



## Bill Text: MS HB1125 | 2023 | Regular Session | Enrolled Mississippi House Bill 1125

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**Bill Title:** Regulate Experimental Adolescent Procedures (REAP) Act; create to regulate transgender procedures and surgeries.

**Spectrum:** Partisan Bill (Republican 12-0)

**Status:** (*Passed*) 2023-02-28 - Approved by Governor [HB1125 Detail]

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MISSISSIPPI LEGISLATURE

2023 Regular Session

To: Public Health and Human Services

By: Representatives Newman, Gunn, Eubanks, Tullos, Brown (20th), Williamson, Hopkins, Arnold, Kinkade, Ford (73rd), Bain, Patterson

## House Bill 1125

### (As Sent to Governor)

AN ACT TO CREATE THE "REGULATE EXPERIMENTAL ADOLESCENT PROCEDURES (REAP)" ACT FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE; TO PROVIDE DEFINITIONS FOR THE ACT; TO PROHIBIT THE DIRECT OR INDIRECT USE GRANT, PAYMENT OR DISTRIBUTION OF PUBLIC FUNDS TO ANY ENTITY, ORGANIZATION OR INDIVIDUAL THAT PROVIDES GENDER TRANSITION PROCEDURES TO A PERSON UNDER EIGHTEEN YEARS OF AGE; TO PROVIDE THAT HEALTH CARE SERVICES FURNISHED IN A STATE OR LOCALLY-OWNED HEALTH CARE FACILITY OR BY A PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL EMPLOYED BY THE STATE OR LOCAL GOVERNMENT SHALL NOT INCLUDE GENDER TRANSITION PROCEDURES FOR A PERSON UNDER EIGHTEEN YEARS OF AGE; TO PROVIDE THAT AMOUNTS PAID DURING A TAXABLE YEAR FOR PROVISION OF GENDER TRANSITION PROCEDURES OR AS PREMIUMS FOR HEALTH CARE COVERAGE THAT INCLUDES COVERAGE FOR GENDER TRANSITION PROCEDURES ARE NOT DEDUCTIBLE UNDER THE STATE INCOME TAX LAWS; TO AUTHORIZE THE ATTORNEY GENERAL TO BRING AN ACTION TO ENFORCE COMPLIANCE WITH THIS ACT; TO CREATE NEW SECTION 43-13-117.7, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE DIVISION OF MEDICAID FROM REIMBURSING OR PROVIDING COVERAGE FOR GENDER TRANSITION PROCEDURES FOR PERSON UNDER EIGHTEEN YEARS OF AGE; TO AMEND SECTION 83-9-22, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT HEALTH COVERAGE PLANS ARE NOT REQUIRED TO INCLUDE GENDER TRANSITION PROCEDURES; TO CREATE NEW SECTION 83-9-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A HEALTH BENEFIT PLAN UNDER AN INSURANCE POLICY OR OTHER PLAN PROVIDING HEALTH CARE COVERAGE SHALL NOT INCLUDE REIMBURSEMENT FOR GENDER TRANSITION PROCEDURES FOR A PERSON UNDER EIGHTEEN YEARS OF AGE; TO AMEND SECTIONS 27-7-17, 73-15-15 AND 73-25-29, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION 73-25-33, MISSISSIPPI CODE OF 1972, TO EXCLUDE THE PERFORMANCE GENDER TRANSITION PROCEDURES FROM THE "PRACTICE OF MEDICINE" MEANING; TO AMEND SECTION 11-46-5, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM TORT IMMUNITY VIOLATIONS OF THIS ACT; TO AMEND SECTION 41-41-219, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO PROVIDE SEVERABILITY IF ANY PART OF THIS ACT IS FOUND UNCONSTITUTIONAL; AND FOR RELATED PURPOSES.

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

**SECTION 1.** This act shall be known and may be cited as the "Regulate Experimental Adolescent Procedures (REAP) Act.

**SECTION 2.** For purposes of this act, the following terms shall have the meanings ascribed herein:

(a) "Sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender;

(b) "Cross-sex hormones" means:

(i) Testosterone or other androgens given to females in amounts that are larger or more potent than would normally occur naturally in healthy sex females; and

(ii) Estrogen given to males in amounts that are larger or more potent than would normally occur naturally in healthy sex males;

(c) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female;

(d) "Gender reassignment surgery" means any medical or surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or features, except for male circumcision that are typical for the individual's sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's

(i) Surgical procedures such as penectomy, castration, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for male patients;

(ii) Surgical procedures such as hysterectomy, oophorectomy, reconstruction of the urethra, metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for female patients;

(iii) Surgical procedures such as augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, or various aesthetic procedures for male patients; or

(iv) Surgical procedures such as subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or various aesthetic procedures for female patients;

(e) "Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to his or her sex to identifying with and living as a gender different from his or her sex, and may involve social, legal, or physical changes;

(f) (i) "Gender transition procedures" means any of the following medical or surgical services performed for the purpose of assisting an individual with a gender transition:

1. Prescribing or administering puberty-blocking drugs;
2. Prescribing or administering cross-sex hormones; or
3. Performing gender reassignment surgeries.

(ii) "Gender transition procedures" do not include:

1. Services to persons born with a medically verifiable disorder of sex development, including a person with external sex characteristics that are irresolvably ambiguous such as those born with forty-six (46) XX chromosomes with virilization, forty-six (46) XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

2. Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

3. The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether or not the funding for the gender transition procedure is permissible under this act; or

4. Any procedure for a male circumcision;

(g) "Health care professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(h) "Physician" means a person who is licensed to practice medicine in this state as provided in Sections 73-25-1 etc.;

secretion, or synthetic drugs used in females which stop the production of estrogens and progesterone, when used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender transition; and

(j) "Public funds" means federal, state, county, or local government monies, in addition to any department, agency, or instrumentality authorized or appropriated under state law or derived from any fund in which such monies are deposited.

**SECTION 3.** (1) A person shall not knowingly provide gender transition procedures to any person under eighteen (18) years of age.

(2) A person shall not knowingly engage in conduct that aids or abets the performance or inducement of gender transition procedures to any person under eighteen (18) years of age. This subsection may not be construed to impose liability on any speech protected by federal or state law.

**SECTION 4. Prohibition on use of public funds or tax deduction for gender transition procedures.** (1) Public funds, resources, facilities, personnel or any other thing of value that is provided by the United States or the State of Mississippi shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provides gender transition procedures to a person under eighteen (18) years of age in violation of this act.

(2) Health care services furnished in the following situations shall not include gender transition procedures for a person under eighteen (18) years of age:

(a) By or in a health care facility owned by the state or a county or local government or

(b) By a physician or other health care professional employed by the state or a county or local government.

(3) Any amount paid by an individual or an entity during a taxable year for provision of gender transition procedures or as premiums for health care coverage that includes coverage for gender transition procedures is not deductible under the state income tax laws.

**SECTION 5. Enforcement.** (1) Any violation of Section 3 by a physician or other health care professional shall be considered outside the applicable standard of care and is unprofessional conduct. A physician who violates Section 3 shall have his or her license to practice medicine in the State of Mississippi revoked pursuant to action taken by the Mississippi State Board of Medical Licensure. A nonphysician healthcare professional who violates Section 3 shall have his or her license to practice their healthcare profession in the State of Mississippi revoked pursuant to action taken by the applicable licensing entity.

(2) A person may assert an actual or threatened violation of this act as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, punitive damages, injunctive relief, declaratory relief, or any other appropriate relief. Such claim may be brought against any facility, individual or entity causing or contributing to a violation of this act.

(b) A person under eighteen (18) years of age may bring an action throughout their minority through a parent or next friend, and may bring an action in their own name upon reaching majority at any time from that point until thirty (30) years after reaching the age of majority.

(4) Notwithstanding any other provision of law, an action under this act may be commenced, and relief may be granted, in a judicial proceeding without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

(5) In any action or proceeding to enforce a provision of this act, a prevailing party who establishes a violation of this act shall recover reasonable attorney's fees.

(6) (a) The Attorney General shall bring an action to enforce compliance with this act.

(b) This act does not deny, impair, or otherwise affect any right or authority of the Attorney General, the State of Mississippi, or any agency, officer, or employee of the state, acting under any law other than this act, to institute or intervene in any proceeding.

**SECTION 6.** Section 27-7-17, Mississippi Code of 1972, is amended as follows:

27-7-17. In computing taxable income, there shall be allowed as deductions:

(1) **Business deductions.**

(a) **Business expenses.** All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; nonreimbursable traveling expenses incident to current employment, including a reasonable amount expended for meals and lodging while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he has no equity. Expense incurred in connection with earning and distributing nontaxable income is not an allowable deduction. Limitations on entertainment expenses shall conform to the provisions of the Internal Revenue Code of 1986. There shall also be allowed a deduction for expenses as provided in Section 41-137-51.

(b) **Interest.** All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of this article; provided, however, in the case of securities dealers, interest payments or accruals on loans, the proceeds which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated corporation may not be deducted unless an ordinary and necessary business purpose can be established to the satisfaction of the commissioner. For the purposes of this paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing

taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c) (3) (I).

(c) **Taxes.** Taxes paid or accrued within the taxable year, except state and federal income taxes, excise taxes based on or measured by net income, estate and inheritance taxes, gift taxes, cigar and cigarette taxes, gasoline taxes, and sales and use taxes unless incurred as an item of expense in a trade or business or in the production of taxable income. In the case of an individual, taxes permitted as an itemized deduction under the provisions of subsection (3) (a) of this section are to be claimed thereunder.

(d) **Business losses.**

(i) Losses sustained during the taxable year not compensated for by insurance or otherwise, if incurred in trade or business, or nonbusiness transactions entered into for profit.

(ii) Limitations on losses from passive activities and rental real estate shall conform to the provisions of the Internal Revenue Code of 1986.

(e) **Bad debts.** Losses from debts ascertained to be worthless and charged off during the taxable year, if sustained in the conduct of the regular trade or business of the taxpayer; provided, that such losses shall be allowed only when the taxpayer has reported as income, on the accrual basis, the amount of such debt or account.

(f) **Depreciation.** A reasonable allowance for exhaustion, wear and tear of property used in the trade or business, or rental property, and depreciation upon buildings based upon their reasonable value as of March 16, 1912, if acquired prior thereto, and upon cost if acquired subsequent to that date. In the case of new or used aircraft, equipment, engines, or other parts and tools used for aviation, allowance for bonus depreciation conforms with the federal bonus depreciation rates and reasonable allowance for depreciation under this section is no less than one hundred percent (100%).

(g) **Depletion.** In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, based upon cost including cost of development, not otherwise deducted, or fair market value as of March 16, 1912, if acquired prior to that date, such allowance to be made upon regulations prescribed by the commissioner, with the approval of the Governor.

(h) **Contributions or gifts.** Except as otherwise provided in paragraph (p) of this subsection or subsection (3) (a) of this section for individuals, contributions or gifts made by corporations within the taxable year to corporations, organizations, associations or institutions including Community Chest funds, foundations and trusts created solely and exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private stockholder or individual. This deduction shall be allowed in an amount not to exceed twenty percent (20%) of the net income. Such contributions or gifts shall be allowable as deductions on

to the limitations herein provided, in an amount equal to the actual market value of the contributions at the time the contribution is actually made and consummated.

(i) **Reserve funds - insurance companies.** In the case of insurance companies the net additions required by law to be made within the taxable year to reserve funds when such reserve funds are maintained for the purpose of liquidating policies at maturity.

(j) **Annuity income.** The sums, other than dividends, paid within the taxpayer year on policy or annuity contracts when such income has been included in gross income.

(k) **Contributions to employee pension plans.** Contributions made by an employer to a plan or a trust forming part of a pension plan, stock bonus plan, disability or death-benefit plan or profit-sharing plan of such employer for the exclusive benefit of some or all of his, their, or its employees, or their beneficiaries, shall be deductible from his, their, or its income only to the extent that, and for the taxable year in which, the contribution is deductible for federal income tax purposes under the Internal Revenue Code of 1986 and any other provisions of similar purport in the Internal Revenue Laws of the United States, and the rules, regulations, rulings and determinations promulgated thereunder, provided that:

(i) The plan or trust be irrevocable.

(ii) The plan or trust constitute a part of a pension plan, stock bonus plan, disability or death-benefit plan, or profit-sharing plan for the exclusive benefit of some or all of the employer's employees and/or officers, or their beneficiaries, for the purpose of distributing the corpus and income of the plan or trust to such employees and/or officers, or the beneficiaries.

(iii) No part of the corpus or income of the plan or trust can be used for purpose other than for the exclusive benefit of employees and/or officers, or their beneficiaries.

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.

(l) **Net operating loss carrybacks and carryovers.** A net operating loss for any taxable year ending after December 31, 1993, and taxable years thereafter, shall be a net operating loss carryback to each of the three (3) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the three (3) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover each of the fifteen (15) taxable years following the taxable year of the loss beginning with any taxable year after December 31, 1991.

For any taxable year ending after December 31, 1997, the period for net operating loss carrybacks and net operating loss carryovers shall be the same as those established by the Intern

A net operating loss for any taxable year ending after December 31, 2001, and taxable years thereafter, shall be a net operating loss carryback to each of the two (2) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the two (2) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the twenty (20) taxable years following the taxable year of the loss beginning with any taxable year after the taxable year of the loss.

The term "net operating loss," for the purposes of this paragraph, shall be the excess of the deductions allowed over the gross income; provided, however, the following deductions shall not be allowed in computing same:

- (i) No net operating loss deduction shall be allowed.
- (ii) No personal exemption deduction shall be allowed.
- (iii) Allowable deductions which are not attributable to taxpayer's trade or business shall be allowed only to the extent of the amount of gross income not derived from such trade or business.

Any taxpayer entitled to a carryback period as provided by this paragraph may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1991. The election shall be made in the manner prescribed by the Department of Revenue and shall be made by the due date, including extensions of time, for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. The election, once made for any taxable year, shall be irrevocable for that taxable year.

(m) **Amortization of pollution or environmental control facilities.** Allowance of deduction. Every taxpayer, at his election, shall be entitled to a deduction for pollution or environmental control facilities to the same extent as that allowed under the Internal Revenue Code and the rules, regulations, rulings and determinations promulgated thereunder.

(n) **Dividend distributions - real estate investment trusts.** "Real estate investment trust" (hereinafter referred to as REIT) shall have the meaning ascribed to such term in Section 856 of the federal Internal Revenue Code of 1986, as amended. A REIT is allowed a dividend distributed deduction if the dividend distributions meet the requirements of Section 857 or are otherwise deductible under Section 858 or 860, federal Internal Revenue Code of 1986, as amended. In addition:

(i) A dividend distributed deduction shall only be allowed for dividends paid by a publicly traded REIT. A qualified REIT subsidiary shall be allowed a dividend distributed deduction if its owner is a publicly traded REIT.

(ii) Income generated from real estate contributed or sold to a REIT by a shareholder or related party shall not give rise to a dividend distributed deduction, unless the shareholder or related party would have received the dividend distributed deduction under this



(iii) A holding corporation receiving a dividend from a REIT shall not be allowed the deduction in Section 27-7-15(4)(t).

(iv) Any REIT not allowed the dividend distributed deduction in the federal Internal Revenue Code of 1986, as amended, shall not be allowed a dividend distributed deduction under this chapter.

The commissioner is authorized to promulgate rules and regulations consistent with the provisions in Section 269 of the federal Internal Revenue Code of 1986, as amended, so as to prevent the evasion or avoidance of state income tax.

(o) **Contributions to college savings trust fund accounts.** Contributions or payments to a Mississippi Affordable College Savings Program account are deductible as provided under Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided under Section 37-155-17.

(p) **Contributions of human pharmaceutical products.** To the extent that a "major supplier" as defined in Section 27-13-13(2)(d) contributes human pharmaceutical products in excess of Two Hundred Fifty Million Dollars (\$250,000,000.00) as determined under Section 170 of the Internal Revenue Code, the charitable contribution limitation associated with those donations shall follow the federal limitation but cannot result in the Mississippi net income being reduced below zero.

(q) **Contributions to ABLE trust fund accounts.** Contributions or payments to a Mississippi Achieving a Better Life Experience (ABLE) Program account are deductible as provided under Section 43-28-13.

**(2) Restrictions on the deductibility of certain intangible expenses and interest expenses with a related member.**

(a) As used in this subsection (2):

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income under this chapter;

2. Expenses or losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

3. Royalty, patent, technical and copyright fees;

4. Licensing fees; and

5. Other similar expenses and costs.

(ii) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

(iii) "Interest expenses and cost" means amounts directly or indirectly allowed as

direct or indirect acquisition, maintenance, management, ownership, sale, exchange or disposition of intangible property.

(iv) "Related member" means an entity or person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in the Internal Revenue Code, or is an entity or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code.

(v) "Related entity" means:

1. A stockholder who is an individual or a member of the stockholder's family as defined in regulations prescribed by the commissioner, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least fifty percent (50%) of the value of the corporation's outstanding stock under regulation prescribed by the commissioner;

4. Any entity or person which would be a related member under this section if the taxpayer were considered a corporation for purposes of this section.

(b) In computing net income, a taxpayer shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued to or incurred, in connection directly or indirectly with one or more direct or indirect transactions with one or more related members.

(c) The adjustments required by this subsection shall not apply to such portion of interest expenses and costs and intangible expenses and costs that the taxpayer can establish meet one (1) of the following:

(i) The related member directly or indirectly paid, accrued or incurred such portion to a person during the same income year who is not a related member; or

(ii) The transaction giving rise to the interest expenses and costs or intangible expenses and costs between the taxpayer and related member was done primarily for a valid business purpose other than the avoidance of taxes, and the related member is not primarily engaged in the acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property.

taxpayer pays, accrues or incurs to a related member.

(e) The commissioner may prescribe such regulations as necessary or appropriate to carry out the purposes of this subsection, including, but not limited to, clarifying definitions of terms, rules of stock attribution, factoring and discount transactions.

(3) **Individual nonbusiness deductions.**

(a) The amount allowable for individual nonbusiness itemized deductions for federal income tax purposes where the individual is eligible to elect, for the taxable year, to itemize deductions on his federal return except the following:

(i) The deduction for state income taxes paid or other taxes allowed for federal purposes in lieu of state income taxes paid;

(ii) The deduction for gaming losses from gaming establishments;

(iii) The deduction for taxes collected by licensed gaming establishments pursuant to Section 27-7-901;

(iv) The deduction for taxes collected by gaming establishments pursuant to Section 27-7-903 \* \* \*; and

(v) The deduction for medical expenses for the provision of gender transition procedures as defined in Section 2 of this act.

(b) In lieu of the individual nonbusiness itemized deductions authorized in paragraph (a), for all purposes other than ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, an optional standard deduction of:

(i) Three Thousand Four Hundred Dollars (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand Six Hundred Dollars (\$4,600.00) for each calendar year thereafter in the case of married individuals filing a joint or combined return;

(ii) One Thousand Seven Hundred Dollars (\$1,700.00) through calendar year 1997, Two Thousand One Hundred Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand Three Hundred Dollars (\$2,300.00) for each calendar year thereafter in the case of married individuals filing separate returns;

(iii) Three Thousand Four Hundred Dollars (\$3,400.00) in the case of a head of family; or

(iv) Two Thousand Three Hundred Dollars (\$2,300.00) in the case of an individual who is not married.

In the case of a husband and wife living together, having separate incomes, and filing combined returns, the standard deduction authorized may be divided in any manner they choose. In the case of separate returns by a husband and wife, the standard deduction shall not be allowed to either if the taxable income of one of the spouses is determined without regard to the standard deduction.

nonresident individual is entitled only to that proportion of the individual nonbusiness deduction as his net income from sources within the State of Mississippi bears to his total or entire net income from all sources.

(4) Nothing in this section shall permit the same item to be deducted more than once, either in fact or in effect.

(5) Notwithstanding any other provision in Title 27, Mississippi Code of 1972, there shall be allowed an income tax deduction for otherwise deductible expenses if:

(a) The payment(s) for such deductible expenses are made with the grant or loan program of the Paycheck Protection Program as authorized under (i) the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan Program, (iii) the 2020 COVID-19 Mississippi Business Assistance Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered Venue Operators Grant Program and Restaurant Revitalization Fund authorized by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, and amended by the federal American Rescue Plan Act, and/or (vi) the Mississippi Agriculture Stabilization Act; and

(b) Such deductible expenses shall be allowed as deductions for federal income tax purposes.

**SECTION 7.** The following shall be codified as Section 43-13-117.7, Mississippi Code of 1972 43-13-117.7. Notwithstanding any other provisions of Section 43-13-117, the division shall not reimburse or provide coverage for gender transition procedures for a person under eighteen (18) years of age. As used in this section, the term "gender transition procedures" means the same as defined in Section 2 of this act.

**SECTION 8.** Section 73-15-29, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(d) Has had a license or privilege to practice as a registered nurse or a licensed practical nurse suspended or revoked in any jurisdiction, has voluntarily surrendered such license or privilege to practice in any jurisdiction, has been placed on probation as a registered nurse

of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action);

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

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

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

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

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

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

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

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

(m) Has violated any provision of this article; \* \* \*

(n) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025 \* \* \*; or

(o) Violation(s) of any provision of Sections 1 through 6 of this act.

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

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

(b) Administering a reprimand;

(c) Suspending or restricting the license or other authorization to practice as a registered nurse or licensed practical nurse for up to two (2) years without review;

(d) Revoking the license or other authorization to practice nursing or practical nursing;

(e) Requiring the discipline to submit to care, counseling or treatment by persons and/or agencies approved or designated by the board as a condition for initial, continued or renewed licensure or other authorization to practice nursing or practical nursing;

practice;

(g) Requiring the discipline to practice under the supervision of a registered nurse for a specified period of time; or

(h) Imposing a fine not to exceed Five Hundred Dollars (\$500.00).

(3) In addition to the grounds specified in subsection (1) of this section, the board shall be authorized to suspend the license or privilege to practice 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 or privilege to practice for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license or privilege to practice 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 article, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

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

(5) The board may establish by rule an alternative to discipline program for licensees who have an impairment as a result of substance abuse or a mental health condition, which program shall include at least the following components:

(a) Participation in the program is voluntary with the licensee, and the licensee must enter the program before the board holds a disciplinary action hearing regarding the licensee;

(b) The full cost of participation in the program, including the cost of any care, counseling, treatment and/or education received by the licensee, shall be borne by the licensee;

(c) All of the procedures and records regarding the licensee's participation in the program shall be confidential, shall not be disclosed and shall be exempt from the provisions of the Mississippi Public Records Act of 1983; and

(d) A licensee may not participate in the program more often than one (1) time during any period of five (5) years or such longer period as set by the board.

(6) A nurse practitioner who provides a written certification as authorized under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder shall not be subject to any disciplinary action under this section solely due to providing the written certification.

**SECTION 9.** Section 73-25-29, Mississippi Code of 1972, is amended as follows:

73-25-29. The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

(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 of 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

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.

(16) Performing an abortion on a pregnant woman after determining that the unborn human individual that the pregnant woman is carrying has a detectable fetal heartbeat as provided in Section 41-41-34.1.

(17) Violation(s) of any provision of Sections 1 through 6 of this act.

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.

A physician who provides a written certification as authorized under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder shall not be subject



73-25-33. (1) 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.

(2) The practice of medicine shall not mean to provide gender transition procedures for any person under eighteen (18) years of age; or

(3) For purposes of this section, "gender transition procedures" means the same as defined Section 2 of this act.

**SECTION 11.** Section 83-9-22, Mississippi Code of 1972, is amended as follows:

83-9-22. (1) (a) Notwithstanding any other provision of the law to the contrary, except as otherwise provided in subsections (3) and (4) of this section, no health coverage plan shall restrict coverage for medically appropriate treatment prescribed by a physician and agreed to by a fully informed insured, or if the insured lacks legal capacity to consent by a person who has legal authority to consent on his or her behalf, based on an insured's diagnosis with a terminal condition. Refusing to pay for treatment rendered to an insured near the end of life that is consistent with best practices for treatment of a disease or condition, approved uses of a drug or device, or uses supported by peer reviewed medical literature, is a per se violation of this section.

(b) Violations of this section shall constitute an unfair trade practice and subject to violator to the penalties provided by law.

(c) As used in this section "terminal condition" means any aggressive malignancy, chronic end-stage cardiovascular or cerebral vascular disease, or any other disease, illness or condition which a physician diagnoses as terminal.

(d) As used in this section, a "health coverage plan" shall mean any hospital, health medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, contract or agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan and the State Health and Life Insurance Plan.

(2) (a) Notwithstanding any other provision of the law to the contrary, no health benefit paid directly or indirectly with state funds, specifically Medicaid, shall restrict coverage for medically appropriate treatment prescribed by a physician and agreed to by a fully informed individual, or if the individual lacks legal capacity to consent by a person who has legal authority to consent on his or her behalf, based on an individual's diagnosis with a terminal condition.

device, or uses supported by peer reviewed medical literature, is a per se violation of this section.

(c) As used in this section "terminal condition" means any aggressive malignancy, chronic end-stage cardiovascular or cerebral vascular disease, or any other disease, illness or condition which a physician diagnoses as terminal.

(3) This section does not require a health coverage plan to cover and pay for the treatment of a person who is a cardholder and registered qualifying patient with medical cannabis that is lawful under the Mississippi Medical Cannabis Act and in compliance with rules and regulations adopted thereunder.

(4) This section does not require a health coverage plan to provide coverage for gender transition procedures for a person under eighteen (18) years of age. As used in this section, the term "gender transition procedures" means the same as defined in Section 2 of this act.

**SECTION 12.** The following shall be codified as Section 83-9-37, Mississippi Code of 1972:

83-9-37. (1) As used in this section, the term "gender transition procedures" means the same as defined in Section 2 of this act.

(2) A health benefit plan under an insurance policy or other plan providing health care coverage in this state shall not include reimbursement for gender transition procedures for a person under eighteen (18) years of age.

(3) A health benefit plan under an insurance policy or other plan providing health care coverage in this state is not required to provide coverage for gender transition procedures for a person under eighteen (18) years of age.

**SECTION 13.** Section 11-46-5, Mississippi Code of 1972, is amended as follows:

11-46-5. (1) Notwithstanding the immunity granted in Section 11-46-3, or the provisions of any other law to the contrary, the immunity of the state and its political subdivisions from claim for money damages arising out of the torts of such governmental entities and the torts of their employees while acting within the course and scope of their employment is hereby waived from and after July 1, 1993, as to the state, and from and after October 1, 1993, as to political subdivisions; provided, however, immunity of a governmental entity in any such case shall be waived only to the extent of the maximum amount of liability provided for in Section 11-46-15.

(2) For the purposes of this chapter an employee shall not be considered as acting within the course and scope of his employment and a governmental entity shall not be liable or be considered to have waived immunity for any conduct of its employee if the employee's conduct constituted fraud, malice, libel, slander, defamation or any criminal offense other than traffic violations.

(3) For the purposes of this chapter and not otherwise, it shall be a rebuttable presumption that any act or omission of an employee within the time and at the place of his employment is within the course and scope of his employment, except for actions described in subsection (2) of Section 73-25-33 and subsection (5) of this section.

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(5) For purposes of this chapter, an employee shall not be considered as acting within the course and scope of his or her employment and a governmental entity shall be liable or be considered to have waived immunity for any conduct of its employee if the employee's conduct constituted a violation of this act.

**SECTION 14.** Section 41-41-219, Mississippi Code of 1972, is amended as follows:

41-41-219. (1) Except as otherwise provided in this act, a health care provider or institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(a) Complying with a health care decision of a person apparently having authority to make a health care decision for a patient, including a decision to withhold or withdraw health care;

(b) Declining to comply with a health care decision of a person based on a belief that the person then lacked authority; or

(c) Complying with an advance health care directive and assuming that the directive was valid when made and has not been revoked or terminated.

(2) An individual acting as agent or surrogate under Sections 41-41-201 through 41-41-229 is not subject to civil or criminal liability or to discipline for unprofessional conduct for health care decisions made in good faith.

**SECTION 15.** If any section, paragraph, sentence, clause, phrase or any part of this act passed on or after the effective date of this act is declared to be unconstitutional or void, or for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts of this act shall be in no manner affected thereby but shall remain in full force and effect.

Unless the contrary intent shall clearly appear in the particular act in question, each and every act passed hereafter shall be read and construed as though the provisions of the first paragraph of this section form an integral part thereof, whether expressly set out therein or not.

**SECTION 16.** This act shall take effect and be in force from and after its passage.

