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Chapter No. 461
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HOUSE BILL NO. 204

Originated in House



Clerk

HOUSE BILL NO. 204

AN ACT TO PROHIBIT THE CONDITIONING OF THE LICENSURE OF CERTAIN HEALTH CARE PROVIDERS UPON THE PROVIDER'S PARTICIPATION IN ANY PUBLIC OR PRIVATE INSURANCE PLAN, PUBLIC HEALTH CARE SYSTEM, PUBLIC SERVICE INITIATIVE, OR EMERGENCY ROOM COVERAGE; TO PROHIBIT THE CONDITIONING OF THE LICENSURE OF CERTAIN HEALTH CARE PROVIDERS UPON THE PROVIDER'S COMPLIANCE WITH THE "MEANINGFUL USE" OF ELECTRONIC HEALTH RECORDS AS SET FORTH IN FEDERAL REGULATIONS; TO AMEND SECTIONS 73-6-5, 73-9-13, 73-15-17, 73-19-9, 73-26-5 AND 73-43-11, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) This section is applicable to licensed physicians, osteopaths, dentists, optometrists, chiropractors, advanced practice registered nurses and physician assistants.

(2) Licensure of providers named in subsection (1) of this section in this state shall not be conditioned upon or related to participation by the provider in any public or private insurance plan, public health care system, public service initiative, or emergency room coverage.

(3) Licensure of providers named in subsection (1) of this section in this state shall not be conditioned upon or related to

their compliance with the "meaningful use" of electronic health records as set forth in CFR 5 Part 170.

SECTION 2. Section 73-6-5, Mississippi Code of 1972, is amended as follows:

73-6-5. (1) The State Board of Chiropractic Examiners shall select by election from its membership a chairman and vice chairman who shall hold their respective offices for a period of one (1) year. A majority of the members of the board may select an executive secretary; and may hire such other employees, including an attorney, needed to implement the provisions of this chapter. The board shall hold regular meetings for examination beginning on the second week of January and July of each year; and may hold additional meetings at such times and places as it deems necessary, but not to exceed twelve (12) times during its initial calendar year and at least four (4) times during any subsequent calendar year but may hold meetings at such times and places as it deems necessary. The July meeting shall be held in the Jackson Metropolitan area. A majority of the board shall constitute a quorum, and the concurrence of a majority of the members of the board shall be required to grant or revoke a license. The board shall make such rules and regulations as is necessary to carry out the provisions of this chapter * * *; however, the board shall not adopt any rule or regulation or impose any requirement regarding the licensing of chiropractors that conflicts with the prohibitions in Section 1 of this act. A copy of these rules and

regulations as well as all changes thereto shall, upon passage, be sent to all practitioners licensed * * * under this chapter.

(2) The State Board of Chiropractic Examiners shall be authorized to certify to the State Department of Health those chiropractic assistants who are exempt from registration under Section 41-58-3(7)(d) as having completed continuing education requirements and charge a fee of not more than Fifty Dollars (\$50.00) annually to each individual whom the board certifies, as required under Section 41-58-5(4)(f). The board shall be authorized to establish educational qualifications and continuing education requirements for chiropractic assistants that participate in direct patient care. This section does not prohibit a chiropractic assistant from rendering ancillary services or procedures used in chiropractic practice, other than the adjustments or manipulative techniques, if those services are rendered under the supervision and control of a licensed chiropractor as long as the chiropractic assistant has successfully completed a training program recognized by the board. "Supervision and control" may not be construed as requiring the personal presence of the supervising and controlling chiropractor at the place where those services are rendered, unless physical presence is necessary to provide patient care of the same quality as provided by the chiropractor. This section does not prohibit a chiropractor from delegating to a chiropractic assistant certain activities relating to patient care and treatment when those

activities are under supervision or direct order of the chiropractor. The chiropractor delegating those activities to an employee, to a program graduate, or to a participant in an approved training program is legally liable for those activities performed by such a chiropractic assistant and that chiropractic assistant is considered to be the chiropractor's agent. The board shall charge a fee not to exceed Fifty Dollars (\$50.00) annually for this certification and annual renewal. Likewise, a late fee of One Hundred Dollars (\$100.00) shall be charged on all chiropractic assistants and chiropractic radiological technologists not renewing on or before July 1 of each year. Chiropractic radiological technologists are not exempt from these continuing education requirements.

SECTION 3. Section 73-9-13, Mississippi Code of 1972, is amended as follows:

73-9-13. The State Board of Dental Examiners shall each year elect from their number a president, vice president and secretary-treasurer to serve for the coming year and until their successors are qualified. Only dentist members of the board may hold the offices of president and vice president. The board shall have a seal with appropriate wording to be kept at the offices of the board. The secretary and the executive director of the board shall be required to make bond in such sum and with such surety as the board may determine. It shall be the duty of the executive director to keep a complete record of the acts and proceedings of

the board and to preserve all papers, documents and correspondence received by the board relating to its duties and office.

The board shall have the following powers and duties:

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

(b) To regulate the practice of dentistry and dental hygiene and to promulgate reasonable regulations as are necessary or convenient for the protection of the public; however, the board shall not adopt any rule or regulation or impose any requirement regarding the licensing of dentists that conflicts with the prohibitions in Section 1 of this act.

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

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

(e) To compile at least once each calendar year and to maintain an adequate list of prospective dentist and dental

hygienist appointees for approval by the Governor as provided for elsewhere by law.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Section 73-15-17, Mississippi Code of 1972, is amended as follows:

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

(a) Adopt and from time to time revise such rules and regulations consistent with the law as shall be necessary to govern its proceedings and carry into effect the provisions of this article; however, the board shall not adopt any rule or regulation or impose any requirement regarding the licensing or certification of advanced practice registered nurses that conflicts with the prohibitions in Section 1 of this act.

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

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

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

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

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

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

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

(i) File an annual list of all certificates of registration issued by the board to registered nurses, including addresses of the persons with the Mississippi Nurses' Association;

and file a similar list of all certificates of registration issued to licensed practical nurses, including addresses of the persons, with the Mississippi Federation of Licensed Practical Nurses and the Mississippi Licensed Practical Nurses Association.

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

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

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

(m) Appoint and employ a qualified person who shall not be a member of the board to serve as executive director, define the duties, fix the compensation, and delegate to him or her those activities that will expedite the functions of the board. The executive director shall meet all the qualifications for board members, and shall in addition:

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

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

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

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

(p) 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.

(q) Upon reasonable suspicion that a holder of a license issued under this article has violated any statutory ground for denial of licensure as set forth in Section 73-15-29 or is guilty of any offense specified in Section 73-15-33, require the license holder to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database, in the same manner as required for applicants for licensure under Sections 73-15-19(1) and 73-15-21(1).

SECTION 5. Section 73-19-9, Mississippi Code of 1972, is amended as follows:

73-19-9. The State Board of Optometry shall organize by the election from its members of a president and a secretary, who shall hold their respective offices for one (1) year.

It shall hold regular meetings for examination, beginning on the second week of January and July of each year, and additional meetings at such times and places as the board shall determine, said additional meetings not to exceed ten (10) meeting days annually, but the July meeting shall be held in the City of Jackson.

A majority of the board shall constitute a quorum, but a less number may adjourn from time to time.

The board shall make such rules and regulations as may be necessary to carry out the provisions of this chapter; * * * however, * * * the board shall not adopt any rule or regulation or impose any requirement regarding the licensing of optometrists that conflicts with the prohibitions in Section 1 of this act.

SECTION 6. Section 73-26-5, Mississippi Code of 1972, is amended as follows:

73-26-5. (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 physician 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 1 of this act. 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.

SECTION 7. Section 73-43-11, Mississippi Code of 1972, is amended as follows:

73-43-11. 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 1 of this act;

(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; and

(i) Perform the duties prescribed by Sections 73-26-1 through 73-26-5.

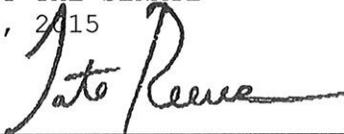
SECTION 8. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 31, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 31, 2015



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

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