27. SUSPENSION OR REVOCATION OF LICENSE; NOTICE AND OPPORTUNITY FOR HEARING; APPEAL; SUBPOENA POWER; VALIDITY OF SUSPENDED OR REVOKED LICENSE**

The State Board of Medical Licensure after notice and opportunity for a hearing to the licentiate, is authorized to suspend or revoke for any cause named in this chapter any license it has issued, or the renewal thereof, that authorizes any person to practice medicine, osteopathy, or any other method of preventing, diagnosing, relieving, caring for, or treating, or curing disease, injury or other bodily condition. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

The notice shall be effected by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days or more than sixty (60) days from the date of the mailing or the service, at which time the licentiate shall be given an opportunity for a prompt and fair hearing. For the purpose of the hearing the Board, acting by and through its executive office, may subpoena persons and papers on its own behalf and on behalf of the licentiate, including records obtained under Section 73-25-28 and Section 73-25-83(c), may administer oaths and the testimony when properly transcribed, together with the papers and exhibits, shall be admissible in evidence for or against the licentiate. At the hearing the licentiate may appear by counsel and personally in his own behalf. Any person sworn and examined as a witness in the hearing shall not be held to answer criminally, nor shall any papers or documents produced by the witness be competent evidence in any criminal proceedings against the witness other than for perjury in delivering his evidence. The Board or its designee, in the conduct of any hearing, shall not be bound by strict laws or rules of evidence. The Board may adopt rules and discovery and procedure governing all proceedings before it. On the basis of any such hearing, or upon default of the licentiate, the Board shall make a determination specifying its findings of fact and conclusions of law. The Board shall make its determination based upon a preponderance of the evidence.

A copy of the determination shall be sent by registered mail or served personally upon the licentiate. The decision of the Board revoking or suspending the license shall become final thirty (30) days after so mailed or served unless within that period the licentiate appeals the decision to the chancery court, under the provisions of this section. The appeal to the chancery court shall be based solely on the record made before the Board. A transcript of the proceedings and evidence, together with exhibits, presented at the hearing before the Board in the event of appeal shall be a part of the record before the chancery court. The chancery court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may, in the discretion of the chancellor, be tried in vacation. Appeals may be taken to the Supreme Court of the state of Mississippi as provided by law from any final action of the chancery court. No such person shall be allowed to practice medicine in

violation of any action of the chancery court affirming, in whole or in part, the determination of the Board, while any such appeal to the Supreme Court is pending.

For the purpose of conducting investigations, the Board, through its executive director, may issue subpoenas to any individual, clinic, hospital, pharmacy or other entity having in its possession papers, documents, medical charts, prescriptions or any other nonfinancial records. Any such subpoenas issued by the executive director shall be made pursuant to an order of the Board entered on its minutes, determined on a case-by-case basis. Investigatory subpoenas, as provided in this section, may be served either by personal process or by registered mail, and upon service shall command production of the papers and documents to the Board at the time and place so specified. The Board shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the Board, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance with the subpoenas or petitions.

For the purpose of conducting hearings, the Board through its executive director may subpoena persons and papers on its own behalf and on behalf of the respondent, including records obtained under Section 73-25-28 and Section 73-25-83(c), may administer oaths, and may compel the testimony of witnesses. Any such subpoenas issued by the executive director shall be made pursuant to an order of the Board entered on its minutes, determined on a case-by-case basis. It may issue subpoenas to take testimony, and testimony so taken and sworn to shall be admissible in evidence for and against the respondent. The Board shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the Board, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance with the subpoenas or petitions.

Unless the court otherwise decrees, a license that has been suspended by the Board for a stated period of time shall automatically become valid on the expiration of that period and a license that has been suspended for an indefinite period shall become again valid if and when the Board so orders, which it may do on its own motion or on the petition of the respondent. A license that has been revoked shall not be restored to validity except: (1) by order of the Board based on petition for reinstatement filed under Section 73-25-32 or (2) by order of the chancery court or Supreme Court following appeal. Any licentiate whose license becomes again valid after a period of suspension or after it has been restored to validity by order of the Board or by an order of the court, shall record it again in the office of the clerk of the circuit court of the county in which he resides in conformity with the requirements of Section 73-25-13. Nothing in this chapter shall be construed as limiting or revoking the authority of any court or of any licensing or registering officer or board, other than the State Board of Medical Licensure, to suspend, revoke and reinstate licenses and to cancel registrations under the provisions of Section 41-29-311.

*Approved March 31, 2009.*

**§73-25-28. RIGHT OF BOARD OF MEDICAL LICENSURE TO EXAMINE RECORDS; RECORDS SUBJECT TO SUBPOENA; CONFIDENTIALITY AND DESTRUCTION OF RECORDS; BOARD TO PROVIDE INFORMATION TO HOSPITALS**



- (1) In any case in which disciplinary action against a medical physician, osteopathic physician or podiatrist is being considered by the State Board of Medical Licensure, the executive officer of the Board, or its investigators accompanied by any member of the Board or any licensed physician or podiatrist appointed to act for the Board, upon reasonable cause as defined below, may enter, at a time convenient to all parties, any hospital, clinic, office of a medical physician, osteopathic physician or podiatrist or emergency care facility to inspect and copy patient records, charts, emergency room records or any other document which would assist the Board in its investigation of a medical physician, osteopathic physician or podiatrist. Reasonable cause shall be demonstrated by allegations of one or more of the following: (a) a single incident of gross negligence; (b) a pattern of inappropriate prescribing of controlled substances; (c) an act of incompetence or negligence causing death or serious bodily injury; (d) a pattern of substandard medical care; (e) a pattern of unnecessary surgery or unindicated medical procedures; (f) disciplinary action taken against a physician or podiatrist by a licensed hospital or by the medical staff of the hospital; (g) voluntary termination by a physician or podiatrist of staff privileges or having restrictions placed thereon; or (h) habitual personal use of narcotic drugs or other drugs having addiction-forming or addiction-sustaining liability, or the habitual personal use of intoxicating liquors or alcoholic beverages, to an extent which affects professional competency. Whether reasonable cause exists shall be determined by the executive officer and executive committee of the Board, and documentation of that determination shall be provided to the hospital, clinic, office or emergency care facility before entry for inspection and copying hereunder.
- (2) A certified copy of any record inspected or copied pursuant to subsection (1) shall be subject to subpoena by the Board to be used as evidence before it in a licensure disciplinary proceeding initiated pursuant to the provisions of Sections 73-25-1 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81 through 73-25-95 and 73-27-1 through 73-27-19, Mississippi Code of 1972. All references to a patient's name and address or other information which would identify the patient shall be deleted from the records unless a waiver of the medical privilege is obtained from the patient.
- (3) All records of the investigation and all patient charts, records, emergency room records or any other document that may have been copied shall be kept confidential and shall not be subject to discovery or subpoena. If no disciplinary proceedings are initiated within a period of five (5) years after the determination of insufficient cause, then the Board shall destroy all records obtained pursuant to this section.
- (4) Notwithstanding any right to privacy, confidentiality, privilege or exemption from public access conferred by this section, Section 73-52-1, or otherwise by statute or at law, the Board shall provide to any hospital, as defined in Section 41-9-3, any and all information it may have concerning any physician who has applied for a license, other than information contained in records exempt from the provisions of the Mississippi Public Records Act of 1983 pursuant to Sections 45-29-1 and 45-29-3, Mississippi Code of 1972, upon receipt by the Board of a written request from the hospital for such information and documentation that the physician has applied for appointment or reappointment to the medical staff of the hospital or staff privileges at the hospital. The Board, any member of the Board, and its agents or employees,

acting without malice in providing the documents or information hereunder, shall be immune from civil or criminal liability.

*Approved July 1, 1987.*

**§73-25-29. NONISSUANCE, SUSPENSION, REVOCATION, RESTRICTION, DENIAL OF REINSTATEMENT, OR DENIAL OF RENEWAL OF LICENSE; GROUNDS**

The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

- (1) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.
- (2) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.
- (3) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.
- (4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.
- (6) Conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (7) Obtaining or attempting to obtain a license by fraud or deception.
- (8) Unprofessional conduct, which includes, but is not limited to:
  - (a) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.
  - (b) Knowingly performing any act which in any way assists an unlicensed person to practice medicine.
  - (c) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.
  - (d) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.
  - (e) Obtaining a fee as personal compensation or gain from a person on fraudulent representation a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the Board upon request.
  - (f) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any

certificate that is known to be false at the time he makes or signs such certificate.

- (g) Failing to identify a physician's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.
- (9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.
- (11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, which implements the exclusion.
- (12) Failure to furnish the Board, its investigators or representatives information legally requested by the Board.
- (13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the Board or of any order, stipulation or agreement with the Board.
- (14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.
- (15) Performing or inducing an abortion on a woman in violation of any provision of Sections 41-41-131 through 41-41-145.

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

**§73-25-30. SUSPENSION OR REVOCATION OF LICENSE; ALTERNATIVE DISCIPLINARY MEASURES; ASSESSMENT OF COSTS**

- (1) The Mississippi State Board of Medical Licensure, in exercising its authority under the provisions of Section 73-25-29, shall have the power to discipline the holder of a

license who has been found by the Board in violation of that statute after notice and a hearing as provided by law, and the licensee shall be disciplined as follows:

- (a) By placing him upon probation, the terms of which may be set by the Board, or
  - (b) By suspending his right to practice for a time deemed proper by the Board, or
  - (c) By revoking his license, or
  - (d) By taking any other action in relation to his license as the Board may deem proper under the circumstances.
- (2) Upon the execution of a disciplinary order by the Board, either following a hearing or in lieu of a hearing, the Board, in addition to the disciplinary powers specified in subsection (1) of this section, may assess the licensee for those reasonable costs that are expended by the Board in the investigation and conduct of a proceeding for licensure disciplinary action, including, but not limited to, the cost of process service, court reporters, witness fees, expert witnesses, investigators, and other related expenses. Money collected by the Board under this section shall be deposited to the credit of the special fund of the Board to reimburse the existing current year appropriated budget.
- (3) An assessment of costs under this section shall be paid to the Board by the licensee, upon the expiration of the period allowed for appeals under Section 73-25-27, or may be paid sooner if the licensee elects. Costs assessed under this section shall not exceed Ten Thousand Dollars (\$10,000.00).
- (4) When an assessment of costs by the Board against a licensee in accordance with this section is not paid by the licensee when due under this section, the licensee shall be prohibited from practicing medicine until the full amount is paid. In addition, the Board may institute and maintain proceedings in its name for enforcement of payment in the Chancery Court of the First Judicial District of Hinds County. When those proceedings are instituted, the Board shall certify the record of its proceedings, together with all documents and evidence, to the chancery court. The matter shall be heard in due course by the court, which shall review the record and make its determination thereon. The hearing on the matter, in the discretion of the chancellor, may be tried in vacation.

**§73-25-31. SUSPENSION OR REVOCATION OF LICENSES; ORDERS AND JUDGMENTS OF BOARD**

Every order and judgment of the Board shall take effect immediately on its promulgation unless the Board in such order or judgment fixes a probationary period for licentiate. Such order and judgment shall continue in effect unless upon appeal the court by proper order or decree terminates it earlier. The Board may make public its orders and judgments in such manner and form as it deems proper. It shall in event of the suspension or revocation of a license direct the clerk of the circuit court of the county in which that license was recorded to cancel such record.

*Approved June 11, 1964.*

**§73-25-32. SUSPENSION OR REVOCATION OF LICENSE; REINSTATEMENT; CRIMINAL HISTORY RECORDS CHECK AND FINGERPRINTING REQUIRED**

- (1) A person whose license to practice medicine or osteopathy has been revoked or suspended may petition the Mississippi State Board of Medical Licensure to reinstate this license after a period of not less than one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.
- (2) The petition shall be accompanied by two (2) or more verified recommendations from physicians or osteopaths licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.

- (3) In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, that should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.
- (4) The investigation shall require the petitioner to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each petitioner shall submit a full set of the petitioner's fingerprints in a form and manner prescribed by the Board, which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

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

The Board shall provide to the Department the fingerprints of the petitioner, any

additional information that may be required by the Department, and a form signed by the petitioner consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the petitioner, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

- (5) The Secretary-Treasurer of the Board of Medical Licensure shall enter into his records of the case all actions of the Board in setting aside a disciplinary penalty under this section and he shall certify notices to the proper court clerk. The clerk shall make such changes on his records as may be necessary.

**§73-25-33. PRACTICE OF MEDICINE DEFINED**

The practice of medicine shall mean to suggest, recommend, prescribe, or direct for the use of any person, any drug, medicine, appliance, or other agency, whether material or not material, for the cure, relief, or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound or fracture or other bodily injury or deformity, or the practice of obstetrics or midwifery, after having received, or with the intent of receiving therefor, either directly or indirectly, any bonus, gift, profit or compensation; provided, that nothing in this section shall apply to females engaged solely in the practice of midwifery.

**§73-25-34. TELEMEDICINE; LICENSING REQUIREMENTS FOR PRACTICING MEDICINE ACROSS STATE LINES**

- (1) For the purposes of this section, telemedicine, or the practice of medicine across state lines, shall be defined to include any one or both of the following:
  - (a) Rendering of a medical opinion concerning diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent; or
  - (b) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent.
- (2) Except as hereinafter provided, no person shall engage in the practice of medicine across state lines (telemedicine) in this state, hold himself out as qualified to do the same, or use any title, word or abbreviation to indicate to or induce others to believe that he is duly licensed to practice medicine across state lines in this state unless he has first obtained a license to do so from the State Board of Medical Licensure and has met all educational and licensure requirements as determined by the State Board of Medical Licensure.
- (3) The requirement of licensure as set forth in subsection (2) above shall not be required where the evaluation, treatment and/or the medical opinion to be rendered by a physician outside this state (a) is requested by a physician duly licensed to practice medicine in this state, and (b) the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship

with the patient to be evaluated and/or treated.

*Approved July 1, 1997.*

**§41-127-1. LICENSED HEALTH CARE PRACTITIONERS AUTHORIZED TO PROVIDE HEALTH CARE SERVICES VIA ELECTRONIC MEANS; STANDARDS OF PRACTICE**

Subject to the limitations of the license under which the individual is practicing, a health care practitioner licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient either in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings.

*Approved July 1, 2013.*

**§73-25-35. REGISTERED NURSES LICENSED AND CERTIFIED AS NURSE PRACTITIONERS**

Registered nurses who are licensed and certified by the Mississippi Board of Nursing as nurse practitioners are not prohibited from such nursing practice, but are entitled to engage therein without a physician's license.

**§73-25-37. LIABILITY OF PHYSICIAN, DENTIST, NURSE, EMERGENCY MEDICAL TECHNICIAN, ETC., FOR RENDERING EMERGENCY CARE; IMMUNITY FROM CIVIL LIABILITY FOR GOOD FAITH USE OF AUTOMATED EXTERNAL DEFIBRILLATOR BY PERSON UNTRAINED IN ITS USE; IMMUNITY FROM CIVIL LIABILITY FOR GOOD FAITH USE OF AUTO-INJECTABLE EPINEPHRINE BY TRAINED SCHOOL PERSONNEL**

- (1) No duly licensed, practicing physician, physician assistant.... or any other person who, in good faith and in the exercise of reasonable care, renders emergency care to any injured person at the scene of an emergency, or in transporting said injured person to a point where medical assistance can be reasonably expected, shall be liable for any civil damages to said injured person as a result of any acts committed in good faith and in the exercise of reasonable care or omissions in good faith and in the exercise of reasonable care by such persons in rendering the emergency care to said injured person.
- (2) (a) Any person who in good faith, with or without compensation, renders emergency care or treatment by the use of an Automated External Defibrillator (AED) in accordance with the provisions of Sections 41-60-31 through 41-60-35, as well as the person responsible for the site where the AED is located if the person has provided for compliance with the provisions of Sections 41-60-31 through 41-60-35, shall be immune from civil liability for any personal injury as a result of that care or treatment, or as a result of any act, or failure to act, in providing or

arranging further medical treatment, where the person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances and the person's actions or failure to act does not amount to willful or wanton misconduct or gross negligence.

- (b) A person who has not complied with the provisions of Sections 41-60-31 through 41-60-35, but who has access to an AED and uses it in good faith in an emergency as an ordinary prudent person would have done in the same or similar circumstances, shall be immune from civil liability for any personal injury as a result of an act or omission related to the operation of or failure to operate an AED if the person's actions or failure to act do not amount to willful or wanton misconduct or gross negligence.
- (3) Any employee of a local public school district, a private school, or parochial school, trained in the administration of auto-injectable epinephrine, who provides, administers, or assists in the administration of auto-injectable epinephrine, in accordance with the provisions of Section 37-11-71, to a student believed in good faith to be having an anaphylactic reaction, shall be immune from civil liability for any personal injury as a result of that care or treatment if the employee's actions or failure to act do not amount to willful or wanton misconduct or gross negligence.
- (4) The immunity from civil liability for any personal injury under subsection (2) of this section includes the licensed physician who authorizes, directs or supervises the installation or provision of AED equipment in or on any premises or conveyance other than a medical facility, the owner of the premises where an AED is used, the purchaser of the AED, a person who uses an AED during an emergency for the purpose of attempting to save the life of another person who is or who appears to be in cardiac arrest, and the person who provides the CPR and AED training.
- (5) The immunity from civil liability for any personal injury under subsection (3) of this section includes the licensed physician who prescribes the auto-injectable epinephrine, the school district, or any other entity, that legally obtained the auto-injectable epinephrine, and the person who provides the training in the administration of auto-injectable epinephrine.
- (6) The immunity from civil liability under subsection (2) and subsection (3) of this section does not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering the emergency care.
- (7) Except in cases of gross negligence or willful misconduct, civil immunity shall apply to any licensed physician or licensed pharmacist who prescribes or makes recommendation to an eligible patient regarding prescription for or treatment with an investigational drug, biological product or device under the provisions of Section 41-131-1, and the State Board of Medical Licensure and/or the State Board of Pharmacy, as the case may be, shall be prohibited from taking any adverse action against the license of such physician or pharmacist based solely on the physician's action under the provisions of Section 41-131-1.

**§73-25-38. IMMUNITY FROM LIABILITY FOR PHYSICIANS, PHYSICIAN ASSISTANTS ... PROVIDING CHARITABLE MEDICAL CARE OR VOLUNTARILY PROVIDING**



**HEALTH SERVICES WITHOUT FEE WHILE ASSISTING WITH EMERGENCY  
MANAGEMENT OR OPERATIONS IN AN EMERGENCY**

- (1) Any licensed physician, physician assistant.... who voluntarily provides needed medical or health services to any person without the expectation of payment due to the inability of such person to pay for said services shall be immune from liability for any civil action arising out of the provision of such medical or health services provided in good faith on a charitable basis. This section shall not extend immunity to acts of willful or gross negligence. Except in cases of rendering emergency care wherein the provisions of Section 73-25-37 apply, immunity under this section shall be extended only if the physician, physician assistant ... and patient execute a written waiver in advance of the rendering of such medical services specifying that such services are provided without the expectation of payment and that the licensed physician ... shall be immune as provided in this subsection. The immunity from liability granted by this subsection also shall extend to actions arising from a church-operated outpatient medical clinic that exists solely for the purpose of providing charitable medical services to persons who are unable to pay for such services, provided that the outpatient clinic receives less than Forty Thousand Dollars (\$ 40,000.00) annually in patient payments.
- (2) Any licensed physician, physician assistant.... assisting with emergency management, emergency operations or hazard mitigation in response to any emergency, man-made or natural disaster, who voluntarily provides needed medical or health services to any person without fee or other compensation, shall not be liable for civil damages on the basis of any act or omission if the physician, physician assistant.... was acting in good faith and within the scope of their license, education and training and the acts or omissions were not caused from gross, willful or wanton acts of negligence.
- (3) Any physician who voluntarily renders any medical service under a special volunteer medical license authorized under Section 73-25-18 without any payment or compensation or the expectation or promise of any payment or compensation shall be immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written or oral agreement for the physician to provide a voluntary non-compensated medical service before the rendering of the service by the physician.
- (4) Any physician who is retired from active practice, and who has been previously issued an unrestricted license to practice medicine in any state of the United States or who has been issued a special volunteer medical license under Section 73-25-18, shall be immune from liability for any civil action arising out of any medical care or treatment provided while voluntarily serving as “doctor of the day” for members of the Mississippi State Legislature, legislative or other state employees, or any visitors to the State Capitol on the date of such service. This subsection shall not extend immunity to acts of willful or gross negligence or misconduct.

*Approved March 20, 2017.*

**§73-25-39. BOOKS, BLANKS, AND STATIONERY**

The State Board of Medical Licensure shall, in accordance with the provisions of Section 31-1-1, contract for the acquisition of such books, blanks and stationery as may be needed by it in carrying out the provisions of this chapter. The State Board of Medical Licensure shall deliver to the Secretary of State such record books as the clerks of the circuit court may need, in which to record licenses to practice medicine, to be by him promptly and safely transmitted at the cost of the state to such of said clerks as the Board of Medical Licensure may designate.

**§ 73-50-1. ISSUANCE OF LICENSE, CERTIFICATE OR REGISTRATION BY OCCUPATIONAL LICENSING BOARD TO MILITARY-TRAINED OR MILITARY SPOUSE APPLICANTS TO LAWFULLY PRACTICE OCCUPATION IN MISSISSIPPI UNDER CERTAIN CIRCUMSTANCES; TEMPORARY PRACTICE PERMIT**

- (1) As used in this section, the term:
  - (a) "License" means any license (other than a privilege license), certificate or other evidence of qualification that an individual is required to obtain before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation.
  - (b) "Occupational licensing board" means any state board, commission, department or other agency in Mississippi that is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses. For the purposes of this section, the State Department of Education shall be considered an occupational licensing board when issuing teacher licenses under Section 37-3-2.
- (2) Notwithstanding any other provision of law, an occupational licensing board shall issue a license, certification or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in Mississippi if, upon application to an occupational licensing board, the applicant satisfies the following conditions:
  - (a) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification or registration of the occupational licensing board from which the applicant is seeking licensure, certification or registration in this state: completed a military program of training, completed testing or equivalent training and experience as determined by the board, and performed in the occupational specialty.
  - (b) Has engaged in the active practice of the occupation for which the person is seeking a license, certification or permit from the occupational licensing board in this state for at least two (2) of the five (5) years preceding the date of the application under this section.
  - (c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this

state at the time the act was committed.

- (d) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.
- (3) Notwithstanding any other provision of law, an occupational licensing board shall issue a license, certification or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in Mississippi if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:
  - (a) Holds a current license, certification or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification or registration are substantially equivalent to or exceed the requirements for licensure, certification or registration of the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.
  - (b) Can demonstrate competency in the occupation through methods as determined by the board, such as having completed continuing education units or having had recent experience for at least two (2) of the five (5) years preceding the date of the application under this section.
  - (c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this state at the time the act was committed.
  - (d) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification or permit.
  - (e) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.
- (4) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (2) or (3) of this section.
- (5) A nonresident licensed, certified or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified or registered by an occupational licensing board in this state.
- (6) An occupational licensing board may issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (2) or (3) of this section if that jurisdiction has licensure, certification or registration standards substantially equivalent to the standards for licensure, certification or registration of an occupational licensing board in this state. The military-trained applicant or military spouse may practice under the temporary permit until a license, certification or registration is granted or until a notice to deny a license, certification or registration is issued in accordance with rules adopted by the occupational licensing board.
- (7) An occupational licensing board may adopt rules necessary to implement this section.
- (8) Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification or

registration requirements established by an occupational licensing board in this state.  
(9) Nothing in this section shall be construed to apply to the practice of law as regulated under Section 73-3-1 et seq.

*Approved July 1, 2013.*

## 2.4 LICENSURE OF PHYSICIAN ASSISTANTS

### §73-26-1. DEFINITIONS.

As used in the chapter:

- (a) “Board” means the State Board of Medical Licensure.
- (b) “Physician assistant” means a person who meets the Board’s criteria for licensure as a physician assistant and is licensed as a physician assistant by the Board. Nothing in this chapter authorizes the licensure of anesthesiologist’s assistants.
- (c) “Supervising physician” means a doctor of medicine or a doctor of osteopathic medicine who holds an unrestricted license from the Board, and who is in the full-time practice of medicine and who has been approved by the Board to supervise physician assistants.
- (d) “Supervision” means overseeing and accepting responsibility for the medical services rendered by a physician assistant in a manner approved by the Board.

*Approved July 1, 2000.*

### §73-26-3. LICENSING AND REGULATION; MINIMUM REQUIREMENTS; CRIMINAL HISTORY RECORDS CHECK AND FINGERPRINTING REQUIRED [SUBSECTION (5) REPEALED EFFECTIVE JULY 1, 2019.]

- (1) The State Board of Medical Licensure shall license and regulate the practice of physician assistants in accordance with the provisions of this chapter.
- (2) All physician assistants who are employed as physician assistants by a Department of Veterans Affairs health care facility, a branch of the United States military, or the Federal Bureau of Prisons, and who are practicing as physician assistants in a federal facility in Mississippi on July 1, 2000, and those physician assistants who trained in a Mississippi physician assistant program and have been continuously practicing as a physician assistant in Mississippi since 1976, shall be eligible for licensure if they submit an application for licensure to the Board by December 31, 2000. Physician assistants licensed under this subsection will be eligible for license renewal so long as they meet standard renewal requirements.
- (3) Before December 31, 2004, applicants for physician assistant licensure, except those licensed under subsection (2) of this section, must be graduates of physician assistant educational programs accredited by the Commission on Accreditation of Allied Health Educational Programs or its predecessor or successor agency, have passed the certification examination administered by the National Commission on Certification of Physician Assistants (NCCPA), have current NCCPA certification, and possess a minimum of a baccalaureate degree. Physician assistants meeting these licensure requirements will be eligible for license renewal so long as they meet standard renewal requirements.
- (4) On or after December 31, 2004, applicants for physician assistant licensure must meet all of the requirements in subsection (3) of this section and, in addition, must have obtained a minimum of a master’s degree in a health-related or science field.
- (5) Applicants for licensure who meet all licensure requirements except for the master’s

degree may be granted a temporary license by the Board so long as they can show proof of enrollment in a master's program that will, when completed, meet the master's degree requirement. The temporary license will be valid for no longer than one (1) year, and may not be renewed. This subsection shall stand repealed on July 1, 2019.

- (6) For new graduate physician assistants and all physician assistants receiving initial licenses in the state, except those licensed under subsection (2) of this section, supervision shall require the on-site presence of a supervising physician for one hundred twenty (120) days.
- (7) To qualify for a Mississippi physician assistant license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

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

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

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

*Approved July 1, 2000.*

**§73-26-5. RULES AND REGULATIONS; APPOINTMENT OF TASK FORCE.**

- (1) The Board shall promulgate and publish reasonable rules and regulations necessary to

enable it to discharge its functions and to enforce the provisions of law regulating the practice of physician assistants. Those rules shall include, but are not limited to: qualifications for licensure for physician assistants; scope of practice of physician assistants; supervision of physicians assistants; identification of physician assistants; grounds for disciplinary actions and discipline of physician assistants, which through June 30, 2016, shall specifically include discipline for violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners; and setting and charging reasonable fees for licensure and license renewals for physician assistants. However, nothing in this chapter or in rules adopted by the Board shall authorize physician assistants to administer or monitor general inhaled anesthesia, epidural anesthesia, spinal anesthesia, or monitored anesthesia as utilized in surgical procedures. In addition, the board shall not adopt any rule or regulation or impose any requirement regarding the licensing of physician assistants that conflicts with the prohibitions in Section 73-49-3. The Board shall promulgate rules for licensure and license renewals in accordance with Section 33-1-39.

- (2) If the Board appoints a task force or committee to address physician assistant regulation, at least one (1) member of the task force shall be a nurse practitioner who is a member of the Mississippi Board of Nursing or a nurse practitioner appointee selected by the Board from a list of three (3) recommendations submitted by the Mississippi Nurses Association, and at least one (1) member shall be a physician assistant selected by the Board from a list of three (3) recommendations submitted by the Mississippi Academy of Physician Assistants.

*Approved July 1, 2000.*

## **2.5 LICENSURE OF PODIATRISTS**

### **§73-27-1. PODIATRY DEFINED.**

- (1) The practice of podiatric medicine is that profession concerned with the prevention, examination, diagnosis and medical, surgical and adjuvant treatment of conditions of the human foot. For the purposes of this chapter, "foot" means that part of the human anatomy which consists of the tarsal bones, metatarsal bones and phalanges.
- (2) A podiatrist is a medical care provider who engages in the practice of podiatric medicine.
- (3) A podiatrist may prescribe and administer drugs and tests, excluding general and spinal anesthesia that are essential to the practice of podiatric medicine when used for or in connection with treatment of disorders of the human foot.

*Approved April 27, 2000.*

### **§73-27-3. BOARD OF MEDICAL LICENSURE TO EXAMINE.**

- (1) The State Board of Medical Licensure shall examine all applicants as hereinafter provided in this chapter.
- (2) There is established the Podiatry Advisory Committee to the State Board of Medical Licensure. The advisory committee shall be composed of three (3) licensed and practicing podiatrists in the state of Mississippi. The members of the advisory committee shall be appointed by the executive director of the Board from a list of six (6) podiatrists recommended by the Mississippi Podiatric Medical Association who have practiced in the state for not less than three (3) years immediately before their appointment. The podiatrists appointed to the advisory committee shall serve for terms of three (3) years from the time of their appointment. Any vacancy occurring on the advisory committee before the expiration of a term shall be filled by appointment of the executive director of the Board from a list of at least two (2) podiatrists recommended by the Mississippi Podiatric Medical Association who have practiced in the state for not less than three (3) years immediately before their appointment. Any appointment to fill a vacancy shall be only for the remainder of the unexpired term.
- (3) The Podiatry Advisory Committee shall advise and make recommendations to the State Board of Medical Licensure on all podiatry matters that come before the Board. The Board shall allow the advisory committee sufficient time to adequately prepare any materials or other information that the committee wants to present or deliver to the Board on any matter or issue affecting podiatry. The Board shall not make any final decision or take any final action on any podiatry matter until the Board has reviewed any materials or other information presented or delivered to it by the advisory committee, provided that the information is delivered within the time period prescribed by the Board.

*Approved July 1, 1998.*

### **§73-27-5. QUALIFICATIONS.**



All applicants for license shall have attained the age of twenty-one (21) years, and shall be of good moral character; they shall have had at least four (4) years high school and be graduates of same; they shall have at least one (1) year prepodiatry college education and be graduates of some college of podiatry recognized as being in good standing by the State Board of Medical Licensure. No college of podiatry or chiropody shall be accredited by the Board as a college of good standing that does not require for graduation a course of study of at least four (4) years (eight and one-half (8 ½) months each) and be recognized by the Council on Education of the American Podiatry Association. However, all podiatrists actively engaged in the practice of podiatry in the state of Mississippi, prior to January 1, 1938, whether graduates or not, shall, upon furnishing proof thereof by displaying their state privilege tax license to the Secretary of the State Board of Medical Licensure, and upon payment of fee of Ten Dollars and Twenty-five Cents (\$10.25), be entitled to a license without an examination, and applications for the license shall be filed not later than sixty (60) days after the passage of this chapter. Upon payment of a fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), a license without examination may be issued to podiatrists of other states maintaining equal statutory requirements for the practice of podiatry and extending the same reciprocal privileges to this state. The State Board of Medical Licensure may affiliate with the National Board of Chiropody or Podiatry Licensure in granting licenses to practice podiatry in Mississippi, provided the written examination covers at least two-thirds (2/3) of the subjects set forth in Section 73-27-9. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

To qualify for a Mississippi podiatry license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-27-13. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board, which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

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

The Board shall provide to the Department the fingerprints of the applicant, any additional information that may be required by the Department, and a form signed by the applicant

consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

**§73-27-7. EXAMINATIONS; WHEN HELD.**

All examinations shall be held concurrently with the regular examinations of the State Board of Medical Licensure.

*Approved July 1, 1980.*

**§73-27-9. EXAMINATIONS; FEES; SUBJECTS; MINIMUM REQUIREMENTS FOR LICENSES; RE-EXAMINATION.**

Any person not exempt from examination under Section 73-27-5, Mississippi Code of 1972, and desiring a license to practice podiatry shall, upon application to the State Board of Medical Licensure and payment of a fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), be examined in the following subjects: anatomy, histology, physiology, chemistry, pharmacy, materia medica, therapeutics, bacteriology, pathology, surgery, dermatology, neurology, physical therapy, diagnosis and roentgenology, orthopedics, chiropody and chiropodial surgery, limited in their scope to the treatment of the human foot and leg, and if found qualified shall receive a license. The minimum of requirements for license shall be a general average of seventy-five percent (75%) of all the subjects involved, provided that a grade of not less than sixty percent (60%) be made on any one (1) subject or branch given in the examination held. Applicants examined and being refused a license shall be entitled to reexamination upon payment of an additional fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), for each examination.

**§73-27-11. LICENSE; RECORDED; DISPLAYED.**

All licenses shall be recorded in the office of the circuit clerk in which the licensee practices within sixty days from date of issuance. All licenses shall be conspicuously displayed at the offices or other places of practice.

**§73-27-12. ANNUAL RENEWAL OF LICENSE.**

- (1) Except as provided in Section 33-1-39, the license of every person licensed to practice podiatry in the state of Mississippi shall be renewed annually.

On or before May 1 of each year, the Board shall mail a notice of renewal of license to every podiatrist to whom a license was issued or renewed during the current licensing year. The notice shall provide instructions for obtaining and submitting

- applications for renewal. The State Board of Medical Licensure is authorized to make applications for renewal available via electronic means. The applicant shall obtain and complete the application and submit it to the Board in the manner prescribed by the Board in the notice before June 30 with the renewal fee of an amount established by the Board, but not to exceed Three Hundred Dollars (\$300.00), a portion of which fee shall be used to support a program to aid impaired podiatrists. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. That renewal shall render the holder thereof a legal practitioner as stated on the renewal form.
- (2) Any podiatrist practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the Board on satisfactory explanation for the failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year, and shall be assessed a fine of Twenty-five Dollars (\$25.00) plus an additional fine of Five Dollars (\$5.00) for each month thereafter that the license renewal remains delinquent.
  - (3) Any podiatrist not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form and upon payment of the arrearages for the previous five (5) years and the renewal fee for the current year.
  - (4) Any podiatrist who allows his or her license to lapse shall be notified by the Board within thirty (30) days of that lapse.
  - (5) Any person practicing as a licensed podiatrist during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to penalties set forth in Section 73-27-17, provided that he or she has not submitted the required reinstatement form and fee within fifteen (15) days after notification by the Board of the lapse.
  - (6) Any podiatrist practicing in the state of Mississippi whose license has lapsed and is deemed an illegal practitioner under subsection (5) of this section may petition the Board for reinstatement of his or her license on a retroactive basis, if the podiatrist was unable to meet the June 30 deadline due to extraordinary or other legitimate reasons, and retroactive reinstatement of licensure shall be granted or may be denied by the Board only for good cause. Failure to advise the Board of change of address shall not be considered a basis for reinstatement.
  - (7) Fees collected under the provisions of this section shall be used by the Board to defray expenses of administering the licensure provisions of Title 73, Chapter 27, Mississippi Code of 1972, and to support a program to aid impaired podiatrists in an amount determined by the Board.
  - (8) In order for a podiatrist whose podiatric medical license has been expired for five (5) years or more to qualify for reinstatement of license, the podiatrist must have successfully been cleared for reinstatement through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure

as set forth in Section 73-27-13. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

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

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

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

**§73-27-13. REFUSAL TO ISSUE LICENSE; SUSPENSION; REVOCATION.**

- (1) The State Board of Medical Licensure may refuse to issue, suspend, revoke or otherwise restrict any license provided for in this chapter, with the advice of the advisory committee, based upon the following grounds:
  - (a) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.
  - (b) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.
  - (c) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.
  - (d) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law.
  - (e) Performing any medical diagnosis or treatment outside the scope of podiatry as defined in Section 73-27-1.

- (f) Conviction of a felony or misdemeanor involving moral turpitude.
- (g) Obtaining or attempting to obtain a license by fraud or deception.
- (h) Unprofessional conduct, which includes, but is not limited to:
  - (i) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.
  - (ii) Knowingly performing any act which in any way assists an unlicensed person to practice podiatry.
  - (iii) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.
  - (iv) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.
  - (v) Obtaining a fee as personal compensation or gain from a person on fraudulent representation a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the Board upon request.
  - (vi) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.
  - (vii) Failing to identify a podiatrist's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.
- (i) The refusal of a licensing authority of another state to issue or renew a license, permit or certificate to practice podiatry in that state or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that state.
- (j) Violation(s) of the provisions of Section 1 through 5 of this act relating to deceptive advertisement by health care practitioners. **This paragraph shall stand repealed on July 1, 2020.**
- (2) Upon the nonissuance, suspension or revocation of a license to practice podiatry, the Board may, in its discretion and with the advice of the advisory committee, reissue a license after a lapse of six (6) months. No advertising shall be permitted except regular professional cards.
- (3) In its investigation of whether the license of a podiatrist should be suspended, revoked or otherwise restricted, the Board may inspect patient records in accordance with the provisions of Section 73-25-28.
- (4) In addition to the grounds specified in subsection (1) of this section, the Board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If

there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

*Approved July 1, 1998.*

**§73-27-15. PRACTICING WITHOUT LICENSE.**

It shall be unlawful for any person to profess to be a podiatrist, to practice or assume the duties incident to podiatry without first obtaining from the Mississippi State Board of Medical Licensure a license authorizing the practice of podiatry in this state, except as otherwise provided by this chapter.

**§73-27-16. REINSTATEMENT OF REVOKED OR SUSPENDED LICENSES.**

- (1) A person whose license to practice podiatry has been revoked or suspended may petition the Mississippi State Board of Medical Licensure to reinstate this license after a period of not less than one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.
- (2) The petition shall be accompanied by two (2) or more verified recommendations from podiatrists licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary. Any final action by the Board on a petition under this section shall be made with the advice of the advisory committee.

- (3) In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.
- (4) The Secretary-Treasurer of the Board of Medical Licensure shall enter into his records of the case all actions of the Board of Medical Licensure in setting aside a disciplinary penalty under this section and he shall certify notices to the proper court clerk. The clerk shall make such changes on his records as may be necessary.

*Approved July 1, 1998.*

**§73-27-17. PENALTY.**

Any person who shall violate any of the provisions of this chapter shall, on conviction, of the first offense, be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment in the county jail not more than three (3) months or both; and such person, upon conviction of the second offense against this chapter, shall be punished by a fine of not less than two hundred dollars (\$200.00) or more than five hundred dollars (\$500.00) or by imprisonment in the penitentiary not less than one (1) year or more than two (2) years; and such person, upon conviction of any succeeding offense, shall be punished in the discretion of the court; provided, however, that such punishment shall in no case exceed the payment of a fine of five thousand dollars (\$5,000.00) or imprisonment for five years.

**§73-27-19. EXCEPTIONS.**

This chapter shall not apply to physicians or surgeons licensed to practice medicine or osteopathy in the state of Mississippi, nor to physicians or surgeons of the United States Army, Navy or the United States Public Health Service, when in actual performance of their duties or to legally registered podiatrists of another state taking charge of the practice of a locally registered podiatrist of this state, temporarily during the latter's absence therefrom, by written permission of the Secretary of the State Board of Medical Licensure.

## 2.6 LICENSURE OF RADIOLOGIST ASSISTANTS

**§41-58-7. STATE BOARD OF MEDICAL LICENSURE AUTHORIZED TO LICENSE AND REGULATE PRACTICE OF RADIOLOGIST ASSISTANTS; RADIOLOGISTS AUTHORIZED TO USE SERVICES OF RADIOLOGIST ASSISTANTS TO PRACTICE RADIOLOGY ASSISTANCE UNDER THEIR SUPERVISION; BOARD SHALL PROMULGATE RULES AND REGULATIONS INCLUDING QUALIFICATIONS FOR LICENSURE, SCOPE OF PRACTICE, DISCIPLINE, AND FEES; REQUIREMENTS FOR LICENSURE; RADIOLOGIST ASSISTANTS PROHIBITED FROM INTERPRETING IMAGES, MAKING DIAGNOSES, OR PRESCRIBING MEDICATIONS OR THERAPIES.**

- (1) The State Board of Medical Licensure shall license and regulate the practice of radiologist assistants in accordance with the provisions of this section.
- (2) A radiologist may use the services of a radiologist assistant to practice radiology assistance under the supervision of the radiologist, provided that the radiologist assistant is duly qualified and licensed as provided in this section.
- (3) The Board shall promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and enforce the provisions of law regulating the practice of radiologist assistants. Those rules and regulations shall include, but are not limited to: qualifications for licensure for radiologist assistants; scope of practice of radiologist assistants; supervision of radiologist assistants; identification of radiologist assistants; grounds for disciplinary actions and discipline of radiologist assistants; and setting and charging reasonable fees for licensure and license renewals for radiologist assistants.
- (4) Those rules and regulations adopted by the Board pertaining to the scope of practice and the educational qualifications necessary to practice as a radiologist assistant shall be consistent with guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.
- (5) Applicants for licensure as a radiologist assistant must be:
  - (a) credentialed to provide radiology services under the supervision of a radiologist;
  - (b) a radiologic technologist registered under Sections 41-58-1 through 41-58-5; and
  - (c) certified and registered with the American Registry of Radiologic Technologists.
- (6) A radiologist assistant may not interpret images, make diagnoses or prescribe medications or therapies.

*Approved March 13, 2006.*



## 2.7 MEDICAL RADIATION TECHNOLOGY

### §41-58-1. DEFINITIONS. [REPEALED EFFECTIVE JULY 1, 2018].

As used in this chapter:

- (a) “Department” means the Mississippi State Department of Health.
- (b) “Licensed practitioner” means a person licensed or otherwise authorized by law to practice medicine, dentistry, chiropractic, osteopathy or podiatry, or a licensed nurse practitioner or physician assistant.
- (c) “Ionizing radiation” means x-rays and gamma rays, alpha and beta particles, high speed electrons, neutrons and other nuclear particles.
- (d) “X-radiation” means penetrating electromagnetic radiation with wavelengths shorter than ten (10) nanometers produced by bombarding a metallic target with fast electrons in a vacuum.
- (e) “Supervision” means responsibility for and control of, quality radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.
- (f) “Medical radiation technology” means the science and art of applying ionizing radiation to human beings for diagnostic and/or therapeutic purposes. The four (4) specialized disciplines of medical radiation technology are diagnostic radiologic technology, nuclear medicine technology, radiation therapy and limited x-ray machine operator.
- (g) “Radiologic technologist” means a person other than a licensed practitioner who has passed a national certification examination recognized by the department such as the American Registry of Radiologic Technologists examination or its equivalent, who applies x-radiation or ionizing radiation to any part of the human body for diagnostic purposes and includes the administration of parenteral and enteral contrast media and administration of other medications or procedures incidental to radiologic examinations.
- (h) “Nuclear medicine technologist” means a person other than a licensed practitioner who has passed a national certification examination recognized by the department such as the American Registry of Radiologic Technologists examination or the Nuclear Medicine Technology Certification Board examination or its equivalent, who performs in vivo imaging and measurement procedures and in vitro nonimaging laboratory studies, prepares radiopharmaceuticals, and administers diagnostic/therapeutic doses of radiopharmaceuticals and administers other medications or procedures incidental for nuclear medicine exams to human beings while under the supervision of a licensed practitioner who is licensed to possess and use radioactive material. A certified nuclear medicine technologist also may perform diagnostic CT exams on hybrid equipment for diagnostic purposes, including the administration of parenteral and enteral contrast media and administration of other medications or procedures incidental to CT exams. Certified nuclear medicine technologists who perform CT scans must be certified in CT by the American Registry of Radiologic Technologists, the Nuclear Medicine Technology Certification Board, or other CT certifying body. A certified nuclear medicine technologist may

do on-the-job training on hybrid equipment provided that the certified nuclear medicine technologist is supervised by a certified technologist and obtains a CT certification within six (6) months of that training.

- (i) "Radiation therapist" means a person other than a licensed practitioner who has passed a national certification examination recognized by the department such as the American Registry of Radiologic Technologists examination or its equivalent, who applies x-radiation and the ionizing radiation emitted from particle accelerators, cobalt sixty (60) units and sealed sources of radioactive material to human beings for therapeutic purposes while under the supervision of a licensed radiation oncologist or a board-certified radiologist who is licensed to possess and use radioactive material.
- (j) "Limited x-ray machine operator" means a person other than a licensed practitioner or radiologic technologist who is issued a permit by the State Board of Medical Licensure to perform medical radiation technology limited to specific radiographic procedures on certain parts of the human anatomy, specifically the chest, abdomen and skeletal structures, and excluding fluoroscopic, both stationary and mobile (C-arm), and contrast studies, computed tomography, nuclear medicine, radiation therapy studies and mammography.
- (k) "Council" means the Medical Radiation Advisory Council created under Section 41-58-3.

**This section shall stand repealed on July 1, 2018.**

**§41-58-3. ADOPTION, ETC., OF RULES AND REGULATIONS; REQUIREMENTS FOR OPERATION OF MEDICAL RADIATION TECHNOLOGY MACHINES; MAINTENANCE OF RECORDS BY FACILITIES; CONTINUING EDUCATION REQUIREMENTS FOR OPERATORS; REGISTRATION REQUIREMENTS. [REPEALED EFFECTIVE JULY 1, 2018].**

- (1) The Department shall have full authority to adopt such rules and regulations not inconsistent with the laws of this state as may be necessary to effectuate the provisions of this chapter, and may amend or repeal the same as may be necessary for such purposes.
- (2) There shall be established a Medical Radiation Advisory Council to be appointed as provided in this section. The council shall consist of nine (9) members as follows:
  - (a) One (1) radiologist who is an active practitioner and member of the Mississippi Radiological Society;
  - (b) One (1) licensed family physician;
  - (c) One (1) licensed practitioner;
  - (d) Two (2) registered radiologic technologists;
  - (e) One (1) nuclear medicine technologist;
  - (f) One (1) radiation therapist;
  - (g) One (1) radiation physicist;
  - (h) One (1) hospital administrator; and
  - (i) The State Health Officer, or his designee, who shall serve as ex officio chairman with no voting authority.
- (3) The Department shall, following the recommendations from the appropriate

professional state societies and organizations, including the Mississippi Radiological Society, the Mississippi Society of Radiologic Technologists, and the Mississippi State Nuclear Medicine Society, and other nominations that may be received from whatever source, appoint the members of the council as soon as possible after the effective date of subsections (2) and (3) of this section. Any person serving on the council who is a practitioner of a profession or occupation required to be licensed, credentialed or certified in the state shall be a holder of an appropriate license, credential or certificate issued by the state. All members of the council shall be residents of the state of Mississippi. The council shall promulgate such rules and regulations by which it shall conduct its business. Members of the council shall receive no salary for services performed on the council but may be reimbursed for their reasonable and necessary actual expenses incurred in the performance of the same, from funds provided for such purpose. The council shall assist and advise the Department in the development of regulations and standards to effectuate the provisions of this chapter.

- (4) A radiologic technologist, nuclear medicine technologist or radiation therapist shall not apply ionizing or x-radiation or administer radiopharmaceuticals to a human being or otherwise engage in the practice of medical radiation technology unless the person possesses a valid registration issued by the department under the provisions of this chapter.
- (5) The Department may issue a temporary registration to practice a specialty of medical radiation technology to any applicant who has completed an approved program, who has complied with the provisions of this chapter, and is awaiting examination for that specialty. This registration shall convey the same rights as the registration for which the applicant is awaiting examination and shall be valid for one (1) six-month period.
- (6) The Department may charge a registration fee of not more than Fifty Dollars (\$50.00) biennially to each person to whom it issues a registration under the provisions of this chapter.
- (7) Registration with the department is not required for:
  - (a) A student enrolled in and participating in an accredited course of study approved by the department for diagnostic radiologic technology, nuclear medicine technology or radiation therapy, who as a part of his clinical course of study applies ionizing radiation to a human being while under the supervision of a licensed practitioner, registered radiologic technologist, registered nuclear medicine technologist or registered radiation therapist;
  - (b) Laboratory personnel who use radiopharmaceuticals for in vitro studies;
  - (c) A dental hygienist or a dental assistant who is not a radiologic technologist, nuclear medicine technologist or radiation therapist, who possesses a radiology permit issued by the Board of Dental Examiners and applies ionizing radiation under the specific direction of a licensed dentist;
  - (d) A chiropractic assistant who is not a radiologic technologist, nuclear medicine technologist or radiation therapist, who possesses a radiology permit issued by the Board of Chiropractic Examiners and applies ionizing radiation under the specific direction of a licensed chiropractor;
  - (e) An individual who is permitted as a limited x-ray machine operator by the State

Board of Medical Licensure and applies ionizing radiation in a physician's office, radiology clinic or a licensed hospital in Mississippi under the specific direction of a licensed practitioner; and

- (f) A student enrolled in and participating in an accredited course of study for diagnostic radiologic technology, nuclear medicine technology or radiation therapy and is employed by a physician's office, radiology clinic or a licensed hospital in Mississippi and applies ionizing radiation under the specific direction of a licensed practitioner.
- (8) Nothing in this chapter is intended to limit, preclude, or otherwise interfere with the practices of a licensed practitioner who is duly licensed or registered by the appropriate agency of the state of Mississippi, provided that the agency specifically recognizes that the procedures covered by this chapter are within the scope of practice of the licensee or registrant.
- (9) (a) If any radiologic technologist, nuclear medicine technologist or radiation therapist violates any provision of this chapter or the regulations adopted by the department, the department shall suspend or revoke the registration and practice privileges of the person or issue other disciplinary actions in accordance with statutory procedures and rules and regulations of the department.  
(b) If any person violates any provision of this chapter, the Department shall issue a written warning to the licensed practitioner or medical institution that employs the person; and if that person violates any provision of this chapter again within three (3) years after the first violation, the Department may suspend or revoke the permit or registration for the x-radiation and ionizing equipment of the licensed practitioner or medical institution that employs the person, in accordance with statutory procedures and rules and regulations of the Department regarding suspension and revocation of those permits or registrations.
- (10) This section shall stand repealed on July 1, 2018.**

**§41-58-5. CONTINUING EDUCATION REQUIREMENTS; COMPLETION; FEES.  
[REPEALED EFFECTIVE JULY 1, 2018].**

- (1) Each registered radiologic technologist, registered nuclear medicine technologist and registered radiation therapist shall submit evidence to the Department of completing twenty-four (24) hours of continuing education in a two-year period as described in the rules and regulations of the Department.
- (2) Each limited x-ray machine operator who is first employed to apply ionizing radiation in the State of Mississippi shall complete twelve (12) hours of education in radiologic technology, with six (6) of those hours specifically in radiation protection, not later than twelve (12) months after the date of his or her employment to apply ionizing radiation, and shall thereafter submit evidence to the State Board of Medical Licensure of completing twelve (12) hours of continuing education in a two-year period as described in the rules and regulations of the State Board of Medical Licensure. Six (6) of the continuing education hours must be in radiation protection.
- (3) Each individual who is exempt from registration under paragraph (d) of Section 41-58-3 (7) shall complete twelve (12) hours of continuing education in a two-year period as described in the rules and regulations of the department. Six (6) of the

- continuing education hours must be in radiation protection. (4) Each individual who is exempt from registration under paragraph (d) of section 41-58-3 (7) and who is first employed to apply ionizing radiation in the State of Mississippi shall complete twelve (12) hours of education in radiologic technology, with six of those hours specifically in radiation protection, not later than twelve (12) months after the date of his or her employment to apply ionizing radiation.
- (4) The department shall approve training sessions that will provide the continuing education required under this section in each of the junior/community college districts in the state, with at least one (1) training session being held during each quarter of the year.
  - (5) The Board of Chiropractic Examiners and the State Board of Medical Licensure may charge a fee of not more than Fifty Dollars (\$50.00) biennially to each individual whom the Board certifies as having completed the continuing education requirements of this section.
  - (6) **This section shall stand repealed on July 1, 2018.**
- This act shall take effect and be in force from and after July 1, 2000. Amended July 1, 2010. Amended July 1, 2013. Amended July 1, 2015.

## 2.8 MISCELLANEOUS

### **§33-1-39. EXTENSION OF PROFESSIONAL LICENSE ISSUED ACTIVE DUTY MILITARY PERSONNEL; QUALIFICATION FOR EXTENSION; FEES.**

A professional license issued pursuant to any provision of Title 73 to any member of the Mississippi National Guard or the United States Armed Forces Reserves shall not expire while the member is serving on federal active duty and shall be extended for a period not to exceed ninety (90) days after his return from federal active duty. If the license is renewed during the ninety-day period after his return from federal active duty, the member shall only be responsible for normal fees and activities relating to renewal of the license and shall not be charged any additional costs such as, but not limited to, late fees or delinquency fees. The member shall present to the authority issuing the professional license a copy of his official military orders or a written verification from the member's commanding officer before the end of the ninety-day period in order to qualify for the extension.

*Approved March 8, 2007.*

### **§41-10-1. WILLFUL OR RECKLESS PLACEMENT OF INACCURATE INFORMATION IN PATIENT'S RECORD; INTENTIONAL ALTERATION OR DESTRUCTION OF PATIENT'S RECORDS; PENALTIES**

- (1) Except as otherwise provided in subsection (3), a person, knowing that the information is misleading or inaccurate, shall not intentionally, willfully or recklessly place or direct another to place in a patient's medical record or chart misleading or inaccurate information regarding the diagnosis, care, treatment or cause of a patient's condition. A violation of this subsection is punishable as follows: a person who intentionally or willfully or recklessly violates this subsection is guilty of a misdemeanor, punishable by imprisonment for not more than one (1) year, or a fine of not more than One Thousand Dollars (\$ 1,000.00), or both.
- (2) Except as otherwise provided in subsection (3), a person shall not intentionally or willfully alter or destroy or direct another to alter or destroy a patient's medical records or charts for the purpose of concealing his or her responsibility for the patient's injury, sickness or death. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, or a fine of not more than One Thousand Dollars (\$ 1,000.00), or both.
- (3) Subsections (1) and (2) do not apply to either of the following:
  - (a) Destruction of a patient's original medical record or chart if all of the information contained in or on the medical record or chart is otherwise retained by means of mechanical or electronic recording, chemical reproduction, or other equivalent techniques that accurately reproduce all of the information contained in or on the original.
  - (b) Supplementation of information or correction of an error in a patient's medical record or chart in a manner that reasonably discloses that the supplementation or correction was performed and that does not conceal or alter prior entries.

**§43-21-353. DUTY TO INFORM STATE AGENCIES AND OFFICIALS; DUTY TO INFORM INDIVIDUAL ABOUT WHOM REPORT HAS BEEN MADE OF SPECIFIC ALLEGATIONS**

- (1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual(s) responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Human Services shall inform the individual of the specific complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor.

Upon receiving a report that a child has been sexually abused, or burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Human Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within forty-eight (48) hours, and the Department of Human Services shall have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the Department of Human Services shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The Department of Human Services shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the Department within seventy-two (72) hours and shall update such report as information becomes available.

- (2) Any report to the Department of Human Services shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries and any other information that might be helpful in establishing the cause of the injury and the identity of the perpetrator.
- (3) The Department of Human Services shall maintain a statewide incoming wide-area telephone service or similar service for the purpose of receiving reports of suspected cases of child abuse; provided that any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection

- specialist, child caregiver, minister, law enforcement officer or public or private school employee who is required to report under subsection (1) of this section shall report in the manner required in subsection (1).
- (4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261, shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.
  - (5) All final dispositions of law enforcement investigations described in subsection (1) of this section shall be determined only by the appropriate prosecutor or court. All final dispositions of investigations by the Department of Human Services as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Human Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the Department:
    - (a) The name and address of the child;
    - (b) The names and addresses of the parents;
    - (c) The name and address of the suspected perpetrator;
    - (d) The names and addresses of all witnesses, including the reporting party if a material witness to the abuse;
    - (e) A brief statement of the facts indicating that the child has been abused and any other information from the agency files or known to the family protection worker or family protection specialist making the investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case; and
    - (f) What, if any, action is being taken by the Department of Human Services.
  - (6) In any investigation of a report made under this chapter of the abuse or neglect of a child as defined in Section 43-21-105(m), the Department of Human Services may request the appropriate law enforcement officer with jurisdiction to accompany the Department in its investigation, and in such cases the law enforcement officer shall comply with such request.
  - (7) Anyone who willfully violates any provision of this section shall be, upon being found guilty, punished by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in jail not to exceed one (1) year, or both.
  - (8) If a report is made directly to the Department of Human Services that a child has been



abused or neglected in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the Department shall notify the district attorney's office within forty-eight (48) hours of such report. The Department of Human Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the Department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Human Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Human Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

**§73-45-1. HEALTH CARE PROFESSIONALS TO PROVIDE PRESCRIPTIONS CONTAINING ALL NECESSARY INFORMATION TO ALLOW PRESCRIPTION PROVIDER TO DISPENSE DRUG OR MEDICAL DEVICE TO CONSUMER**

Health care professionals licensed by an agency of this state and whose practice encompasses the prescribing and dispensing of drugs or medical devices shall automatically provide the patient with a prescription containing all of the necessary information to allow any prescription provider to dispense the drug or medical device to the consumer. Upon the request of another health care professional or prescription provider to confirm prescription information for a specified individual, the prescribing health care professional shall immediately confirm all necessary information to enable the person requesting verification to accurately dispense the drug or medical device. Confirmation may be requested or confirmed in any form, including electronically. If confirmation of the verification request for the drug or medical device is not received within one (1) hour following the request, all information contained in the request, including the fact that the prescription has not expired, shall be presumed accurate, and the provider shall be authorized to dispense pursuant to the prescription. If no expiration date is included on the prescription, the prescription shall expire two (2) years after the date of issue. Health care professionals who dispense prescription medical devices shall prescribe brands that are readily and directly available to all channels of distribution, and shall post a notice in the location where payment for services is made informing patients as follows: "You have a right to receive a copy of your prescription. You also have a right to have your prescription filled wherever you choose.

**§73-49-1. STATE BOARDS THAT LICENSE HEALTH CARE PROVIDERS PROHIBITED FROM PROMULGATING OR ENFORCING RULES OR REGULATIONS IN A MANNER THAT DISCRIMINATES AMONG LICENSEES**

No state board or agency that licenses health care providers shall promulgate or enforce any rule or regulation affecting the practice of its licensees that does not apply equally to the practice of all of its licensees. This section applies to all rules and regulations promulgated and implemented by those boards or agencies both before and after July 1, 2000.

**§73-52-1. Certain licensure application and examination records to be exempt from public access requirements**

- (1) Applications for licensure in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, except that which may be released to the person who made the application or with the prior written consent of the person who made the application, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.
- (2) Test questions in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, that are to be used in future license examinations, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.
- (3) Recommendations in the possession of any state board which is authorized to hold examinations and grant licenses or certificates to practice any profession, respecting any application for a professional license or certificate, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

**§93-11-64. USE OF SOCIAL SECURITY NUMBERS FOR LOCATING PARENTS.**

- (1) The Department of Human Services and its divisions, and any agency, office or registry established by the Department, or which works in conjunction with the Department, or is authorized to supply information to the Department, may use Social Security numbers for the purpose of locating parents or alleged parents, establishing parentage, and establishing the amount of, modifying, or enforcing child support obligations.
- (2) This section requires that the Social Security number of:
  - (a) Any applicant for a state-issued license be recorded on the application;...

**§99-19-35. PERSON CONVICTED OF CERTAIN CRIMES NOT TO PRACTICE MEDICINE..., OR HOLD OFFICE.**

A person convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, or bigamy, shall not be allowed to practice medicine or dentistry, or be appointed to hold or perform the duties of any office of profit, trust, or honor, unless after full pardon for the same.

**§11-1-52. LIMITATIONS ON CHARGES PERMITTED FOR PHOTOCOPYING PATIENTS' RECORDS BY MEDICAL PROVIDER; PHYSICIANS TO MAKE REASONABLE CHARGES FOR DEPOSITIONS; LIMITATIONS ON CHARGES PERMITTED FOR EXECUTION OF PATIENT-REQUESTED MEDICAL RECORD AFFIDAVIT BY MEDICAL PROVIDER; MEDICAL PROVIDERS TO COMPLY WITH HIPPA.**

- (1) Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to patients or their representatives for

- photocopying any patient's records: Twenty Dollars (\$20.00) for pages one (1) through twenty (20); One Dollar (\$1.00) per page for the next eighty (80) pages; Fifty Cents (.50) per page for all pages thereafter. Ten percent (10%) of the total charge may be added for postage and handling. Fifteen Dollars (\$15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located.
- (2) A physician shall only charge normal, reasonable and customary charges for a deposition related to a patient that the physician is treating or has treated.
  - (3) Any medical provider, hospital, nursing home or other medical facility shall charge no more than Twenty-five Dollars (\$25.00) for executing a medical record affidavit, when the affidavit is requested by the patient or the patient's representative.
  - (4) In charging the fees authorized under subsection (1) of this section, the medical provider, hospital, nursing home or other medical facility shall comply with the federal Health Insurance Portability and Accountability Act (HIPPA).

*Approved April 21, 2006.*

**§41-83-31. ADVERSE DETERMINATION TO PATIENT OR HEALTH CARE PROVIDER; DISCUSSION OF REASONS; DENIAL OF THIRD PARTY REIMBURSEMENT OR PRECERTIFICATION; EVALUATION BY TRAINED SPECIALIST.**

Any program of utilization review with regard to hospital, medical or other health care services provided in this state shall comply with the following:

- (a) No determination adverse to a patient or to any affected health care provider shall be made on any question relating to the necessity or justification for any form of hospital, medical or other health care services without prior evaluation and concurrence in the adverse determination by a physician licensed to practice in Mississippi. The physician who made the adverse determination shall discuss the reasons for any adverse determination with the affected health care provider, if the provider so requests. The physician shall comply with this request within fourteen (14) calendar days of being notified of a request. Adverse determination by a physician shall not be grounds for any disciplinary action against the physician by the State Board of Medical Licensure.
- (b) Any determination regarding hospital, medical or other health care services rendered or to be rendered to a patient which may result in a denial of third-party reimbursement or a denial of precertification for that service shall include the evaluation, findings and concurrence of a physician trained in the relevant specialty or subspecialty, if requested by the patient's physician, to make a final determination that care rendered or to be rendered was, is, or may be medically inappropriate.
- (c) The requirement in this section that the physician who makes the evaluation and concurrence in the adverse determination must be licensed to practice in Mississippi shall not apply to the Comprehensive Health Insurance Risk Pool Association or its policyholders and shall not apply to any utilization review company which reviews fewer than ten (10) persons residing in the state of Mississippi.

*Approved July 1, 2000.*

**§41-75-1. AMBULATORY SURGICAL FACILITIES.**

- (f) “Abortion facility” means a facility operating substantially for the purpose of performing abortions and is a separate identifiable legal entity from any other health care facility. Abortions shall only be performed by physicians licensed to practice in the State of Mississippi. All physicians associated with the abortion facility must have admitting privileges at a local hospital and staff privileges to replace local hospital on-staff physicians. All physicians associated with an abortion facility must be board certified or eligible in obstetrics and gynecology, and a staff member trained in CPR shall always be present at the abortion facility when it is open. The term “abortion facility” includes physicians’ offices that are used substantially for the purpose of performing abortions.

**§ 73-21-127. MISSISSIPPI PRESCRIPTION MONITORING PROGRAM [REPEALED EFFECTIVE JULY 1, 2020]**

The Board of Pharmacy shall develop and implement a computerized program to track prescriptions for controlled substances and to report suspected abuse and misuse of controlled substances in compliance with the federal regulations promulgated under authority of the National All Schedules Prescription Electronic Reporting Act of 2005 and in compliance with the federal HIPAA law, under the following conditions:

- (a) Submission or reporting of dispensing information shall be mandatory and required by the State Board of Pharmacy for any entity dispensing controlled substances in or into the State of Mississippi, except for the dispensing of controlled substance drugs by a veterinarian residing in the State of Mississippi.
- (b) The prescriptions tracked shall be prescriptions for controlled substances listed in Schedule II, III, IV or V and specified noncontrolled substances authorized by the State Board of Pharmacy that are dispensed to residents in the State of Mississippi by licensed pharmacies, nonresident pharmacies, institutions and dispensing practitioners, regardless of dispenser location.
- (c) The Board of Pharmacy shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide them with the relevant information obtained for further investigation.
- (d) The program shall provide information regarding the potential inappropriate use of controlled substances and the specified non-controlled substances to practitioners, pharmacists-in-charge and appropriate state agencies in order to prevent the inappropriate or illegal use of these controlled substances. The specific purposes of the program shall be to: be proactive in safeguarding public health and safety; support the legitimate use of controlled substances; facilitate and encourage the identification, intervention with and treatment of individuals addicted to controlled substances and specified noncontrolled drugs; identify and prevent drug diversion; provide assistance to those state and federal law enforcement and regulatory agencies investigating cases of drug diversion or other misuse; and inform the public and health care professionals

of the use and abuse trends related to controlled substance and specified noncontrolled drugs.

- (e)
- (i) Access to collected data shall be confidential and not subject to the provisions of the federal Freedom of Information Act or the Mississippi Open Records Act. Upon request, the State Board of Pharmacy shall provide collected information to: pharmacists or practitioners who are properly registered with the State Board of Pharmacy and are authorized to prescribe or dispense controlled substances for the purpose of providing medical and pharmaceutical care for their patients; local, state and federal law enforcement officials engaged in the administration, investigation or enforcement of the laws governing illicit drug use; regulatory and licensing boards in this state; Division of Medicaid regarding Medicaid and Medicare Program recipients; judicial authorities under grand jury subpoena; an individual who requests the individual's own prescription monitoring information; and prescription monitoring programs in other states through mutual agreement adhering to State Board of Pharmacy policies.
  - (ii) The Director of the Mississippi Bureau of Narcotics, or his designee, shall have access to the Prescription Monitoring Program (PMP) database for the purpose of investigating the potential illegal acquisition, distribution, dispensing, prescribing or administering of the controlled and noncontrolled substances monitored by the program, subject to all legal restrictions on further dissemination of the information obtained.
  - (iii) The State Board of Pharmacy may also provide statistical data for research or educational purposes if the board determines the use of the data to be of significant benefit to public health and safety. The board maintains the right to refuse any request for PMP data.
  - (iv) A pharmacist licensed by Mississippi Board of Pharmacy must be a registered user of the PMP. Failure of a pharmacist licensed by the Mississippi Board of Pharmacy to register as a user of the PMP is grounds for disciplinary action by the board.
  - (v) All licensed practitioners as defined under Section 73-21-73(cc) holding an active DEA number shall register as users of the PMP.
- (f) The Prescription Monitoring Program through the Board of Pharmacy may:
- (i) Establish the cost of administration, maintenance, and operation of the program and charge to like agencies a fee based on a formula to be determined by the board with collaboration and input from participating agencies; and
  - (ii) Assess charges for information and/or statistical data provided to agencies, institutions and individuals. The amounts of those fees shall be set by the Executive Director of the Board of Pharmacy based on the recommendation of the Director of the PMP.
- All such fees collected shall be deposited into the special fund of the State Board of Pharmacy and used to support the operations of the PMP.
- (g) A dispenser pharmacist or practitioner licensed to dispense controlled substances and specified noncontrolled substance drugs who knowingly fails to submit drug monitoring information or knowingly submits incorrect dispensing information shall

- be subject to actions against the pharmacist's or practitioner's license, registrations or permit and/or an administrative penalty as provided in Sections 73-21-97 and 73-21-103. Any misuse of the PMP is subject to penalties as provided in Sections 73-21-97 and 73-21-103.
- (h) The Board of Pharmacy and the Prescription Monitoring Program shall be immune from civil liability arising from inaccuracy of any of the information submitted to the program.
  - (i) "Practitioner," as used in this section, shall include any person licensed, registered or otherwise permitted to distribute, dispense, prescribe or administer a controlled substance, as defined under Section 41-29-105(y).
  - (j) In addition to any funds appropriated by the Legislature, the State Board of Pharmacy may apply for any available grants and accept any gifts, grants or donations to assist in future development or in maintaining the program.

## 2.9 MISSISSIPPI UNIFORM CONTROLLED SUBSTANCES LAW

### §41-29-137. PRESCRIPTIONS.

- (a)
- (1) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II, as set out in Section 41-29-115, may be dispensed without the written valid prescription of a practitioner. A practitioner shall keep a record of all controlled substances in Schedule I, II and III administered, dispensed or professionally used by him otherwise than by prescription.
  - (2) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed upon oral valid prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Section 41-29-133. No prescription for a Schedule II substance may be refilled unless renewed by prescription issued by a licensed medical doctor.
- (b) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, as set out in Sections 41-29-117 and 41-29-119, shall not be dispensed without a written or oral valid prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.
- (c) A controlled substance included in Schedule V, as set out in Section 41-29-121, shall not be distributed or dispensed other than for a medical purpose.
- (d).....
- (e) Administration by injection of any pharmaceutical product authorized in this section is expressly prohibited except when dispensed directly by a practitioner other than a pharmacy.
- (f)
- (1) For the purposes of this article, Title 73, Chapter 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it pertains to prescriptions for controlled substances, a "valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by:
    - (A) A practitioner who has conducted at least one (1) in-person medical evaluation of the patient; or
    - (B) A covering practitioner.
  - (2)
    - (A) "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.
    - (B) "Covering practitioner" means a practitioner who conducts a medical evaluation other than an in-person medical evaluation at the request of a practitioner who has conducted at least one (1) in-person medical evaluation

of the patient or an evaluation of the patient through the practice of telemedicine within the previous twenty-four (24) months and who is temporarily unavailable to conduct the evaluation of the patient.

- (3) A prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire is not a valid prescription.
- (4) Nothing in this subsection (b) shall apply to:
  - (A) A prescription issued by a practitioner engaged in the practice of telemedicine as authorized under state or federal law; or
  - (B) The dispensing or selling of a controlled substance pursuant to practices as determined by the United States Attorney General by regulation.

**§41-29-139. PROHIBITED ACTS; PENALTIES.**

- (e) It shall be unlawful for any physician practicing medicine in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anorectics and/or central nervous system stimulants classified in Schedule II, pursuant to Section 41-29-115, for the exclusive treatment of obesity, weight control or weight loss. Any person who violates this subsection, upon conviction, is guilty of a misdemeanor and may be confined for a period not to exceed six (6) months, or fined not more than One Thousand Dollars (\$1,000.00), or both.

**§ 41-29-157. ADMINISTRATIVE INSPECTION WARRANTS AND SEARCH WARRANTS.**

- (a) Except as otherwise provided in Section 41-29-107.1, issuance and execution of administrative inspection warrants and search warrants shall be as follows, except as provided in subsection (c) of this section:
  - (1) A judge of any state court of record, or any justice court judge within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this article or rules thereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this article or rules thereunder, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant. All such warrants shall be served during normal business hours;
  - (2) A search warrant shall issue only upon an affidavit of a person having knowledge or information of the facts alleged, sworn to before the judge or justice court judge and establishing the grounds for issuing the warrant. If the judge or justice court judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building or conveyance to be searched, the purpose of the search, and, if appropriate, the type of property to be searched, if any. The warrant shall:
    - (A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;
    - (B) Be directed to a person authorized by Section 41-29-159 to execute it;



- (C) Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified, and if appropriate, direct the seizure of the property specified;
  - (D) Identify the item or types of property to be seized, if any;
  - (E) Direct that it be served and designate the judge or magistrate to whom it shall be returned;
- (3) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;
- (4) The judge or justice court judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the appropriate state court for the judicial district in which the inspection was made.
- (b) The Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry may make administrative inspections of controlled premises in accordance with the following provisions:
- (1) For purposes of this section only, "controlled premises" means:
    - (A) Places where persons registered or exempted from registration requirements under this article are required to keep records; and
    - (B) Places including factories, warehouses, establishments and conveyances in which persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.
  - (2) When authorized by an administrative inspection warrant issued in accordance with the conditions imposed in this section, an officer or employee designated by the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry, upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.
  - (3) When authorized by an administrative inspection warrant, an officer or employee designated by the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry may:
    - (A) Inspect and copy records required by this article to be kept;

- (B) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph (5) of this subsection, all other things therein, including records, files, papers, processes, controls and facilities bearing on violation of this article; and
  - (C) Inventory any stock of any controlled substance therein and obtain samples thereof.
- (4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:
- (A) If the owner, operator or agent in charge of the controlled premises consents;
  - (B) In situations presenting imminent danger to health or safety;
  - (C) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
  - (D) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or
  - (E) In all other situations in which a warrant is not constitutionally required.
- (5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.
- (c) Any agent of the bureau authorized to execute a search warrant involving controlled substances, the penalty for which is imprisonment for more than one (1) year, may, without notice of his authority and purpose, break open an outer door or inner door, or window of a building, or any part of the building, if the judge issuing the warrant:
- (1) Is satisfied that there is probable cause to believe that:
    - (A) The property sought may, and, if such notice is given, will be easily and quickly destroyed or disposed of; or
    - (B) The giving of such notice will immediately endanger the life or safety of the executing officer or another person; and
  - (2) Has included in the warrant a direction that the officer executing the warrant shall not be required to give such notice.

Any officer acting under such warrant shall, as soon as practical, after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

Search warrants which include the instruction that the executing officer shall not be required to give notice of authority and purpose as authorized by this subsection shall be issued only by the county court or county judge in vacation, chancery court or by the chancellor in vacation, by the circuit court or circuit judge in vacation, or by a justice of the Mississippi Supreme Court.

This subsection shall expire and stand repealed from and after July 1, 1974, except that the repeal shall not affect the validity or legality of any search authorized under this subsection and conducted prior to July 1, 1974.

**§ 41-29-159. POWERS OF ENFORCEMENT PERSONNEL; DUTY OF CERTAIN INDIVIDUALS TO NOTIFY BUREAU OF NARCOTICS OF DEATH CAUSED BY DRUG OVERDOSE.**

- (a) Any officer or employee of the Mississippi Bureau of Narcotics, investigative unit of the State Board of Pharmacy, investigative unit of the State Board of Medical Licensure, investigative unit of the State Board of Dental Examiners, investigative unit of the Mississippi Board of Nursing, investigative unit of the State Board of Optometry, any duly sworn peace officer of the State of Mississippi, any enforcement officer of the Mississippi Department of Transportation, or any highway patrolman, may, while engaged in the performance of his statutory duties:
- (1) Carry firearms;
  - (2) Execute and serve search warrants, arrest warrants, subpoenas, and summonses issued under the authority of this state;
  - (3) Make arrests without warrant for any offense under this article committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a crime; and
  - (4) Make seizures of property pursuant to this article.
- (b) As divided among the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing and the State Board of Optometry, the primary responsibility of the illicit street traffic or other illicit traffic of drugs is delegated to agents of the Mississippi Bureau of Narcotics. The State Board of Pharmacy is delegated the responsibility of regulating and checking the legitimate drug traffic among pharmacists, pharmacies, hospitals, nursing homes, drug manufacturers, and any other related professions and facilities with the exception of the medical, dental, nursing, optometric and veterinary professions. The State Board of Medical Licensure is responsible for regulating and checking the legitimate drug traffic among physicians, podiatrists and veterinarians. The Mississippi Board of Dental Examiners is responsible for regulating and checking the legitimate drug traffic among dentists and dental hygienists. The Mississippi Board of Nursing is responsible for regulating and checking the legitimate drug traffic among nurses. The State Board of Optometry is responsible for regulating and checking the legitimate drug traffic among optometrists.
- (c) The provisions of this section shall not be construed to limit or preclude the detection or arrest of persons in violation of Section 41-29-139 by any local law enforcement officer, sheriff, deputy sheriff or peace officer.
- (d) Agents of the bureau are authorized to investigate the circumstances of deaths which are caused by drug overdose or which are believed to be caused by drug overdose, and health care providers, coroners and law enforcement officers shall notify the bureau of any death caused by a drug overdose within twenty-four (24) hours.
- (e) Any person who shall impersonate in any way the director or any agent, or who shall in any manner hold himself out as being, or represent himself as being, an officer or agent of the Mississippi Bureau of Narcotics shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred

Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

## **2.10 ORGANIZATION OF THE STATE BOARD OF MEDICAL LICENSURE**

### **§73-43-1. STATE BOARD OF MEDICAL LICENSURE ESTABLISHED.**

There is hereby created and established a board to be known as the State Board of Medical Licensure.

*Approved July 1, 1980.*

### **§73-43-3. MEMBERSHIP OF BOARD; SELECTION; TERM OF OFFICE; VACANCIES.**

- (1) The State Board of Medical Licensure shall consist of nine (9) physicians. Each of the physicians shall have graduated from a medical school which has been accredited by the liaison committee on medical education as sponsored by the American Medical Association and the Association of American Medical Colleges or from an osteopathic medical school which has been accredited by the Bureau of Professional Education of the American Osteopathic Association, and have at least six (6) years' experience in the practice of medicine. No more than two (2) members of the Board shall be a member of the faculty of the University of Mississippi School of Medicine. No more than four (4) members of the Board shall be from the same Mississippi Supreme Court district.
- (2) Three (3) physicians shall be nominated to the governor for each appointive position by the Mississippi State Medical Association; and said nominations shall give due regard to geographic distribution, race and sex. The governor shall appoint from said nominations the members of the Board with the advice and consent of the senate. The original appointments of the Board shall be made no later than June 30, 1980, for terms to begin on July 1, 1980. The governor shall designate the initial terms of the members as follows: Three (3) members shall be appointed for a term which expires July 1, 1982, three (3) members shall be appointed for a term which expires July 1, 1984, and three (3) members shall be appointed for a term which expires July 1, 1986. Thereafter, all succeeding appointments shall be for terms of six (6) years from the expiration of the previous term. Vacancies in office shall be filled by appointment of the governor in the same manner as the appointment to the position which becomes vacant, subject to the advice and consent of the senate at the next regular session of the legislature.

### **§73-43-5. OFFICERS; BYLAWS.**

The State Board of Medical Licensure is authorized to elect from its own members a president and secretary, and to create such other offices and adopt such by-laws as may be necessary for its efficient operation.

*Approved May 5, 1980.*

### **§73-43-7. QUORUM; MEETINGS; COMPENSATION.**

Five (5) members shall constitute a quorum, and a majority of those present shall be necessary to reject any application. All regular meetings of the Board shall be held at least quarterly upon the call of the president, except the first meeting of the original appointees

which shall be called by the Governor. The members of the Board shall be entitled to a per diem of Forty Dollars (\$40.00) for each day's service in attending meetings of the Board and for conducting examinations for professional certificates, and shall receive reimbursement for necessary expenses and mileage as is authorized by law.

*Approved July 1, 1990.*

**§73-43-9. OATH OF OFFICE AND COMMISSION.**

Each member of the State Board of Medical Licensure shall take the oath prescribed by Section 268 of the Mississippi Constitution of 1890 and file a certificate thereof in the office of the secretary of state, whereupon a commission shall be issued to him under the terms of his office.

*Approved May 5, 1980.*

**§73-43-11. POWERS AND DUTIES OF BOARD.**

The State Board of Medical Licensure shall have the following powers and responsibilities:

- (a) Setting policies and professional standards regarding the medical practice of physicians, osteopaths, podiatrists and physician assistants practicing with physician supervision;
- (b) Considering applications for licensure;
- (c) Conducting examinations for licensure;
- (d) Investigating alleged violations of the medical practice act;
- (e) Conducting hearings on disciplinary matters involving violations of state and federal law, probation, suspension and revocation of licenses;
- (f) Considering petitions for termination of probationary and suspension periods, and restoration of revoked licenses;
- (g) To promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of medicine; however, the board shall not adopt any rule or regulation or impose any requirement regarding the licensing of physicians or osteopaths that conflicts with the prohibitions in Section 73-49-3;
- (h) To enter into contracts with any other state or federal agency, or with any private person, organization or group capable of contracting, if it finds such action to be in the public interest and in the furtherance of its responsibilities;
- (i) Perform the duties prescribed by Sections 73-26-1 through 73-26-5; and
- (j) Perform the duties prescribed by the Interstate Medical Licensure Compact, Section 73-25-101. *Approved May 16, 2016.*

**§73-43-13. EXECUTIVE OFFICER.**

The Board shall appoint an Executive Director who possesses the necessary qualifications and experience to enable him to carry out the duties required by his office. The Executive Director who may be a physician, shall receive a salary set by the Board, subject to the approval of the State Personnel Board, and shall serve at the will and pleasure of the Board. The Executive Officers shall be vested with all the authority of the Board when it is not in

session, and he shall be subject to such rules and regulations as may be prescribed by the Board.

**§73-43-14. EXECUTIVE COMMITTEE.**

The State Board of Medical Licensure may appoint an executive committee, to be composed of three (3) of its members, with a chairman to be designated by the Board from the members appointed to said committee. The executive committee shall have authority to execute all the powers vested in the Board, in the interim of the meetings of the Board. The executive committee shall have the authority to conduct licensure hearings pursuant to Section 73-25-27, provided that the power to revoke shall be subject to approval of the Board. Any person aggrieved by a decision of the executive committee regarding licensure may appeal to the Board. Any person aggrieved by an action of the Board regarding licensure may appeal to the Chancery Court of the First Judicial District of Hinds County. Any action of the executive committee shall be legal and binding until modified or annulled by the Board, and all pains and penalties prescribed for violating the rules of the Board shall apply to any violation of rules and regulations that may be prescribed by the executive committee. Any two (2) members of the executive committee shall be a quorum for the transaction of business.

All official meetings of the executive committee, as to time and place, shall be held pursuant to a call of the president of the Board.

Actions taken by the Board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

**§73-43-15. REPEALED.**

*Approved July 1, 1984.*

**§73-43-17. VENUE OF ACTIONS AGAINST BOARD.**

Unless otherwise provided for by law, the venue of actions against the State Board of Medical Licensure wherein said board is a defendant shall be the first judicial district of Hinds County, Mississippi.

*Approved July 1, 1981.*

## **2.11 ACUPUNCTURE PRACTICE ACT**

### **§73-71-1. SHORT TITLE.**

This chapter shall be known and may be cited as the "Acupuncture Practice Act." Whenever a reference is made to the Acupuncture Practice Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

### **§73-71-3. LEGISLATIVE INTENT; PURPOSES.**

- (1) In its concern with the need to eliminate the fundamental causes of illness and with the need to treat the whole person, the Legislature intends to establish in this chapter a framework for the practice of the art and science of acupuncture.
- (2) The purposes of this chapter are to encourage the effective utilization of the skills relative to practitioners of acupuncture by citizens desiring their services; to remove the existing legal constraints that unnecessarily hinder the effective provision of health care services; and to subject individuals practicing acupuncture to regulation and control as a primary and independent health care profession.

### **§73-71-5. DEFINITIONS.**

As used in this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

- (a) "Accredited college of acupuncture" means any college, school or division of a university or college that offers the degree of Master of Science in Oriental Medicine (MSOM) or its equivalent and that is accredited by the Accreditation Commission of Acupuncture and Oriental Medicine (ACAOM).
- (b) "Acupuncturist" means a person who has received a professional degree from a college of acupuncture and Oriental medicine.
- (c) "Acupuncturist-patient relationship" means that the acupuncturist has assumed the responsibility for making clinical judgments regarding the health of the patient and the need for medical treatment, and the patient has agreed to follow the acupuncturist's instructions.
- (d) "Acupuncture practitioner" means a practitioner licensed under this chapter to practice the techniques of acupuncture in this state and includes the term "acupuncturist."
- (e) "Advisory council" means the Mississippi Council of Advisors in Acupuncture established in this chapter.
- (f) "Board" means the State Board of Medical Licensure established in Section 73-43-1 et seq.
- (g) "Complementary and integrative therapies" means a heterogeneous group of preventive, diagnostic and therapeutic philosophies and practices, which at the time they are performed may differ from current scientific knowledge, or whose theoretical basis and techniques may diverge from western medicine routinely taught in accredited medical colleges, or both. These therapies include, but are not limited to, acupuncture, acutheraPy and acupressure.
- (h) "Impaired practitioner" means a practitioner who is unable to practice acupuncture



- with reasonable skill and safety because of a physical or mental disability as evidenced by a written determination from a competent authority or written consent based on clinical evidence, including deterioration of mental capacity, loss of motor skills, or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.
- (i) "Informed consent" means the acupuncture practitioner has informed the patient, in a manner that would be understood by a reasonable person, of the diagnostic and treatment options, risk assessment and prognosis and has provided the patient with an estimate of the charges for treatment to be rendered and the patient has consented to the recommended treatment.
  - (j) "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.
  - (k) "Physician" means a doctor of medicine or osteopathy who is legally authorized to practice medicine in the state of Mississippi.
  - (l) "Practice of acupuncture" means:
    - (i) To treat, correct, change, alleviate or prevent disease, illness, pain, deformity, defect, injury or other physical or mental conditions by the techniques of acupuncture, including:
      1. The administering or applying of an apparatus or other therapeutic technique as defined in this chapter; or
      2. The using of complementary and integrative therapies as defined in this chapter; or
      3. The rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to any of the above.
    - (ii) To represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in this paragraph.
    - (iii) To use any title, words, abbreviation or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in this paragraph.
  - (m) "Techniques of acupuncture" includes acupuncture, moxibustion or heating modalities, cupping, magnets, ion pumping cords, electroacupuncture including electrodermal assessment, application of cold packs, dietary, nutritional and lifestyle counseling, manual therapy (Tui Na), massage, breathing and exercise techniques, the administration of any herb and nutritional supplement and meridian therapy. The terms used in this paragraph are defined as follows:
    - (i) "Acupuncture" means the insertion and manipulation of needles to the body, and the use of Oriental medicine and other modalities and procedures at specific locations on the body, for the prevention or correction of any disease, illness, injury, pain or other condition.
    - (ii) "Cupping" means the heating of air or mechanical creation of suction in a cup, application to specific locations on the body to induce local vasodilation and mechanical expansion of underlying tissue.
    - (iii) "Ion pumping cords" means the application of wires containing diodes to acupuncture needles that have been placed on the body.

- (iv) "Magnets" means the application of magnets to specific locations on the body.
- (v) "Electroacupuncture including electrodermal assessment" means the use of electronic biofeedback, and electrostimulation instruments.
- (vi) "Cold packs" means the application of cold packs and ice to specific locations on the body to reduce heat conditions or inflammation in surface tissues of the body.
- (vii) "Dietary, nutritional and lifestyle counseling" means in depth patient interviews and counseling to determine whether poor dietary, lifestyle or nutritional practices are a factor in a patient's illness and to educate toward a healthier lifestyle.
- (viii) "Manual therapy (Tui Na) and Massage" means mobilization of skeletal and soft tissues.
- (ix) "Breathing and exercise techniques" means the use of Qi Gong and other techniques of therapeutic breathing and exercise.
- (x) "Administration of herbal and botanical substances" means the administration of herbs of animal, vegetable or mineral origin for health maintenance and the treatment of effects of disease.
- (xi) "Vitamin, mineral or nutritional supplement" means a nutritional substance, including a concentrate or extract of such a substance.
- (xii) "Devices for meridian therapy" means all assessment and/or treatment devices for use with acupuncture meridians.

**§73-71-7. EVALUATION OF PATIENT BY PHYSICIAN REQUIRED WITHIN SIX MONTHS BEFORE DATE OF PERFORMING ACUPUNCTURE; PATIENT MUST SIGN FORM STATING PATIENT WAS EVALUATED WITHIN THE PRESCRIBED TIME; EXCEPTIONS; PRACTITIONER TO PROVIDE CERTAIN INFORMATION TO PATIENT**

All of the following shall apply to an acupuncture practitioner who is licensed to practice in Mississippi:

- (a) Except as otherwise provided in paragraph (c), the practitioner may perform acupuncture on a patient only if the patient was evaluated by a physician, as appropriate, for the condition being treated within six (6) months before the date that acupuncture is performed. The State Board of Medical Licensure, with advice from the Mississippi Council of Advisors in Acupuncture, may by rule modify the scope of the evaluation under this paragraph or the period during which treatment must begin under this paragraph.
- (b) The practitioner must obtain a written statement signed by the patient on a form prescribed by the State Board of Medical Licensure stating that the patient has been evaluated by a physician within the prescribed time. The form must contain a clear statement that the patient should be evaluated by a physician for the condition being treated by the practitioner.
- (c) Notwithstanding the provisions of paragraph (a), a practitioner may, without an evaluation from a physician, perform acupuncture on a patient for:
  - (i) Smoking addiction;
  - (ii) Weight loss; or
  - (iii) Substance abuse, to the extent permitted by regulations adopted by the State

Board of Medical Licensure, with advice from the Mississippi Council of Advisors in Acupuncture.

- (d) Before treating a patient, the practitioner shall advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment and shall obtain the informed consent of the patient.
- (e) On initially meeting a patient in person, the practitioner shall provide in writing the practitioner's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.
- (f) While treating a patient, the practitioner shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the practitioner shall consult promptly with a physician.

**§73-71-9. REPEALED.**

*Approved July 1, 2017.*

**§73-71-11. MISSISSIPPI COUNCIL OF ADVISORS IN ACUPUNCTURE CREATED; MEMBERSHIP, ORGANIZATION AND OPERATION; COMPENSATION; ANNUAL REPORT.**

- (1) There is hereby established the Mississippi Council of Advisors in Acupuncture to aid the State Board of Medical Licensure in administering the provisions of this act.
- (2) The council shall consist of three (3) persons appointed by the Executive Director of the State Medical Licensure Board to be selected from a list of six (6) nominees of the Mississippi Oriental Medicine Association. Members of the council shall either be acupuncture practitioners who are not medical, osteopathic or chiropractic doctors or surgeons, or medical doctors who are registered to practice acupuncture or qualify as an acupuncture practitioner.
- (3) The initial members of the council shall be appointed by the Governor for staggered terms as follows: one (1) member shall be appointed for a term ending on July 1, 2011, and two (2) members shall be appointed for terms ending on July 1, 2012. After the expiration of the initial terms, each successor member shall be appointed for a term of three (3) years. A vacancy shall be filled by appointment by the Governor for the remainder of the unexpired term. Council members shall serve until their successors have been appointed and qualified.
- (4) No council member shall serve more than two (2) consecutive full terms, and any member failing to attend three (3) consecutive meetings after proper notice has been given by the council shall automatically be removed as a council member, unless excused for reasons set forth in council regulations.
- (5) The Governor may remove any member from the council for neglect of any duty required by law, for incompetence, for improper or unprofessional conduct as defined by Board regulations, for conflict of interest, or for any reason that would justify the suspension or revocation of his or her license to practice acupuncture.
- (6) A majority of the members of the council shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those members present at a meeting to take any action or pass any motion. The council shall, not later than

September 1, 2009, and annually thereafter in the month of July, hold a meeting and elect from its membership a chairman and vice chairman. The council shall meet at any other times as it deems necessary or advisable by the chairman, a majority of its members, or the Governor. Reasonable notice of all meetings shall be given in the manner prescribed by the Open Meetings Law (Section 25-3-41 et seq.). Members of the council are not liable to civil action for any act performed in good faith in the execution of duties as a council member.

- (7) Members of the council shall be reimbursed for expenses and mileage as provided in Section 25-3-41, but shall receive no other compensation, perquisite or allowance for service on the council.
- (8) The council shall report annually to the Legislature statistics regarding the number of licensees, results of the licensing examinations, and violations investigated during the previous year.

**§73-71-13. STATE BOARD OF MEDICAL LICENSURE EMPOWERED TO PROMULGATE RULES AND REGULATIONS GOVERNING ACUPUNCTURE; BOARD'S AUTHORITY AND RESPONSIBILITIES.**

- (1) The State Board of Medical Licensure is hereby empowered, authorized and directed to adopt, amend, promulgate and enforce such rules, regulations and standards governing the practice of acupuncture as may be necessary to further the accomplishment of the purpose of this chapter, and in so doing shall utilize as the basis thereof the corresponding recommendations of the advisory council.
- (2) The Board's authority and responsibility include the following:
  - (a) Grant, deny, renew, restrict, suspend or revoke licenses to practice acupuncture in accordance with the provisions of this chapter or other applicable state law;
  - (b) Examine by established protocol the qualifications and fitness of applicants for a license to practice acupuncture in this state;
  - (c) Conduct investigations of suspected violations of this chapter to determine whether there are sufficient grounds to initiate disciplinary proceedings;
  - (d) Inspect premises and equipment, on a triennial basis and assess an inspection fee in the amount of One Hundred Dollars (\$100.00) per inspection and an additional fee of Fifty Dollars (\$50.00) for each licensed acupuncturist employed by the inspected establishment;
  - (e) Hold hearings on all matters properly brought before the Board, to administer oaths, receive evidence, make necessary determinations and enter orders consistent with the findings. The Board may require by subpoena the attendance and testimony of witnesses and the production of papers, records or other documentary evidence and commission depositions. The Board may designate one or more of its members to serve as its hearing officer. The Board shall adopt rules and regulations for hearings before the Board and the rules shall afford any person appearing before the Board the safeguards of procedural due process. Formal rules of evidence shall not apply;
  - (f) Contract with independent consultants or other appropriate agencies to administer examinations for licensure, according to the provisions of this chapter, and

establish a fee for such examination not to exceed Five Hundred Dollars (\$500.00);

- (g) Establish and publish a schedule of fees for annual licensing, certification and renewal not to exceed Four Hundred Dollars (\$400.00) annually; and
- (h) Keep and maintain accurate records of all Board business in accordance with state law.

The powers enumerated in this section are granted for the purpose of enabling the Board to supervise effectively the practice of acupuncture and are to be construed liberally to accomplish this objective.

**§73-71-15. PROHIBITION AGAINST UNLICENSED PRACTICE OF ACUPUNCTURE UNLESS EXEMPT FROM LICENSURE.**

Unless licensed as an acupuncture practitioner under this chapter, or exempt from licensure under the provisions of this chapter, no person shall practice or hold himself or herself out as practicing or engaging in the practice of acupuncture, either for compensation or gratuitously.

**§73-71-17. ACUPUNCTURE PRACTITIONER LICENSE AUTHORIZES PRACTICE OF ACUPUNCTURE; CONSTRUCTION OF CHAPTER.**

- (1) An acupuncture practitioner license authorizes the holder to engage in the practice of acupuncture.
- (2) This chapter shall not be construed to limit, interfere with, or prevent any other class of licensed health care professionals from practicing within the scope of their licenses as defined by each profession's state licensing statute.
- (3) This chapter shall not be construed to make unlawful the activities of persons involved in research performed under the auspices of a federal or state regulated research institution.
- (4) The practice and techniques of acupuncture shall not include the practice of physical therapy as defined in the Mississippi Physical Therapy Practice Law, Title 73, Chapter 23 of the Mississippi Code of 1972.

**§73-71-19. QUALIFICATIONS FOR LICENSURE; EXAMINATION; SUBJECTS OF EXAMINATION; FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK REQUIRED.**

- (1) No person shall be licensed to practice acupuncture unless he or she has passed an examination and/or has been found to have the necessary qualifications as prescribed in the regulations adopted by the Board.
- (2) Before any applicant is eligible for an examination or qualification, he or she shall furnish satisfactory proof that he or she:
  - (a) Is a citizen or permanent resident of the United States;
  - (b) Has demonstrated proficiency in the English language;
  - (c) Is at least twenty-one (21) years of age;
  - (d) Is of good moral character;
  - (e) Has completed a program of acupuncture and has received a certificate or diploma from an institute approved by the Board, according to the provisions of

- this chapter;
- (f) Has completed a clinical internship training as approved by the Board; and
  - (g) Has received training in cardiopulmonary resuscitation (CPR).
- (3) The Board may hold an examination at least once a year, and all applicants shall be notified in writing of the date and time of all examinations. The Board may use a NCCAOM examination if it deems that national examination to be sufficient to qualify a practitioner for licensure in this state. In no case shall the state's own examination be less rigorous than the nationally recognized examination.
  - (4) In addition to the written examination, if the nationally recognized examination does not provide a suitable practical examination comparable to Board standards, the Board shall examine each applicant in the practical application of Oriental medical diagnostic and treatment techniques in a manner and by methods that reveal the applicant's skill and knowledge.
  - (5) The Board shall require all qualified applicants to be examined in the following subjects:
    - (a) Anatomy and physiology;
    - (b) Pathology;
    - (c) Diagnosis;
    - (d) Hygiene, sanitation and sterilization techniques;
    - (e) All major acupuncture principles, practices and techniques; and
    - (f) Clean Needle Technique Exam.
  - (6) To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose. Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency. The Board shall provide to the Department the fingerprints of the applicant, any additional information which may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories. The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history record information on the applicant.
  - (7) The Board shall issue a license to every applicant whose application has been filed

- with and approved by the Board and who has paid the required fees and who either:
- (a) Has passed the Board's written examination and practical examination, with a score of not less than seventy percent (70%) on each examination; or
  - (b) Has achieved a passing score on a Board approved nationally recognized examination, which examination includes a written and practical portion, as determined by the Board; or
  - (c) Has received certification from a Board approved national certification process; or
  - (d) Has achieved a passing score on a Board approved nationally recognized written examination and has passed the Board's practical examination with a score of not less than seventy percent (70%).
- (8) The Board shall keep a record of all examinations held, together with the names and addresses of all persons taking examinations, and the examination results. Within forty-five (45) days after the examination, the Board shall give written notice of the results of the examination to each applicant.

**§73-71-21. LICENSE WITHOUT EXAMINATION; REQUIREMENTS; RECIPROCITY.**

The Board may, at its discretion, issue a license without examination to an acupuncture practitioner who has been licensed, certified or otherwise formally legally recognized as an acupuncturist or acupuncture practitioner in any state or territory if all three (3) of the following conditions are met to its satisfaction:

- (a) The applicant meets the requirements of practice in the state or territory in which the applicant is licensed, certified, or registered as an acupuncturist or acupuncture practitioner;
- (b) The requirements for practice in the state or territory in which the applicant is licensed, certified or registered as an acupuncturist or acupuncture practitioner are at least as stringent as those of this state; and
- (c) The state or territory in which the applicant is licensed, certified or legally recognized as an acupuncturist or acupuncture practitioner permits an acupuncture practitioner licensed in this state to practice acupuncture or acupuncture in that jurisdiction by credentials examination.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

**§73-71-23. CONTINUING EDUCATION REQUIREMENTS.**

- (1) The Board shall establish, by regulation, mandatory continuing education requirements for acupuncture practitioners licensed in this state, including the following:
  - (a) Each person licensed under this chapter, whether or not residing within the state, shall complete thirty (30) hours of continuing education within each biennial renewal period, except during the initial biennial renewal period; and
  - (b) Each person not obtaining the required number of hours of continuing education may have his or her license renewed for just cause, as determined by the Board, so long as the Board requires that the deficient hours of continuing education, and

all unpaid fees, are made up during the following renewal period in addition to the current continuing education requirements for the renewal period. If any acupuncture practitioner fails to make up the deficient hours and complete the later renewal period, or fails to make up any unpaid fees, then his or her license shall not be renewed until all fees are paid and all of the required hours are completed and documented to the Board.

- (2) The Board shall establish by regulation education standards and record keeping requirements for continuing education providers. A provider of continuing education courses shall apply to the Board for approval to offer continuing education courses for credit toward this requirement on a form developed by the Board, shall pay a fee covering the cost of approval and for monitoring of the provider by the Board. Institutions, associations and individuals providing continuing education shall maintain records of attendance, including sign-in sheets, for a period of three (3) years.

**§73-71-25. APPROVAL OF SCHOOLS AND COLLEGES OFFERING EDUCATION AND TRAINING IN THE PRACTICE OF ACUPUNCTURE; STANDARDS OF PROFESSIONAL EDUCATION.**

- (1) The Board shall establish standards for approval of schools and colleges offering education and training in the practice of acupuncture.
- (2) Before approval of an institute of acupuncture, the Board shall determine that the institute meets standards of professional education. These standards shall provide that the institute:
  - (a) Require, as a prerequisite to graduation, a program of study of at least two thousand five hundred (2,500) hours;
  - (b) Meet the minimum requirements of a Board approved national accrediting body;
  - (c) Require participation in a carefully supervised clinical or internship program; and
  - (d) Confer a certificate, diploma or degree in acupuncture only after personal attendance in classes and clinics.

**§73-71-27. EFFECT OF CHAPTER ON ACUPUNCTURIST LICENSED, CERTIFIED OR REGISTERED UNDER PRIOR LAW; PROHIBITION AGAINST PERFORMING PROFESSIONAL RESPONSIBILITIES NOT QUALIFIED TO PERFORM; PENALTIES FOR VIOLATION; LIABILITY INSURANCE TO BE MAINTAINED.**

- (1) Any acupuncturist validly licensed, certified or registered under prior law of this state shall be deemed as licensed under the provisions of this chapter.
- (2) All acupuncturists licensed under this section shall not accept or perform professional responsibilities that the licensee knows or has reason to know that the person is not qualified by training, experience or certification to perform. Violation of this section shall subject the licensee to the revocation or suspension of his or her license. The Board shall make regulations on those requirements and shall grant previously licensed, certified or registered acupuncturists qualification on a case-by-case basis.
- (3) The Board shall require each licensee to obtain and maintain an adequate amount of



professional liability insurance and provide proof of that insurance to the Board.

**§73-71-29. LICENSEE REPORTING AND RECORD KEEPING REQUIREMENTS.**

- (1) Persons licensed under this chapter shall be subject to the following reporting requirements:
  - (a) All morbidity, mortality, infectious disease, abuse and neglect reporting requirements of this state;
  - (b) Reporting completion of the required continuing education study to the Board with his or her license renewal;
  - (c) Notification of the Board in writing of any change of address within thirty (30) days of the change;
  - (d) Notification of the Board in writing of termination or temporary closing of the licensee's practice if the cessation of business is expected to be over ninety (90) days, or otherwise limit access to patient records. The licensee shall notify the Board upon resuming practice; and
  - (e) Posting his or her license in a conspicuous location in his or her place of practice at all times.
- (2) Persons licensed under this chapter shall be subject to the following record keeping requirements:
  - (a) Maintenance of accurate records of each patient that he or she treats. The records shall include the name of the patient, medical history, subjective symptoms, objective findings and treatment rendered;
  - (b) Maintenance of patient records for a period of seven (7) years; and
  - (c) Maintenance of documents proving completion of required continuing education study for a period of three (3) years.

**§73-71-31. COMPLIANCE WITH APPLICABLE PUBLIC HEALTH LAWS REQUIRED; REQUISITE PRACTICES.**

- (1) Acupuncture practitioners shall comply with all applicable public health laws of this state.
- (2) Sanitation practices shall include:
  - (a) Hands shall be washed with soap and water or other disinfectant between treatment of different patients;
  - (b) Skin in the area of penetration shall be swabbed with alcohol or other germicidal solution before inserting needles;
  - (c) Needles and other equipment used in the practice of acupuncture shall be sterilized before using;
  - (d) Needles and other hazardous waste shall be disposed of in a manner prescribed by law; and
  - (e) Other sanitation practices shall be observed to insure health and safety of patients, as prescribed by the Board.

**§73-71-33. GROUNDS FOR DISCIPLINARY ACTIONS.**

The following acts constitute grounds for which the Board may initiate disciplinary actions:

- (a) Attempting to obtain, or renewing a license to practice acupuncture by bribery or misinterpretation;
- (b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state or territory for reasons that would preclude licensure in this state;
- (c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a felony, or a crime of moral turpitude, or a crime that directly relates to acupuncture. For the purposes of this paragraph, a plea of guilty or a plea of nolo contendere accepted by the court shall be considered as a conviction;
- (d) Advertising, practicing, or attempting to practice under a name other than one's own;
- (e) The use of advertising or solicitation that is false or misleading;
- (f) Aiding, assisting, procuring, employing or advertising an unlicensed person to practice acupuncture contrary to this chapter or a rule of the Board;
- (g) Failing to perform any statutory or legal obligation placed upon an acupuncture practitioner;
- (h) Making or filing a report that the licensee knows to be false, intentionally or negligently failing to file a report required by state or federal law, willfully impeding or obstructing that filing or inducing another person to do so. Those reports shall include only those that are signed in the capacity of an acupuncture practitioner;
- (i) Exercising coercion, intimidation or undue influence in entering into sexual relations with a patient, or continuing the patient-practitioner relationship with a patient with whom the licensee has sexual relations, if those sexual relations cause the licensee to perform services incompetently. This paragraph shall not apply to sexual relations between acupuncture practitioners and their spouses;
- (j) Making deceptive, untrue or fraudulent misrepresentations in the practice of acupuncture;
- (k) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation or undue influence, or a form of overreaching conduct;
- (l) Failing to keep written medical records justifying the course of treatment of the patient;
- (m) Exercising undue influence on the patient to exploit the patient for financial gain of the licensee or of a third party;
- (n) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or intemperate use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;
- (o) Malpractice or the failure to practice acupuncture to that level of care, skill and treatment that is recognized by a reasonably prudent similar practitioner of acupuncture as being acceptable under similar conditions and circumstances;
- (p) Practicing or offering to practice beyond the scope permitted by law or accepting or performing professional responsibilities that the licensee knows or has reason to know that he or she is not qualified by training, experience or certification to perform;
- (q) Delegating professional responsibilities to a person when the licensee delegating those responsibilities knows, or has reason to know, that the person is not qualified by training, experience or licensure to perform them;

- (r) Violating any provision of this chapter, a rule of the Board, or a lawful order of the Board previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the Board;
- (s) Conspiring with another to commit an act, or committing an act, that coerces, intimidates or precludes another licensee from lawfully advertising or providing his or her services;
- (t) Fraud or deceit, or gross negligence, incompetence or misconduct in the operation of a course of study;
- (u) Failing to comply with state, county or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious disease;
- (v) Failing to comply with any rule of the Board relating to health and safety, including, but not limited to, sterilization of equipment and the disposal of potentially infectious materials;
- (w) Incompetence, gross negligence or other malpractice in the practice of acupuncture;
- (x) Aiding the unlawful practice of acupuncture;
- (y) Fraud or dishonesty in the application or reporting of any test for disease;
- (z) Failure to report, as required by law, or making false or misleading report of, any contagious or infectious disease;
- (aa) Failure to keep accurate patient records; or
- (bb) Failure to permit the Board or its agents to enter and inspect acupuncture premises and equipment as set by rules promulgated by the Board.

**§73-71-35. DISCIPLINARY PROCEEDINGS; PENALTIES; ORDER TO COMPEL MENTAL OR PHYSICAL EXAMINATION.**

- (1) Disciplinary proceedings under this act shall be conducted in the same manner as other disciplinary proceedings are conducted by the State Board of Medical Licensure.
- (2) When the Board finds any person guilty of any of the acts set forth in Section 73-71-33, it may then enter an order imposing one or more of the following penalties:
  - (a) Refusal to certify to the Board an application for licensure;
  - (b) Revocation or suspension of a license;
  - (c) Restriction of practice;
  - (d) Imposition of an administrative fine not to exceed One Thousand Dollars (\$1,000.00) for each count or separate offense;
  - (e) Issuance of a reprimand;
  - (f) Placement of the acupuncture practitioner on probation for a period of time and subject to the conditions as the Board may specify.
- (3) In enforcing this chapter, upon finding of the Board that probable cause exists to believe that the licensee is unable to serve as an acupuncture practitioner because of committing any of the acts set forth in Section 73-71-33 or any of the crimes set forth in Section 73-71-37, the Board shall have to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the Board. If the licensee refuses to comply with the order, the Board's order directing the

examination may be enforced by filing a petition for enforcement in any court of competent jurisdiction. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public unless the licensee stipulates otherwise. The Board shall be entitled to the summary procedure provided in applicable state law. An acupuncture practitioner affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety of the patients. In any proceeding under this subsection, neither the record of proceedings nor the orders entered by the Board shall be used against the acupuncture practitioner in any other proceeding.

- (4) The Board shall not reinstate the license of an acupuncture practitioner, or cause a license to be issued to a person it has deemed to be unqualified, until such time as the Board is satisfied that he or she has complied with all the terms and conditions set forth in the final order and that he or she is capable of safely engaging in the practice of acupuncture.

**§73-71-37. PROHIBITED ACTS; PENALTIES.**

- (1) It is unlawful for any person to:
  - (a) Hold himself or herself out as an acupuncture practitioner unless licensed as provided in this chapter;
  - (b) Practice acupuncture, or attempt to practice acupuncture, without an active license or as otherwise permitted by Board rule established under the authority of this chapter;
  - (c) Obtain, or attempt to obtain, a license to practice acupuncture by fraud or misrepresentation; or
  - (d) Permit an employed person to engage in the practice of acupuncture unless the person holds an active license as a practitioner of acupuncture, except as provided by this chapter.
- (2) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months, or both.

**§73-71-39. BOARD TO ESTABLISH PROGRAM OF CARE, COUNSELING OR TREATMENT FOR IMPAIRED ACUPUNCTURISTS.**

- (1) The Board shall establish a program of care, counseling or treatment for impaired acupuncturists.
- (2) The program of care, counseling or treatment shall include a written schedule of organized treatment, care, counseling, activities or education satisfactory to the Board designed for the purposes of restoring an impaired person to a condition by which the impaired person can practice acupuncture with reasonable skill and safety of a sufficient degree to deliver competent patient care.
- (3) All persons authorized to practice by the Board shall report in good faith any

acupuncturist they reasonably believe to be an impaired practitioner as defined in Section 73-71-5.

**§73-71-41. CONFIDENTIALITY OF PATIENT CARE INFORMATION; WAIVER OF PRIVILEGE.**

- (1) No licensed acupuncturist shall disclose any information concerning the licensed acupuncturist's care of a patient except on written authorization or by waiver by the licensed acupuncturist's patient or by court order, by subpoena, or as otherwise provided in this section.
- (2) Any licensed acupuncturist releasing information under written authorization or other waiver by the patient or under court order, by subpoena, or as otherwise provided by this section shall not be liable to the patient or any other person.
- (3) The privilege provided by this section shall be waived to the extent that the licensed acupuncturist's patient places the licensed acupuncturist's care and treatment of the patient or the nature and extent of injuries to the patient at issue in any civil criminal proceeding.

**§73-71-43. LICENSE RENEWAL; FEES.**

Each licensee shall be required to pay biennial license renewal fees and meet continuing education requirements as provided in this chapter.

**§73-71-45. RENEWAL OF EXPIRED LICENSE WITHIN FOUR YEARS AFTER EXPIRATION; REQUIREMENTS FOR OBTAINING NEW LICENSE AFTER FOUR YEARS AFTER EXPIRATION.**

- (1) A license that has expired may be renewed at any time within ninety (90) days after its expiration upon filing of an application for renewal on a form provided by the Board and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within ninety (90) days after its expiration, the acupuncture practitioner, as a condition precedent to renewal, shall pay the renewal fees plus a late fee to be set by the Board.
- (2) A person who fails to renew his or her license within four (4) years after its expiration may not renew that license, and it may not be restored, reissued or reinstated after that time; but that person may apply for and obtain a new license if he or she meets the following requirements:
  - (a) Takes and passes a suitable examination, or demonstrates continued practice and continuing education acceptable to the Board; and
  - (b) Pays all fees that would be required if an initial application for licensure were being made.

**§73-71-47. REQUEST BY LICENSEE TO HAVE LICENSE PLACED ON INACTIVE STATUS; REINSTATEMENT.**

At any time while a license is valid, or expired but not lapsed, the licensee may request that his or her license be placed on inactive status. While on inactive status, the licensee is not subject to fees or continuing education requirements. As a condition of reinstatement, the

licensee must satisfy the following requirements:

- (a) Demonstrate that he or she has not committed any acts or crimes constituting grounds for denial of licensure under any provisions of this chapter;
- (b) Pay fees to reactivate status as designated by the Board;
- (c) Meet continuing education requirements equivalent to those that would have been met in the preceding two (2) years; and
- (d) Establish to the satisfaction of the Board that, with due regard for the public interest, he or she is qualified to practice as an acupuncture practitioner.

**§73-71-49. SUSPENDED LICENSE SUBJECT TO EXPIRATION AND CAN BE RENEWED; REVOKED LICENSE SUBJECT TO EXPIRATION BUT CANNOT BE RENEWED; REINSTATEMENT FEES.**

- (1) A suspended license is subject to expiration and shall be renewed as provided in this chapter, but while the license remains suspended, and until it is reinstated, the renewal does not entitle the practice of acupuncture, or any other activity or conduct in violation of the order of the Board by which the license was suspended.
- (2) A revoked license is subject to expiration as provided in this chapter but it may not be renewed. If it is reinstated after its expiration, the former licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal fee date, if any, accrued at the time of its expiration.

**§73-71-51. FEES.**

- (1) The Board may charge reasonable fees for the following:
  - (a) Initial application fee for licensing;
  - (b) Written and practical examination not including the cost of the nationally recognized examination;
  - (c) Biennial licensing renewal for acupuncture practitioners;
  - (d) Late renewal more than thirty (30) days, but not later than one (1) year, after expiration of a license, which late fee is in addition to any other fees;
  - (e) Reciprocal licensing fee;
  - (f) Annual continuing education provider registration fee; and
  - (g) Any and all fees to cover reasonable and necessary administrative expenses as established by the Council of Advisors in Acupuncture.
- (2) All fees shall be set forth in regulations duly adopted by the Board.
- (3) All fees and other funds collected under this chapter shall be deposited into the special fund of the State Board of Medical Licensure.

**Effective and in force from and after July 1, 2009; Amended July 1, 2013; Amended July 1, 2017.**

**§73-71-53. REPEALED.**

*Approved July 1, 2017*

## 2.12 MISSISSIPPI PHYSICIAN ORDER FOR SUSTAINING TREATMENT (POST) ACT

### §41-41-301. SHORT TITLE.

Sections 41-41-301 through 41-41-303 shall be known and may be cited as the "Mississippi Physician Order for Sustaining Treatment (POST) Act."

*Approved July 1, 2014.*

### §41-41-302. PHYSICIAN ORDER FOR SUSTAINING TREATMENT

- (1) A physician order for sustaining treatment (POST) directing health care in the standardized form provided by this section may be executed by the primary physician of an individual and:
  - (a) The individual, if an adult or emancipated minor with capacity; or
  - (b) The agent, guardian, or surrogate having authority to make health care decisions on behalf of the individual if the individual is:
    - (i) An unemancipated minor; or
    - (ii) An adult or emancipated minor who lacks capacity.
- (2) The physician order for sustaining treatment shall be executed, implemented, reviewed, and revoked in accordance with the instructions on the form.
- (3) The State Board of Medical Licensure shall promulgate a standardized physician order for sustaining treatment form in accordance with the provisions in this section, adhering to the sequence in those provisions and using checkboxes to indicate the various alternatives. The board shall consult with appropriate professional and advocacy organizations in developing the physician order for sustaining treatment form, including the Mississippi Hospital Association, the Mississippi State Medical Association, Mississippians for Emergency Medical Services, the Mississippi Health Care Association, the Mississippi Independent Nursing Home Association, the Louisiana-Mississippi Hospice and Palliative Care Organization, Disability Rights Mississippi, Mississippi Right to Life, the Mississippi Bar Association and the Mississippi Section of American Congress of Obstetricians and Gynecologists.

The physician order for sustaining treatment form shall begin with an introductory section containing the name "POST, Physician Orders for Sustaining Treatment," the patient's name, patient's date of birth, the effective date of the form followed by the statement "Form must be reviewed at least annually.", and containing the statements "HIPAA permits disclosure of POST to other health care professionals as necessary" and "This document is based on this person's current medical condition and wishes and is to be reviewed for potential replacement in the case of a substantial change in either. Any section not completed indicates preference for full treatment for that section."

- (a) Section A of the form shall direct provision or withholding of cardiopulmonary resuscitation to the patient when he or she has no pulse and is not breathing by selecting one (1) of the following:
  - (i) Attempt Resuscitation (CPR); or

- (ii) Do Not Attempt Resuscitation (DNR); and include the statement "When not in cardiopulmonary arrest, follow orders in B, C, and D."
- (b) Section B of the form shall direct the sustaining treatment when the patient has a pulse or is breathing by selecting one (1) of the following:
  - (i) Full Sustaining Treatment, including the use of intubation, advanced airway interventions, mechanical ventilation, defibrillation or cardio version as indicated, medical treatment, intravenous fluids, and comfort measures. This option shall include the statement "Transfer to a hospital if indicated. Includes intensive care. Treatment Plan: Full treatment including life support measures";
  - (ii) Limited Interventions, including the use of medical treatment, oral and intravenous medications, intravenous fluids, cardiac monitoring as indicated, noninvasive bi-level positive airway pressure, a bag valve mask, and comfort measures. This option excludes the use of intubation or mechanical ventilation. This option shall include the statement "Transfer to a hospital if indicated. Avoid intensive care. Treatment Plan: Provide basic medical treatments"; or
  - (iii) Comfort Measures, including keeping the patient clean, warm, and dry; use of medication by any route; positioning, wound care, and other measures to relieve pain and suffering; and the use of oxygen, suction, and manual treatment of airway obstruction as needed for comfort. This option shall include the statement "Do not transfer to a hospital unless comfort needs cannot be met in the patient's current location (e.g., hip fracture)," and include a space for other instructions.
- (c) Section C of the form shall direct the use of oral and intravenous antibiotics by selecting one (1) of the following:
  - (i) Antibiotics if life can be sustained;
  - (ii) Determine use or limitation of antibiotics when infection occurs;
  - (iii) Use antibiotics only to relieve pain and discomfort; and include a space for other instructions.
- (d) Section D of the form, which shall have the heading "Medically Administered Fluids and Nutrition: Administer oral fluids and nutrition if physically possible," shall include the following options:
  - (i) Directing the administration of nutrition into blood vessels if physically feasible as determined in accordance with reasonable medical judgment by selecting one (1) of the following:
    1. Total parenteral nutrition long-term if indicated;
    2. Total parenteral nutrition for a defined trial period, which option shall be followed by "Goal:" and a blank line; or
    3. No parenteral nutrition;
  - (ii) Directing the administration of nutrition by tube if physically feasible as determined in accordance with reasonable medical judgment by selecting one (1) of the following:
    1. Long-term feeding tube if indicated;
    2. Feeding tube for a defined trial period, which option shall be followed by "Goal:" and a blank line; or



3. No feeding tube;
- and shall include a space for other instructions; or
- (iii) Directing the administration of hydration, if physically feasible as determined in accordance with reasonable medical judgment, by selecting one (1) of the following:
    1. Long-term intravenous fluids if indicated;
    2. Intravenous fluids for a defined trial period, which option shall be followed by "Goal:" and a blank line; or
    3. Intravenous fluids only to relieve pain and discomfort.
- (e) Section E of the form, which shall have the heading "Patient Preferences as a Basis for this POST Form," shall include the following:
- (i) A direction to indicate whether or not the patient has an advance health-care directive as defined in Section 41-41-203 and if so, the date of the advance directive's execution, and, a certification that the physician order for sustaining treatment is in accordance with the advance directive, followed by the printed name, position, and signature of an individual so certifying;
  - (ii) If the patient is an unemancipated minor, an indication of by which one or more of the following directions were given in accordance with Section 41-41-3:
    1. Minor's guardian or custodian;
    2. Minor's parent;
    3. Adult brother or sister of the minor;
    4. Minor's grandparent; or
    5. Adult who has exhibited special care and concern for minor; and
  - (iii) If the patient is an adult or an emancipated minor, by which one or more of the following directions were given in accordance with Section 41-41-205, 41-41-211 or 41-41-213:
    1. Patient;
    2. Agent authorized by patient's power of attorney for health care;
    3. Guardian of the patient;
    4. Surrogate designated by patient;
    5. Spouse of patient (if not legally separated);
    6. Adult child of the patient;
    7. Parent of the patient;
    8. Adult brother or sister of the patient; or
    9. Adult who has exhibited special care and concern for the patient and is familiar with the patient's values.
- (f) A signature portion of the form, which shall include lines for the printed name, signature, and date of signing for:
- (i) The patient's primary physician;
  - (ii) The individual or individuals described in paragraph (e)(ii) or (iii) of this subsection; and
  - (iii) The health care professional preparing the form, if other than the patient's primary physician, with contact information.
- (g) A section entitled "Information for patient or representative of patient named on

this form," which shall include the following language:

"The POST form is always voluntary and is usually for persons with advanced illness. POST records your wishes for medical treatment in your current state of health. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. An advance health-care directive is recommended for all capable adults and emancipated minors, regardless of their health status. An advance directive allows you to document in detail your future health care instructions and/or name a health-care agent to speak for you if you are unable to speak for yourself.

If this form is for a minor for whom you are authorized to make health-care decisions, you may not direct denial of medical treatment in a manner that would make the minor a 'neglected child' under Section 43-21-105, Mississippi Code of 1972, or otherwise violate the child abuse and neglect laws of Mississippi. In particular, you may not direct the withholding of medically indicated treatment from a disabled infant with life-threatening conditions, as those terms are defined in 42 USCS Section 5106g or regulations implementing it and 42 USCS Section 5106a."

(h) A section entitled "Directions for Completing and Implementing Form," which shall include the following four (4) subdivisions:

(i) The first subdivision, entitled "Completing POST," shall have the following language:

POST must be reviewed and prepared in consultation with the patient or the patient's representative.

POST must be reviewed and signed by a physician to be valid. Be sure to document the basis for concluding the patient had or lacked capacity at the time of execution of the form in the patient's medical record. The signature of the patient or the patient's representative is required; however, if the patient's representative is not reasonably available to sign the original form, a copy of the completed form with the signature of the patient's representative must be placed in the medical record as soon as practicable and "on file" must be written on the appropriate signature on this form.

Use of original form is required. Be sure to send the original form with the patient.

There is no requirement that a patient have a POST.

(ii) The second subdivision, entitled "Implementing POST," shall have the following language:

If a health care provider or facility is unwilling to comply with the orders due to policy or personal objections, the provider or facility must not impede transfer of the patient to another provider or facility willing to implement the orders and must provide at least requested care in the meantime unless, in reasonable medical judgment, denial of requested care would not result in or hasten the patient's

death.

If a minor protests a directive to deny the minor life-preserving medical treatment, the denial of treatment may not be implemented pending issuance of a judicial order resolving the conflict.

(iii)The third subdivision, entitled "Reviewing POST," shall have the following language:

This POST must be reviewed at least annually or earlier if;

The patient is admitted or discharged from a health care facility;

There is a substantial change in the patient's health status; or

The patient's treatment preferences change.

If POST is revised or becomes invalid, draw a line through Sections A-E and write "VOID" in large letters.

(iv)The fourth subdivision, entitled "Revocation of POST," shall have the following language:

This POST may be revoked by the patient or the patient's representative.

(i) A section entitled "Review of POST," which shall include the following columns and a number of rows determined by the State Board of Medical Licensure:

(i) Review Date;

(ii) Reviewer and Location of Review;

(iii)MD/DO Signature (Required); and

(iv)Signature of Patient or Representative (Required).

(j) A section entitled "Outcome of Review," which shall include descriptions of the outcome in each row by selecting one (1) of the following:

(i) No Change;

(ii) FORM VOIDED, new form completed; or

(iii)FORM VOIDED, no new form.

### **§ 41-41-303. IMMUNITY, LIABILITY, PENALTIES AND EQUITABLE RELIEF**

(1) A physician or health-care provider acting in good faith and in accordance with generally accepted health-care standards applicable to the physician or health-care provider is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(a) Executing a physician order for sustaining treatment in compliance with a health-care decision of a person apparently having authority to make a health-care decision for a patient, including a decision to provide, withhold or withdraw health care;

(b) Declining to execute a physician order for sustaining treatment in compliance with a health-care decision of a person based on a belief that the person then lacked authority; or

(c) Complying with an apparently valid physician order for sustaining treatment on

the assumption that the order was valid when made and has not been revoked or terminated.

- (2) A health-care provider or institution that intentionally violates Section 41-41-302 is subject to liability to the aggrieved individual for damages of Five Hundred Dollars (\$ 500.00) or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees.
- (3) A person who intentionally falsifies, forges, conceals, defaces, or obliterates an individual's physician order for sustaining treatment or a revocation of a physician order for sustaining treatment without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke, or not to give a physician order for sustaining treatment, is subject to liability to that individual for damages of Twenty-five Hundred Dollars (\$ 2,500.00) or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.
- (4) On petition of a patient, the patient's agent, guardian, or surrogate, a health-care provider or institution involved with the patient's care, or surrogate for the patient as described in Section 41-41-229(2) or (3), any court of competent jurisdiction may enjoin or direct a health-care decision related to a physician order for scope of treatment, or order other equitable relief. A proceeding under this section shall be governed by the Mississippi Rules of Civil Procedure.

*Approved July 1, 2014.*

**2.13 HEALTH CARE PRACTICE REQUIREMENTS PERTAINING TO TRANSMISSION OF HEPATITIS B AND HIV**

**§41-34-1. DEFINITIONS APPLICABLE TO SECTIONS 41-34-1 THROUGH 41-34-7**

For the purposes of Sections 41-34-1 through 41-34-7 the following terms shall have the following meanings:

- (a) "Health-care provider" shall mean a person licensed by this state to provide health care or professional services as a physician, podiatrist, registered nurse, licensed practical nurse, nurse practitioner, dentist, chiropractor or optometrist.
- (b) "Board" means the State Board of Medical Licensure, State Board of Dental Examiners, the Mississippi Board of Nursing, the State Board of Chiropractic Examiners or the State Board of Optometry

**§41-34-3. LICENSING BOARDS TO ESTABLISH PRACTICE REQUIREMENTS TO PROTECT PUBLIC FROM TRANSMISSION OF HEPATITIS B AND HIV FROM HEALTH-CARE PROVIDERS**

Each board licensing health-care providers may establish by rule and regulation practice requirements based, in part, on applicable guidelines from the Federal Centers for Disease Control which will protect the public from the transmission of the Hepatitis B Virus and Human Immunodeficiency Virus in the practice of a profession regulated by the appropriate board.

**§ 41-34-5. LICENSING BOARDS TO ESTABLISH PROCEDURE FOR LICENSEES AND APPLICANTS FOR LICENSE TO REPORT STATUS AS CARRIER OF HEPATITIS B AND HIV**

The boards may establish by rule and regulation requirements and procedures for a licensee and a licensure applicant to report his/her status as a carrier of the Hepatitis B Virus and Human Immunodeficiency Virus to the board and shall enforce such requirements and procedures.

**§41-34-7. CONFIDENTIALITY OF REPORTS OF HEPATITIS B OR HIV CARRIER STATUS**

Each report of Hepatitis B Virus carrier status or Human Immunodeficiency Virus carrier status filed in compliance with this section and each record maintained and meetings held by the boards in the course of monitoring a licensee for compliance with the practice requirements established by this section, are confidential and exempt from the provisions of the Mississippi Public Records Law, Sections 25-61-1, et seq.

## 2.14 REQUIREMENTS FOR ADVERTISEMENTS FOR HEALTH CARE SERVICES

### §41-121-1. TITLE (REPEALED EFFECTIVE JULY 1, 2020)

This chapter shall be known and may be cited as "The Patient's Right to Informed Health Care Choices Act."

### §41-121-3. PURPOSE (REPEALED EFFECTIVE JULY 1, 2020)

The Legislature finds and declares that:

- (a) There are a multitude of professional degrees using the term "doctor," including Medical Doctor (M.D.); Doctor of Osteopathic Medicine (D.O.); Doctor of Dental Surgery (D.D.S.); Doctor of Podiatric Medicine (D.P.M.); Doctor of Optometry (O.D.); Doctor of Chiropractic (D.C.); Doctor of Nursing Practice (D.N.P.); Doctor of Pharmacy (Pharm.D.); and other designations which may be used by health care practitioners.
- (b) Choosing a health care provider is one of the most important decisions a patient makes, which should be supported by full disclosure from their health care provider. There are differences regarding the training and qualifications required to earn the professional degrees described in and subject to this chapter. These differences often concern the training and skills necessary to correctly detect, diagnose, prevent and treat serious health care conditions.
- (c) There is a compelling state interest in patients being promptly and clearly informed of the actual training and qualifications of their health care practitioners who provide health care services. This chapter aims to provide public protection against potentially misleading and deceptive health care advertising that cause patients to have undue expectations regarding their medical treatments and outcomes.

### §41-121-5. DEFINITIONS (REPEALED EFFECTIVE JULY 1, 2020)

For the purpose s of this chapter:

- (a) "Advertisement" means any communication or statement, whether printed, electronic or oral, that names the health care practitioner in relation to his or her practice, profession, or institution in which the individual is employed, volunteers or otherwise provides health care services. This includes business cards, letterhead, patient brochures, email, Internet, audio and video, and any other communication or statement used in the course of business or any other definition provided by regulations of the licensing board of proper jurisdiction.
- (b) "Deceptive" or "misleading" includes, but is not limited to, any advertisement or affirmative communication or representation that misstates, falsely describes, holds out or falsely details the health care practitioner's profession, skills, training, expertise, education, board certification or licensure as determined by each respective

- licensing board.
- (c) "Health care practitioner" means any person who engages in acts that are the subject of licensure or regulation. Categories of health care practitioner include:
- (i) Practitioners of all opathic medicine, signified by the letters "M.D." or the words surgeon, medical doctor, or doctor of medicine by a person licensed to practice medicine and surgery.
  - (ii) Practitioners of osteopathic medicine, signified by the letters "D.O." or the words surgeon, osteopathic surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic medicine.
  - (iii) Practitioners of nursing, signified by the letters "D.N.P.," "N.P.," "R.N.," "L.P.N.," "C.R.N.A.," or any other commonly used signifier to denote a doctorate of nursing practice, nurse practitioner, registered nurse, licensed practical nurse, or certified registered nurse anesthetist, respectively, as appropriate to signify the appropriate degree of licensure and degree earned from a regionally accredited institution of higher education in the appropriate field of learning.
  - (iv) Practitioners of podiatry, signified by the letters "D.P.M." or the words podiatrist, doctor of podiatry, podiatric surgeon, or doctor of podiatric medicine.
  - (v) Practitioners of chiropractic, signified by the letters "D.C." or the words chiropractor, doctor of chiropractic or chiropractic physician.
  - (vi) Practitioners of dentistry, signified by the letters "D.D.S." or "D.M.D.," as appropriate, or the words dentist, doctor of dental surgery, or doctor of dental medicine, as appropriate.
  - (vii) Practitioners of optometry, signified by the letters "O.D." or the words optometrist or doctor of optometry.
  - (viii) Practitioners of pharmacy, signified by the letters "BSc.Pharm" or "Pharm.D." or the words pharmacists or doctor of pharmacy.
  - (ix) Physician assistants, signified by the letters "P.A." or the words physician assistant.
  - (x) Medical assistants, signified by the letters "M.A." or the words medical assistant.
  - (xi) Practitioners of audiology, signified by the letters "Au.D.," "Sc.D." or "Ph.D.," or the words audiologist or doctor of audiology.
  - (xii) Psychologists, therapists, speech-language pathologists, counselors, or any other health care practitioner not covered under this section, including, but not limited to, those signified by the letters "Ph.D.," "Ed.D.," "P.T.," "M.P.T." or "Psy.D.," or "Sc.D.," as appropriate to signify the appropriate degree of licensure and degree earned from a regionally accredited institution of higher education in the appropriate field of learning.
- (d) "Licensee" means a health care practitioner who holds an active license with the licensing board governing his or her practice in this state.

**§41-121-7. REQUIREMENTS (REPEALED EFFECTIVE JULY 1, 2020)**

- (1) An advertisement for health care services that names a health care practitioner must identify the type of license held according to the definitions under this chapter. The advertisement shall be free from any and all deceptive or misleading information.

- (2) A health care practitioner providing health care services in this state must conspicuously post in their office and affirmatively communicate the practitioner's specific licensure as defined under this chapter. This shall consist of the following: The health care practitioner shall display in his or her office a writing that clearly identifies the type of license held by the health care practitioner. The writing must be of sufficient size so as to be visible and apparent to all current and prospective patients.
- (3) A health care practitioner who practices in more than one (1) office shall be required to comply with these requirements in each practice setting.
- (4) Health care practitioners working in nonpatient care settings, and who do not have any direct patient care interactions, are not subject to the provisions of this chapter.

**§41-121-9. VIOLATIONS AND ENFORCEMENT (REPEALED EFFECTIVE JULY 1, 2020)**

- (1) Failure to comply with any provision under this section shall constitute a violation under this chapter.
- (2) Knowingly aiding, assisting, procuring, employing or advising any unlicensed person or entity to practice or engage in acts contrary to the health care practitioner's degree of licensure shall constitute a violation under this chapter.
- (3) Delegating or contracting for the performance of health care services by a health care practitioner when the licensee delegating or contracting for performance knows, or has reason to know, the person does not have the required authority under the person's licensure, shall constitute a violation under this chapter.
- (4) Violations of this chapter relating to practitioners of pharmacy shall be regulated in accordance with the restrictions on the use of business name for pharmacists in Section 73-21-109.
- (5) Each day that this chapter is violated shall constitute a separate offense and shall be punishable as such.
- (6) Any health care practitioner who violates any provision under this chapter is guilty of unprofessional conduct and subject to disciplinary action under the appropriate licensure provisions governing the respective health care practitioner.
- (7) Any and all fees and other amounts billed to and paid by the patient may be effectively rescinded and refunded. This includes third parties contracted to collect fees on behalf of the health care practitioner, the health care practitioner's employer, or other entity contracting with the health care practitioner as determined by each respective licensing board.
- (8) The imposition of professional sanctions, administrative fees or other disciplinary actions shall be publicly reported by the governmental administrative body of proper jurisdiction at its discretion.
- (9) Notwithstanding the imposition of any penalty, a professional licensing board or other administrative agency with jurisdiction may seek an injunction or other legal means as appropriate against a person or entity violating this chapter as determined by each respective licensing board.
- (10) A licensing board may only enforce violations of this chapter with licensees that are subject to its jurisdiction.



**§41-121-11. REPEAL OF THIS CHAPTER (REPEALED EFFECTIVE JULY 1, 2020)**

Sections 41-121-1 through 41-121-9 shall stand repealed on July 1, 2020.