

By: Moody

To: Public Health and  
WelfareHOUSE BILL NO. 848  
(As Sent to Governor)

1 AN ACT RELATING TO THE MISSISSIPPI DENTAL PRACTICE ACT; TO  
2 AMEND SECTION 73-9-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
3 DEFINITION OF THE PRACTICE OF DENTISTRY; TO AMEND SECTION 73-9-5,  
4 MISSISSIPPI CODE OF 1972, TO FURTHER DEFINE THE PRACTICE OF DENTAL  
5 HYGIENE; TO AMEND SECTION 73-9-7, MISSISSIPPI CODE OF 1972, TO  
6 PROVIDE THAT THE ANNUAL BALLOTING PROCESS FOR LICENSED DENTAL  
7 HYGIENISTS IS CONSISTENT WITH THAT FOR LICENSED DENTISTS; TO AMEND  
8 SECTION 73-9-23, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR CERTAIN  
9 REQUIREMENTS FOR A DENTAL OR DENTAL HYGIENE LICENSE BY EXAMINATION  
10 WHEN APPLICANTS ARE GRADUATES FROM UNACCREDITED SCHOOLS; TO AMEND  
11 SECTION 73-9-24, MISSISSIPPI CODE OF 1972, TO DEFINE THE CRITERIA  
12 FOR AN APPLICANT TO QUALIFY FOR A DENTAL OR DENTAL HYGIENE LICENSE  
13 BASED ON CREDENTIALS; TO AMEND SECTION 73-9-25, MISSISSIPPI CODE  
14 OF 1972, TO CLARIFY AUTHORITY OF THE MISSISSIPPI STATE BOARD OF  
15 DENTAL EXAMINERS TO SET THE DATE AND TIME TO ADMINISTER LICENSE  
16 EXAMINATIONS; TO AMEND SECTION 73-9-41, MISSISSIPPI CODE OF 1972,  
17 TO DEFINE THOSE ACTS BY UNLICENSED PERSONS WHICH ARE PROHIBITED  
18 AND TO AUTHORIZE THE MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS  
19 TO CONDUCT HEARINGS AND LEVY FINES IN CASES OF UNLICENSED PRACTICE  
20 OF DENTISTRY OR DENTAL HYGIENE; TO AMEND SECTION 73-9-43,  
21 MISSISSIPPI CODE OF 1972, TO INCREASE THE ANNUAL LICENSE RENEWAL  
22 FEE FOR DENTISTS AND TO PROVIDE THAT A PORTION OF THOSE FEES MAY  
23 BE USED TO SUPPORT A PROGRAM TO AID IMPAIRED LICENSEES; TO AMEND  
24 SECTION 73-9-61, MISSISSIPPI CODE OF 1972, TO CLARIFY THE GROUNDS  
25 UPON WHICH A DENTAL OR DENTAL HYGIENE LICENSE MAY BE DENIED,  
26 REVOKED, SUSPENDED OR OTHER DISCIPLINARY ACTION TAKEN; TO AMEND  
27 SECTION 73-9-63, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
28 PROCEDURES USED WHEN INITIATING DISCIPLINARY ACTION BEFORE THE  
29 DENTAL BOARD AND TO GRANT CERTAIN SUBPOENA POWERS; TO CODIFY THE  
30 MISSISSIPPI DISABLED DENTIST LAW; TO PROVIDE THAT NO STATE AGENCY  
31 THAT LICENSES HEALTH CARE PROVIDERS SHALL PROMULGATE OR ENFORCE  
32 ANY RULE OR REGULATION AFFECTING THE PRACTICE OF ITS LICENSEES  
33 THAT DOES NOT APPLY EQUALLY TO THE PRACTICE OF ALL OF ITS  
34 LICENSEES; AND FOR RELATED PURPOSES.

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

36 SECTION 1. Section 73-9-3, Mississippi Code of 1972, is  
37 amended as follows:[CR1]

38 73-9-3. "Dentistry" is defined as the evaluation, diagnosis,  
39 prevention and/or treatment (nonsurgical, surgical or related  
40 procedures) of diseases, disorders and/or conditions of the oral  
41 cavity, maxillofacial area and/or the adjacent and associated  
42 structures and their impact on the human body; provided by a

43 dentist, within the scope of his education, training and  
44 experience, in accordance with the ethics of the profession and  
45 applicable law, provided that nothing herein shall be so construed  
46 as to prevent:

47 1. The practice of his profession by a regularly  
48 licensed and registered physician under the laws of this state  
49 unless he practices dentistry as a specialty; or

50 2. The performance of mechanical work upon inanimate  
51 objects by persons working in dental offices under their  
52 supervision; or

53 3. The operation of a dental laboratory and taking work  
54 by written work authorization from regularly licensed and  
55 registered dentists as provided for elsewhere in this chapter; or

56 4. Dentists from outside the state from giving  
57 educational clinics or demonstrations before a dental society,  
58 convention or association; or

59 5. Licensed dentists from outside the state from being  
60 called into Mississippi by licensed dentists of this state for  
61 consultative or operative purposes when such consultative or  
62 operative purposes have been authorized or approved by the Board  
63 of Dental Examiners for specified periods of time or as provided  
64 for by rules and regulations set forth by the board; or

65 6. Applicants for license to practice dentistry in this  
66 state from working during examination by and under the supervision  
67 and direction of the Board of Dental Examiners; or

68 7. The practice of dentistry or of dental hygiene by  
69 students under the supervision of instructors in any dental  
70 school, college, or dental department of any school, college, or  
71 university, or school of dental hygiene recognized by the board,  
72 but such activities shall not be carried on for profit; or

73 8. Dental or dental hygiene students enrolled in  
74 accredited dental or dental hygiene schools from participating in  
75 off-site training recognized and approved by the board; or

76 9. A regularly licensed and registered dentist from the  
77 delegation of procedures to a regularly licensed and registered  
78 hygienist or other competent dental auxiliary personnel \* \* \*  
79 while acting under the direct supervision \* \* \* and full

80 responsibility of the dentist except as follows: Those procedures  
81 which require the professional judgment and skill of a dentist  
82 such as diagnosis, treatment planning, surgical procedures  
83 involving hard or soft tissues, or any intra-oral procedure of an  
84 irreversible nature which could result in injury to the patient.  
85 Provided, however, the dentist may delegate the removal of  
86 calcareous deposits only to a regularly licensed and registered  
87 dental hygienist as regulated by the State Board of Dental  
88 Examiners.

89 All dentists and dental hygienists serving as instructors,  
90 professors or residents, as provided for in subsections 7 and 8  
91 above, shall be required to be licensed by the Mississippi State  
92 Board of Dental Examiners.

93 SECTION 2. Section 73-9-5, Mississippi Code of 1972, is  
94 amended as follows:[CR2]

95 73-9-5. (1) For the purpose of this chapter, a dental  
96 hygienist shall be an individual who has completed an accredited  
97 dental hygiene education program, passed the national dental  
98 hygiene board and is licensed by the State Board of Dental  
99 Examiners to provide, as an auxiliary to the dentist, preventive  
100 care services including, but not limited to, scaling and  
101 polishing. In fulfilling these services, dental hygienists  
102 provide treatment that helps to prevent oral disease such as  
103 dental caries and periodontal disease and for educating patients  
104 in prevention of these and other dental problems.

105 (2) The work of dental hygienists and dental assistants  
106 while working in the office of a regularly licensed and registered  
107 dentist shall at all times be under the direct supervision \* \* \*  
108 of the dentist. Dental hygienists in the employ of the State  
109 Board of Health or public school boards shall be limited to only  
110 performing oral hygiene instruction and screening when under the  
111 general supervision and direction of regularly licensed and  
112 registered dentists. Dental hygienists recognized by the board of

113 dental examiners when making public demonstrations of dental  
114 hygiene for educational purposes shall be under the general  
115 supervision and direction of regularly licensed and registered  
116 dentists.

117 (3) The board of dental examiners may prohibit any dental  
118 hygienist or other auxiliary personnel from rendering service that  
119 it feels is not in the best interest of the public welfare.

120 SECTION 3. Section 73-9-7, Mississippi Code of 1972, is  
121 amended as follows:[CR3]

122 73-9-7. The duties of the Mississippi State Board of Dental  
123 Examiners, or "the board," \* \* \* shall be to carry out the  
124 purposes and provisions of the laws pertaining to the practice of  
125 dentistry and dental hygiene \* \* \*. The board shall consist of  
126 seven (7) regularly licensed, registered and practicing dentists,  
127 each a graduate of an accredited college of dentistry and each a  
128 regularly licensed, registered and practicing dentist within the  
129 State of Mississippi for a period of five (5) or more years next  
130 preceding his appointment. No dentist shall be eligible for  
131 appointment who is connected in any way with any school of  
132 dentistry or the dental supply business.

133 In addition, the board shall include one (1) \* \* \* member who  
134 shall be a regularly licensed, registered dental hygienist with at  
135 least five (5) years' practical experience. The dental hygienist  
136 member shall be appointed by the Governor from the state at large  
137 from a list of six (6) dental hygienists. Each of the dental  
138 hygienists listed shall be the dental hygienist receiving the  
139 highest number of votes in his or her individual district from a  
140 poll conducted and compiled by the board. The poll shall consist  
141 of a blank ballot with three (3) spaces for nomination provided to  
142 all licensed dental hygienists in the state by district. The  
143 dental hygienist member shall serve for a term of four (4) years  
144 and may succeed himself or herself in office. Any vacancy in the  
145 dental hygienist board membership shall be filled by the Governor

146 within sixty (60) days by appointment from the list of nominees  
147 submitted for the existing term of office. During the course of  
148 each calendar year, the board shall take like polls of all  
149 licensed dental hygienists practicing in the state, and shall  
150 prepare a new list of six (6) dental hygienists, such list to  
151 consist of the dental hygienist receiving the highest number of  
152 votes in each district, to be submitted to the Governor, which  
153 shall be used in the appointment of the dental hygienist member  
154 from the state at large. The terms of the dental hygienist member  
155 shall be computed from July 1, 1995.

156       Except as hereinafter provided, each member of the  
157 board \* \* \* shall hold office for the particular term of four (4)  
158 years to which he is appointed as differentiated and set out in  
159 this section and until his successor shall be duly appointed and  
160 qualified. Any appointment made to fill a vacancy or to replace  
161 an incumbent holding over shall terminate in accordance with the  
162 designation of the particular term as set out below and until his  
163 successor is duly appointed and qualified.

164       Except for the original appointments, the term of each of the  
165 seven (7) dentist appointees provided for herein shall be for a  
166 period of four (4) years and shall terminate on and after June  
167 30th of the year set out below for each appointive position:

168       Appointments one (1) and two (2) in 1964 and each fourth year  
169 thereafter; appointment three (3) in 1965 and each fourth year  
170 thereafter; appointment four (4) in 1966 and each fourth year  
171 thereafter; and appointments five (5) and six (6) in 1967 and each  
172 fourth year thereafter. Each subsequent appointment shall be made  
173 in chronological order of respective expiration dates; provided,  
174 however, that each appointee holding office at the time of passage  
175 of this chapter shall continue to serve until the expiration date  
176 of the period for which he was appointed, and appointment of such  
177 incumbent's successors shall be made in order of the expiration  
178 dates of their present commissions.

179           Upon July 1, 1982, the Governor shall appoint one (1) dentist  
180 member of the board from the state at large, with the advice and  
181 consent of the Senate.

182           Upon expiration of the term of office of any of the six (6)  
183 members of the board who are appointed from districts, the  
184 Governor shall appoint his successor from a list of names to be  
185 submitted as set out herein. From and after July 1, 1991, all  
186 appointments to the Mississippi State Board of Dental Examiners  
187 shall be with the advice and consent of the Senate.

188           As soon after passage of this chapter as feasible, the board  
189 shall poll all licensed dentists and dental hygienists in the  
190 state by dental district as follows:

191           Dental District One: Alcorn, Benton, Calhoun, Chickasaw,  
192 Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall,  
193 Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union,  
194 Webster;

195           Dental District Two: Bolivar, Carroll, Coahoma, DeSoto,  
196 Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery,  
197 Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica,  
198 Washington, Yalobusha, Yazoo;

199           Dental District Three: Attala, Clarke, Covington, Forrest,  
200 Jasper, Jones, Kemper, Lamar, Lauderdale, Leake, Neshoba, Newton,  
201 Noxubee, Perry, Scott, Smith, Wayne, Winston;

202           Dental District Four: Hinds, Madison, Rankin, Warren;

203           Dental District Five: George, Greene, Hancock, Harrison,  
204 Jackson, Pearl River, Stone;

205           Dental District Six: Adams, Amite, Claiborne, Copiah,  
206 Franklin, Jefferson Davis, Jefferson, Lawrence, Lincoln, Marion,  
207 Pike, Simpson, Walthall, Wilkinson;

208 and request the submission from each such dental district of three  
209 (3) nominations for appointment as members of the board. Thirty  
210 (30) days after submitting such request, the board shall list all  
211 nominations by district according to the number of votes each

212 received. The top three (3) names from each district shall then  
213 be considered as a list of names to be submitted to the Governor  
214 as referred to above each time a vacancy occurs in one (1) of the  
215 six (6) positions appointed from districts or whenever the  
216 Governor requests such submission. During the course of each  
217 calendar year, the board shall take like polls of all licensed  
218 dentists practicing in each dental district, and shall prepare new  
219 lists therefrom to be submitted to the Governor which shall be  
220 used in the appointment of the six (6) members appointed from  
221 districts.

222 It is the purpose of this section that no more than one (1)  
223 appointee of the six (6) members appointed from districts shall  
224 serve from any district at any one (1) time; provided, however,  
225 that the members serving on the effective date of this section  
226 shall continue until their term of office has expired. All  
227 subsequent appointments of the six (6) members appointed from  
228 districts shall be made in accordance with the provisions of this  
229 section, shall be designated by district, and shall be selected by  
230 district in accordance with the appropriate list submitted  
231 therefor. The names on the lists shall be given priority in  
232 accordance with the votes for each nominee. In case of a tie,  
233 such persons receiving tie votes shall have their names placed on  
234 the list even though it results in more than three (3) names on  
235 such list from that district.

236 The Secretary of State shall, at his discretion, at any time  
237 there is sufficient cause, investigate the method and procedure of  
238 taking such polls and establishing such lists, and the board shall  
239 make available to him all records involved therein; and if the  
240 Secretary of State should find cause therefor he may, upon  
241 specifying such cause, declare the list invalid, whereupon the  
242 board shall follow the procedure set out above to establish a new  
243 list. If a vacancy exists and no list is available, the Board of  
244 Dental Examiners is \* \* \* to follow the above-described procedure

245 in establishing a new list for the appropriate dental district.

246 A vote for an individual dentist or dental hygienist in all  
247 polls may be counted only once for each ballot no matter how many  
248 times the name is listed on the ballot.

249 SECTION 4. Section 73-9-23, Mississippi Code of 1972, is  
250 amended as follows:[CR4]

251 73-9-23. (1) No person who desires to practice dentistry or  
252 dental hygiene in the State of Mississippi shall be licensed until  
253 that person has passed an examination by the board. Applicants  
254 for examination shall apply in writing to the secretary of the  
255 board for an examination at least thirty (30) days prior to the  
256 examination and shall upon application pay a nonrefundable  
257 fee \* \* \* as elsewhere provided in this chapter.

258 (2) An applicant for licensure by examination \* \* \* as a  
259 dentist who is a graduate of a dental school accredited by the  
260 Commission on Accreditation of Dental and Dental Auxiliary  
261 Educational Programs of the American Dental Association (ADA),  
262 shall:

263 (a) \* \* \* Be of good moral character, be possessed of a  
264 high school education, and have attained the age of twenty-one  
265 (21) years; \* \* \*

266 (b) Exhibit with the application a diploma or  
267 certificate of graduation from the ADA accredited dental  
268 school \* \* \*; and

269 (c) Have successfully completed Parts I and II of the  
270 National Board of Examinations of the Joint Commission on National  
271 Dental Examinations, unless the applicant graduated from an  
272 approved dental school prior to 1960.

273 (3) An applicant for licensure by examination as a dentist  
274 who is a graduate of a non-ADA accredited foreign country dental  
275 school shall:

276 (a) \* \* \* Be of good moral character and have attained  
277 the age of twenty-one (21) years;



278 (b) Be proficient in oral and written communications in  
279 the English language;

280 (c) Have completed not less than six (6) academic years  
281 of postsecondary study and graduated from a foreign dental school  
282 which is recognized by the licensure authorities in that country;

283 (d) Have been licensed as a dentist or admitted to the  
284 practice of dentistry in the foreign country in which the  
285 applicant received foreign dental school training;

286 (e) Must present documentation of having completed at  
287 least two (2) or more years of full-time post-doctoral general  
288 dental education in a dental school accredited by the Commission  
289 on Accreditation of Dental and Dental Auxiliary Educational  
290 Programs of the American Dental Association, and has been  
291 certified by the dean of the accredited dental school as having  
292 achieved the same level of didactic and clinical competence as  
293 expected of a graduate of the school; and

294 (f) Have successfully completed Parts I and II of the  
295 National Board Examinations of the Joint Commission on National  
296 Dental Examinations, unless the applicant graduated from an  
297 approved dental school prior to 1960.

298 (4) An applicant for licensure by examination as a dental  
299 hygienist who is a graduate of a dental hygiene school accredited  
300 by the Commission on Accreditation of Dental and Dental Auxiliary  
301 Educational Programs of the American Dental Association (ADA)  
302 shall:

303 (a) \* \* \* Be of good moral character, be possessed of a  
304 high school education and have attained the age of eighteen (18)  
305 years; and

306 (b) Exhibit with the application a diploma or  
307 certificate of graduation from the ADA accredited dental hygiene  
308 school \* \* \*; and

309 (c) Have successfully completed the National Board  
310 Dental Hygiene Examinations by the Joint Commission on National

311 Dental Examinations.

312 (5) An applicant for licensure by examination as a dental  
313 hygienist who is a graduate of a non-ADA accredited foreign  
314 country dental hygiene school shall:

315 (a) \* \* \* Be of good moral character and have attained  
316 the age of eighteen (18) years;

317 (b) Be proficient in oral and written communications in  
318 the English language;

319 (c) Have completed not less than two (2) academic years  
320 of postsecondary study and graduated from a foreign dental hygiene  
321 school which is recognized by the licensure authorities in that  
322 country;

323 (d) Have been licensed as a dental hygienist or  
324 admitted to the practice of dental hygiene in the foreign country  
325 in which the applicant received foreign dental hygiene school  
326 training;

327 (e) Must present documentation of having completed at  
328 least one or more years of full-time post-graduate clinical  
329 education in a dental hygiene school accredited by the Commission  
330 on Accreditation of Dental and Dental Auxiliary Educational  
331 Programs of the American Dental Association, and has been  
332 certified by the dean of the accredited dental hygiene school as  
333 having achieved the same level of didactic and clinical competence  
334 as expected of a graduate of the school; and

335 (f) Have successfully completed the National  
336 Board \* \* \* Dental Hygiene Examinations by the Joint Commission on  
337 National Dental Examinations.

338 (6) Applications shall be made in the form and content as  
339 required in this section and as shall be prescribed by the board,  
340 and each applicant shall submit upon request such proof as the  
341 board may require as to age, character and qualifications.

342 Applications must be signed by two (2) \* \* \* citizens of the state  
343 of which the applicant is a resident, attesting under oath that

344 the applicant \* \* \* is of good moral character. All applicants  
345 for licensure shall submit an endorsement from all states in which  
346 he or she is currently licensed or has ever been licensed to  
347 practice dentistry or dental hygiene \* \* \*. The board may  
348 disallow the licensure examination to any applicant who has been  
349 found guilty of any of the grounds for disciplinary action as  
350 enumerated in Section 73-9-61.

351 (7) Examination shall be as elsewhere provided in this  
352 chapter and the board may by its rules and regulations prescribe  
353 reasonable professional standards for oral, written, clinical and  
354 other examinations given to applicants \* \* \*. Each applicant  
355 shall appear before the board and be examined to determine his or  
356 her learning and skill in dentistry or dental hygiene. If found  
357 by the members of the board conducting the examination to possess  
358 sufficient learning and skill therein and to be of good moral  
359 character, the board shall, as early as practicable, grant to such  
360 person a license to practice dentistry or dental hygiene, as the  
361 case may be, which shall be signed by each member of the board who  
362 attended the examination and approved the issuance of a license.

363 (8) The Board of Dental Examiners may, at its own  
364 discretion, accept certification of a licensure applicant, either  
365 dentist or dental hygienist, by the National Board of Dental  
366 Examiners in lieu of the written examination. However, in all  
367 such instances the board shall retain the right to administer such  
368 further practical examinations and demonstrations as it deems  
369 necessary.

370 (9) Each application or filing made under this section shall  
371 include the social security number(s) of the applicant in  
372 accordance with Section 93-11-64, Mississippi Code of 1972.

373 SECTION 5. Section 73-9-24, Mississippi Code of 1972, is  
374 amended as follows:[CR5]

375 73-9-24. (1) In addition to the method for obtaining a  
376 license to practice dentistry or dental hygiene by way of

377 examination as provided by Section 73-9-23, Mississippi Code of  
378 1972, the board, in its sole discretion, may grant a license to a  
379 candidate who meets the following criteria:

380 (a) Submit proof of graduation from a dental school or  
381 school of dental hygiene accredited by the Commission on  
382 Accreditation of Dental and Dental Auxiliary Educational Programs  
383 of the American Dental Association (ADA).

384 (b) Be engaged in the active practice of dentistry or  
385 dental hygiene or in full-time dental education or dental hygiene  
386 education for the past five (5) years;

387 (c) Currently hold a valid, unrestricted and unexpired  
388 license in a state whose standards for licensure are determined by  
389 the board as equivalent to Mississippi's standards, and which  
390 state grants reciprocity or licensure by credentials to licensees  
391 of the State of Mississippi;

392 (d) Provides an endorsement from all states in which he  
393 is currently licensed or has ever been licensed to practice  
394 dentistry or dental hygiene;

395 (e) Has not been the subject of pending or final  
396 disciplinary action in any state in which the applicant has been  
397 licensed;

398 (f) Is not the subject of a pending investigation in  
399 any other state or jurisdiction;

400 (g) Has not failed at any time within the past five (5)  
401 years, a licensure examination administered by another state or  
402 jurisdiction;

403 (h) Has not failed at any time, a licensure examination  
404 administered by the Mississippi State Board of Dental Examiners;

405 (i) Provides a written statement agreeing to appear for  
406 interviews at the request of the board;

407 (j) Has successfully completed all parts of the  
408 National Board of Examinations, unless the applicant graduated  
409 from an approved dental or dental hygiene school prior to 1960;

410           (k) Successfully passes a written jurisprudence  
411 examination;

412           (l) Provides payment of a nonrefundable application fee  
413 as provided in Section 73-9-43; and

414           (m) In addition, the State Board of Dental Examiners  
415 may consider the following in accepting, rejecting or denying an  
416 application for licensure by credentialing:

417                   (i) Information from the National Practitioner  
418 Data Bank and/or the American Association of Dental Examiners  
419 Clearinghouse for Disciplinary Information.

420                   (ii) Questioning under oath.

421                   (iii) Results of peer review reports from  
422 constituent societies and/or federal dental services.

423                   (iv) Substance abuse testing or treatment.

424                   (v) Background checks for criminal or fraudulent  
425 activities.

426                   (vi) Participation in Continuing Education.

427                   (vii) A current certificate in cardiopulmonary  
428 resuscitation.

429                   (viii) Recent patient case reports and/or oral  
430 defense of diagnosis and treatment plans.

431                   (ix) No physical or psychological impairment that  
432 would adversely affect the ability to deliver quality dental care.

433                   (x) Agreement to initiate practice in the  
434 credentialing jurisdiction within a reasonable period of time.

435                   (xi) Proof of professional liability coverage and  
436 that such coverage has not been refused, declined, canceled,  
437 nonrenewed or modified.

438                   (xii) Any additional information or documentation  
439 that the board may stipulate by rule or regulation as necessary to  
440 qualify for a license by credentialing.

441           (2) The board shall be granted sufficient time to conduct a  
442 complete inquiry into the applicant's qualifications for licensure

443 by credentials, and the board may adopt such rules and regulations  
444 pertaining to time needed to conduct investigations and  
445 responsibility of applicants to produce verifiable documentation.

446 (3) Any applicant failing to meet the criteria in subsection  
447 (1) above shall not be eligible for a license based on  
448 credentials. Upon meeting the criteria in subsection (1), the  
449 Mississippi State Board of Dental Examiners may, in its  
450 discretion, issue to the applicant a license to practice  
451 dentistry, or dental hygiene, unless grounds for denial of  
452 licensure exist as enumerated in Section 73-9-61. Evidence of  
453 falsification in the application for licensure through  
454 credentialing will result in revocation of such license.

455 (4) Any applicant applying for a specialty license by  
456 credentials must stay within his board recognized specialty and  
457 must practice only that specialty within the State of Mississippi.  
458 A specialty license holder must hold a general dentistry license  
459 prior to obtaining a specialty license.

460 SECTION 6. Section 73-9-25, Mississippi Code of 1972, is  
461 amended as follows:[CR6]

462 73-9-25. The regular meeting of the state board of dental  
463 examiners shall be held annually at such place, date and time as  
464 the board may determine in its discretion, for the purpose of  
465 examining applicants for license to practice dentistry and dental  
466 hygiene, and continue in session until all applicants for license  
467 have been examined and their examinations have been approved or  
468 disapproved. The board may meet more often if necessary, in the  
469 discretion of the board, at such times and places as it may deem  
470 proper for the examination of applicants who may wish to practice  
471 dentistry or dental hygiene in this state, to administer makeup  
472 examinations, or for the purpose of enforcing the dental laws of  
473 the state. \* \* \*

474 As far as practicable, all examinations, except as to  
475 character, shall be upon written questions. Examinations for

476 license to practice dentistry shall be upon the following  
477 subjects: anatomy, anesthesiology, biochemistry, community  
478 health, dental auxiliary utilization, dental materials science,  
479 diagnosis and treatment planning, embryology, endodontics, ethics,  
480 growth and development, history, hospital dental service, internal  
481 medicine, jurisprudence, microbiology, occlusion, operative  
482 dentistry, oral anatomy, oral and maxillofacial surgery,  
483 orthodontics and dentofacial orthopedics, oral and maxillofacial  
484 pathology, pediatric dentistry, pharmacology, physiology, practice  
485 administration, preventive dentistry, prosthodontics-fixed and  
486 removable, oral and maxillofacial radiology and roentgenology, as  
487 they pertain to dentistry, together with a practical examination  
488 in operative and mechanical dentistry. Examinations for license  
489 to practice dental hygiene shall cover the subjects taught in the  
490 recognized schools of dental hygiene together with such other  
491 subjects and practical demonstrations as the board may require.

492 The state shall furnish necessary equipment for the required  
493 practical examinations for dentists and dental hygienists, and  
494 properly house and care for same.

495 SECTION 7. Section 73-9-41, Mississippi Code of 1972, is  
496 amended as follows:[CR7]

497 73-9-41. (1) No person shall practice, attempt to practice  
498 or offer to practice dentistry or dental hygiene within the state  
499 without first having been authorized and issued a license by the  
500 board; nor shall any person practice, attempt to practice, or  
501 offer to practice dentistry or dental hygiene within the state  
502 during any period of suspension of his license by the board or  
503 after revocation by the board of any license theretofore issued to  
504 the offending person.

505 (2) A person not licensed to practice dentistry under the  
506 laws of this state shall not perform any act which would  
507 constitute the practice of dentistry or dental hygiene as defined  
508 in Sections 73-9-3 and 73-9-5, including, but not limited to, the

509 following: (a) take impressions or casts of the human mouth or  
510 teeth, (b) construct or supply dentures without the work  
511 authorization or prescription of a person licensed under the laws  
512 of this state to practice dentistry, and (c) construct or supply  
513 dentures from impressions or casts without the work authorization  
514 or prescription of a person licensed under the laws of this state  
515 to practice dentistry.

516 (3) The fact that any person engages in or performs or  
517 offers to engage in or performs any of the practices, acts or  
518 operations set forth in Section 73-9-3 or Section 73-9-5 is prima  
519 facie evidence that such a person is engaged in the practice of  
520 dentistry or dental hygiene.

521 (4) In addition to any other civil remedy or criminal  
522 penalty provided for by law, the executive director or the  
523 secretary of the board may issue a summons to appear before the  
524 board to any person or persons who the executive director or any  
525 member of the board has probable cause to believe has violated  
526 this section by practicing, attempting to practice, or offering to  
527 practice dentistry or dental hygiene without a current, valid  
528 license or permit and any necessary witnesses. The summons issued  
529 by the board shall command each person to whom it is directed to  
530 attend and give testimony at a time and place therein specified.  
531 The summons shall be served upon the individual personally or by  
532 any type of mailing requiring a return receipt and shall include a  
533 statement of the charges and an explanation of the manner in which  
534 the unlicensed person shall be required to respond to the board.

535 (5) In proceedings conducted pursuant to subsection (4)  
536 above, the board may levy for each and every violation a civil  
537 penalty upon any unlicensed person who after a hearing is found to  
538 have practiced dentistry or dental hygiene without the benefit of  
539 a current, valid license having been issued by the board pursuant  
540 to the provisions of this chapter, as follows:

541 (a) For the first violation, a monetary penalty of not



542 more than Five Hundred Dollars (\$500.00).

543 (b) For the second violation, a monetary penalty of not  
544 more than One Thousand Dollars (\$1,000.00).

545 (c) For the third and any subsequent violations, a  
546 monetary penalty of not more than Five Thousand Dollars  
547 (\$5,000.00).

548 (d) For any violation, the board may assess those  
549 reasonable costs that are expended by the board in the  
550 investigation and conduct of the hearing as provided in subsection  
551 (4) above, including, but not limited to, the cost of process  
552 service, court reporters, expert witnesses and other witness  
553 expenses paid by the board, and investigators. Appeals from the  
554 board's decision may be taken as provided in Section 73-9-65. Any  
555 monetary penalty or assessment levied under this section shall be  
556 paid to the board by the illegal practitioner upon the expiration  
557 of the period allowed for appealing such penalties or may be paid  
558 sooner if the illegal practitioner elects. Monetary penalties  
559 collected by the board under this section shall be deposited to  
560 the credit of the General Fund of the State Treasury. Any monies  
561 collected for assessment of costs by the board shall be deposited  
562 into the special fund of the board.

563 (6) No person practicing dentistry or dental hygiene without  
564 a current valid license or temporary permit shall have the right  
565 to receive any compensation for services so rendered. In addition  
566 to any other penalties imposed under this section, any person who  
567 practices dentistry or dental hygiene without a license shall  
568 return any fees collected for practicing dentistry or dental  
569 hygiene and shall be liable for any damages resulting from  
570 negligent conduct. The board or any patient shall have the right  
571 to enforce the obligation provided in this section.

572 SECTION 8. Section 73-9-43, Mississippi Code of 1972, is  
573 amended as follows:[CR8]

574 73-9-43. (1) The secretary shall collect in advance all

575 fees provided for in this chapter as established by the board, not  
576 to exceed:

577       Application for dental license.....\$ 600.00

578       Application for dental license through credentials...2,500.00

579       Application for dental specialty license.....400.00

580       \* \* \*

581       Application for dental institutional, teaching or provisional  
582 license.....600.00

583       Application for dental hygiene license.....400.00

584       Application for dental hygiene license through  
585 credentials.....750.00

586       Application for dental hygiene institutional,  
587 teaching, or provisional license.....400.00

588       Application for general anesthesia permit.....400.00

589       Application for I.V. sedation permit.....400.00

590       Application for radiology permit.....100.00

591       Annual dental license renewal.....300.00

592       Annual dental specialty license renewal.....100.00

593       \* \* \*

594       Annual dental institutional, teaching or provisional  
595 license renewal.....300.00

596       Annual dental hygiene license renewal.....150.00

597       Annual dental hygiene institutional, teaching, or  
598 provisional license renewal.....150.00

599       Annual general anesthesia \* \* \* permit renewal.....100.00

600       Annual I.V. sedation permit renewal.....100.00

601       Annual radiology permit renewal.....75.00

602       Penalty for delinquent renewal of dental licenses;  
603 dental specialty licenses; and dental institutional,  
604 teaching, and provisional licenses:

605       First month (plus annual renewal fee).....100.00

606       Second month (plus annual renewal fee).....150.00

607       Third month (plus annual renewal fee).....200.00

608	<u>Penalty for delinquent renewal of dental hygiene</u>	
609	<u>licenses and dental hygiene institutional, teaching,</u>	
610	<u>and provisional licenses:</u>	
611	<u>First month (plus annual renewal fee).....</u>	<u>50.00</u>
612	<u>Second month (plus annual renewal fee).....</u>	<u>75.00</u>
613	<u>Third month (plus annual renewal fee).....</u>	<u>100.00</u>
614	<u>Penalty for delinquent renewal of radiology permits:</u>	
615	<u>First month (plus annual renewal fee).....</u>	<u>45.00</u>
616	<u>Second month (plus annual renewal fee).....</u>	<u>65.00</u>
617	<u>Third month (plus annual renewal fee).....</u>	<u>75.00</u>
618	<u>Penalty for nonnotification of change of address.....</u>	<u>50.00</u>
619	<u>Penalty for duplicate renewal forms and</u>	
620	<u>certification cards.....</u>	<u>50.00</u>
621	<u>Duplicate or replacement license or permit.....</u>	<u>40.00</u>
622	<u>Certification of licensure status.....</u>	<u>40.00</u>
623	<u>Certified copy of license or permit.....</u>	<u>40.00</u>
624	<u>Handling fee for nonsufficient funds check.....</u>	<u>50.00</u>
625	<u>Requests for database information.....</u>	<u>300.00</u>
626	<u>Radiology examinations administered in board's</u>	
627	<u>office.....</u>	<u>100.00</u>
628	<u>Dental and dental hygiene licensure examination</u>	
629	<u>manuals.....</u>	<u>50.00</u>
630	<u>Dental and dental hygiene licensure by</u>	
631	<u>credentials packets.....</u>	<u>50.00</u>
632	<u>Laws and/or regulations.....</u>	<u>50.00</u>
633	<u>Disciplinary action orders.....</u>	<u>25.00</u>
634	<u>Newsletters.....</u>	<u>20.00</u>

635 The payment of annual dentist registration fees shall be  
636 optional with all dentists over the age of seventy (70) years.

637 (2) The board may enact and enforce for delinquency in  
638 payment for any fees set out in this section a penalty in addition  
639 to the fee of an amount up to but not in excess of the fee. An  
640 additional fee of an amount equal to the first penalty may be

641 assessed for each thirty (30) days, or part thereof, of  
642 delinquency. If any licensed and registered dentist or dental  
643 hygienist should be delinquent in payment of registration fees for  
644 a period as long as ninety (90) days, such person shall be  
645 presumed to be no longer practicing and shall be stricken from the  
646 rolls, and in order to practice his or her profession in this  
647 state thereafter may, at the discretion of the board, be  
648 considered as a new applicant and subject to examination and other  
649 licensing requirements as an original applicant.

650 (3) The secretary shall faithfully account for all monies  
651 received by the board. All fees and any other monies received by  
652 the board, except monetary penalties collected under Section  
653 73-9-61, shall be deposited in a special fund that is created in  
654 the State Treasury and shall be used for the implementation and  
655 administration of this chapter when appropriated by the  
656 Legislature for such purpose. The monies in the special fund  
657 shall be subject to all provisions of the state budget laws that  
658 are applicable to special fund agencies, and disbursements from  
659 the special fund shall be made by the State Treasurer only upon  
660 warrants issued by the State Fiscal Officer upon requisitions  
661 signed by the president, secretary or administrative officer of  
662 the board. Any interest earned on this special fund shall be  
663 credited by the State Treasurer to the fund and shall not be paid  
664 into the State General Fund. Any unexpended monies remaining in  
665 the special fund at the end of a fiscal year shall not lapse into  
666 the State General Fund.

667 (4) It shall be the duty of the State Auditor to audit the  
668 financial affairs of the board, the transactions involving the  
669 special fund and the books of the secretary of the board at least  
670 once a year in the same manner as for other special fund agencies,  
671 and at any time requested to do so by a majority of the board  
672 casting their vote for such audit and while in a lawfully called  
673 meeting. The report of the State Auditor shall be incorporated in

674 the minute book of the board.

675 (5) All fees collected from applicants, duplicate licenses,  
676 certificates of recommendation and certified copies of licenses  
677 shall be distributed among the members of the board in such  
678 proportion as to allow the secretary twice the remuneration each  
679 of the other seven (7) members receive as their compensation for  
680 examining applicants for licensure. Provided, however, that for  
681 examining applicants for licensure the secretary shall receive no  
682 more than Twenty-four Hundred Dollars (\$2400.00) per year and no  
683 other member shall receive more than Twelve Hundred Dollars  
684 (\$1200.00) per year. The receipt of said compensation shall not  
685 entitle members of the board to receive or be eligible for any  
686 state employee group insurance, retirement or other fringe  
687 benefits. Provided further, that any fees or income other than  
688 the maximum allowable for examining applicants for licensure as  
689 set out above shall be accounted for and may be used as needed in  
690 carrying out the provisions of this chapter.

691 (6) Fees collected from annual registration shall be used to  
692 maintain an office adequately staffed insofar as funds are  
693 available and provide other services as may be needed for carrying  
694 out the powers and duties of the board within the provisions of  
695 this chapter. Fees collected from annual registration shall also  
696 be used to pay the per diem and defray the expense of members of  
697 the board for attendance at meetings other than those for the  
698 purpose of examining applicants for licenses. In addition, a  
699 portion of the fee charged for annual dentist registration, annual  
700 specialty registration, annual dental hygienist registration, and  
701 annual institutional, teaching or provisional registration may be  
702 used to support a program to aid impaired dentists and/or dental  
703 hygienists. The payment of per diem and expense for attending  
704 said board meetings shall be in addition to the compensation  
705 permitted above for examining applicants for licensure, and the  
706 per diem shall not exceed the amount provided in Section 25-3-69.

707 SECTION 9. Section 73-9-61, Mississippi Code of 1972, is  
708 amended as follows:[CR9]

709 73-9-61. (1) Upon satisfactory proof, and in accordance  
710 with statutory provisions elsewhere set out for such hearings and  
711 protecting the rights of accused as well as the public, the State  
712 Board of Dental Examiners may deny the issuance or renewal of a  
713 license or may revoke or suspend the license of any licensed  
714 dentist or dental hygienist practicing in the State of  
715 Mississippi, or take any other action in relation to the license  
716 as the board may deem proper under the circumstances, for any of  
717 the following reasons:

718 (a) Misrepresentation in obtaining a license, or  
719 attempting to obtain, obtaining, attempting to renew or renewing a  
720 license or professional credential by making any material  
721 misrepresentation, including the signing in his professional  
722 capacity any certificate that is known to be false at the time he  
723 makes or signs such certificate.

724 (b) Willful violation of any of the rules or  
725 regulations duly promulgated by the board, or of any of the rules  
726 or regulations duly promulgated by the appropriate dental  
727 licensure agency of another state or jurisdiction.

728 (c) Being impaired in the ability to practice dentistry  
729 or dental hygiene with reasonable skill and safety to patients by  
730 reason of illness or use of alcohol, drugs, narcotics, chemicals,  
731 or any other type of material or as a result of any mental or  
732 physical condition.

733 (d) Administering, dispensing or prescribing any  
734 prescriptive medication or drug \* \* \* outside the course of  
735 legitimate professional dental practice.

736 (e) Being convicted or found guilty of or entering a  
737 plea of nolo contendere to, regardless of adjudication, a  
738 violation of any federal or state law regulating the possession,  
739 distribution or use of any narcotic drug or any drug considered a

740 controlled substance under state or federal law, a certified copy  
741 of the conviction order or judgment rendered by the trial court  
742 being prima facie evidence thereof, notwithstanding the pendency  
743 of any appeal.

744 (f) Practicing incompetently or negligently, regardless  
745 of whether there is actual harm to the patient.

746 (g) Being convicted or found guilty of or entering a  
747 plea of nolo contendere to, regardless of adjudication, a crime in  
748 any jurisdiction which relates to the practice of dentistry or  
749 dental hygiene, a certified copy of the conviction order or  
750 judgment rendered by the trial court being prima facie evidence  
751 thereof, notwithstanding the pendency of any appeal.

752 (h) Being convicted or found guilty of or entering a  
753 plea of nolo contendere to, regardless of adjudication, a felony  
754 in any jurisdiction, a certified copy of the conviction order or  
755 judgment rendered by the trial court being prima facie evidence  
756 thereof, notwithstanding the pendency of any appeal.

757 (i) Delegating professional responsibilities to a  
758 person who is not qualified by training, experience or licensure  
759 to perform them.

760 (j) The refusal of a licensing authority of another  
761 state or jurisdiction to issue or renew a license, permit or  
762 certificate to practice dentistry or dental hygiene in that  
763 jurisdiction or the revocation, suspension or other restriction  
764 imposed on a license, permit or certificate issued by such  
765 licensing authority which prevents or restricts practice in that  
766 jurisdiction, a certified copy of the disciplinary order or action  
767 taken by the other state or jurisdiction being prima facie  
768 evidence thereof, notwithstanding the pendency of any appeal.

769 (k) Surrender of a license or authorization to practice  
770 dentistry or dental hygiene in another state or jurisdiction when  
771 the board has reasonable cause to believe that the surrender is  
772 made to avoid or in anticipation of a disciplinary action.

773           (l) Any unprofessional conduct to be determined by the  
774 board on a case-by-case basis, which shall include but not be  
775 restricted to the following:

776                   (i) Committing any crime involving moral  
777 turpitude.

778                   (ii) Practicing deceit or other fraud upon the  
779 public.

780                   (iii) Practicing dentistry or dental hygiene under  
781 a false or assumed name.

782                   (iv) Advertising that is false, deceptive or  
783 misleading.

784                   (v) Announcing a specialized practice shall be  
785 considered advertising that tends to deceive or mislead the public  
786 unless the dentist announcing as a specialist conforms to other  
787 statutory provisions and the duly promulgated rules or regulations  
788 of the board pertaining to practice of dentistry in the State of  
789 Mississippi.

790       \* \* \*

791           (m) Failure to provide and maintain reasonable sanitary  
792 facilities and conditions or failure to follow board rules  
793 regarding infection control.

794           (n) Committing any act which would constitute sexual  
795 misconduct upon a patient or upon ancillary staff. For purposes  
796 of this subsection, the term sexual misconduct means:

797                   (i) Use of the licensee-patient relationship to  
798 engage or attempt to engage the patient in sexual activity; or

799                   (ii) Conduct of a licensee that is intended to  
800 intimidate, coerce, influence or trick any person employed by or  
801 for the licensee in a dental practice or educational setting for  
802 the purpose of engaging in sexual activity or activity intended  
803 for the sexual gratification of the licensee.

804           (o) Violation of a lawful order of the board previously  
805 entered in a disciplinary or licensure hearing; failure to



806 cooperate with any lawful request or investigation by the board;  
807 or failure to comply with a lawfully issued subpoena of the board.

808       (p) Willful, obstinate \* \* \* and continuing refusal to  
809 cooperate with the board in observing its rules and regulations in  
810 promptly paying all legal license or other fees required by law.

811       (q) Practicing dentistry or dental hygiene while such  
812 person's license is suspended.

813       (2) In lieu of revocation of a license as provided for  
814 above, the board may suspend the license of the offending dentist  
815 or dental hygienist, suspend the sedation permit of the offending  
816 dentist, or take any other action in relation to his license as  
817 the board may deem proper under the circumstances.

818       (3) When a license to practice dentistry or dental hygiene  
819 is revoked or suspended by the board, the board may, in its  
820 discretion, stay such revocation or suspension and simultaneously  
821 place the licensee on probation upon the condition that such  
822 licensee shall not violate the laws of the State of Mississippi  
823 pertaining to the practice of dentistry or dental hygiene and  
824 shall not violate the rules and regulations of the board and shall  
825 not violate any terms in relation to his license as may be set by  
826 the board.

827       (4) In a proceeding conducted under this section by the  
828 board for the denial, revocation or suspension of a license to  
829 practice dentistry or dental hygiene, the board shall have the  
830 power and authority for the grounds stated for such denial,  
831 revocation or suspension, and in addition thereto or in lieu of  
832 such denial, revocation or suspension may assess and levy upon any  
833 person licensed to practice dentistry or dental hygiene in the  
834 State of Mississippi, a monetary penalty, as follows:

835       (a) For the first violation of any of subparagraph (a),  
836 (b), (c), (d), \* \* \* (f), (i), (l), (m), (n), (o) or (q) of  
837 subsection (1) of this section, a monetary penalty of not less  
838 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars

839 (\$500.00).

840 (b) For the second violation of any of subparagraph  
841 (a), (b), (c), (d), \* \* \* (f), (i), (l), (m), (n), (o) or (q) of  
842 subsection (1) of this section, a monetary penalty of not less  
843 than One Hundred Dollars (\$100.00) nor more than One Thousand  
844 Dollars (\$1,000.00).

845 (c) For the third and any subsequent violation of any  
846 of subparagraph (a), (b), (c), (d), \* \* \* (f), (i), (l), (m), (n),  
847 (o) or (q) of subsection (1) of this section, a monetary penalty  
848 of not less than Five Hundred Dollars (\$500.00) and not more than  
849 Five Thousand Dollars (\$5,000.00).

850 (d) For any violation of any of subparagraphs (a)  
851 through (q) of subsection (1) of this section, those reasonable  
852 costs that are expended by the board in the investigation and  
853 conduct of a proceeding for licensure revocation or suspension,  
854 including but not limited to the cost of process service, court  
855 reporters, expert witnesses and investigators.

856 (5) The power and authority of the board to assess and levy  
857 such monetary penalties hereunder shall not be affected or  
858 diminished by any other proceeding, civil or criminal, concerning  
859 the same violation or violations except as provided in this  
860 section.

861 (6) A licensee shall have the right of appeal from the  
862 assessment and levy of a monetary penalty as provided in this  
863 section under the same conditions as a right of appeal is provided  
864 elsewhere for appeals from an adverse ruling, order or decision of  
865 the board.

866 (7) Any monetary penalty assessed and levied under this  
867 section shall not take effect until after the time for appeal  
868 shall have expired. In the event of an appeal, such appeal shall  
869 act as a supersedeas.

870 (8) A monetary penalty assessed and levied under this  
871 section shall be paid to the board by the licensee upon the

872 expiration of the period allowed for appeal of such penalties  
873 under this section or may be paid sooner if the licensee elects.  
874 With the exception of subsection (4)(d) of this section, monetary  
875 penalties collected by the board under this section shall be  
876 deposited to the credit of the General Fund of the State Treasury.

877 Any monies collected by the board under subsection (4)(d) of this  
878 section shall be deposited into the special fund operating account  
879 of the board.

880 (9) When payment of a monetary penalty assessed and levied  
881 by the board against a licensee in accordance with this section is  
882 not paid by the licensee when due under this section, the board  
883 shall have power to institute and maintain proceedings in its name  
884 for enforcement of payment in the chancery court of the county and  
885 judicial district of residence of the licensee, and if the  
886 licensee be a nonresident of the State of Mississippi, such  
887 proceedings shall be in the Chancery Court of the First Judicial  
888 District of Hinds County, Mississippi.

889 (10) In addition to the reasons specified in subsection (1)  
890 of this section, the board shall be authorized to suspend the  
891 license of any licensee for being out of compliance with an order  
892 for support, as defined in Section 93-11-153. The procedure for  
893 suspension of a license for being out of compliance with an order  
894 for support, and the procedure for the reissuance or reinstatement  
895 of a license suspended for that purpose, and the payment of any  
896 fees for the reissuance or reinstatement of a license suspended  
897 for that purpose, shall be governed by Section 93-11-157 or  
898 93-11-163, as the case may be. If there is any conflict between  
899 any provision of Section 93-11-157 or 93-11-163 and any provision  
900 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
901 as the case may be, shall control.

902 SECTION 10. Section 73-9-63, Mississippi Code of 1972, is  
903 amended as follows:[CR10]

904 73-9-63. A complaint may be filed with the secretary or

905 executive director of the board, \* \* \* by any person charging a  
906 licensed dentist or dental hygienist with the commission of any of  
907 the offenses enumerated in the preceding section. Such complaint  
908 shall be in writing and signed by the accuser, or accusers. If  
909 upon review of the complaint, the board determines that there is  
910 not substantial justification to believe that the accused dentist  
911 or dental hygienist has committed any of the offenses enumerated  
912 in the preceding section, it may dismiss the complaint \* \* \*. In  
913 the event of a dismissal, the person filing the complaint and the  
914 accused dentist or dental hygienist shall be given written notice  
915 of the board's determination. If the board determines there is  
916 reasonable cause to believe the accused has committed the  
917 offenses, and a hearing should be held to determine the validity  
918 of the complaint, the executive director of the board shall set a  
919 day for a hearing, and shall transmit to the accused a true copy  
920 of all papers filed with him, relating to such complaint, and  
921 shall notify the accused that on the day fixed for hearing he may  
922 appear and show cause if any why his or her license to practice  
923 dentistry or dental hygiene in the state should not be revoked or  
924 have other disciplinary action taken against it. The board may,  
925 by regulation, establish an investigative panel consisting of at  
926 least two (2) people, one (1) of whom shall be a board member, to  
927 review complaints to determine the existence of probable cause and  
928 whether such complaints should proceed to formal hearing.

929 Nothing in this section shall prevent the board from  
930 determining that it should investigate a licensee without a signed  
931 complaint provided that a prior determination is made that  
932 probable cause exists that a violation of this chapter may have  
933 occurred.

934 For the purpose of such hearings or investigation of  
935 complaints, the board \* \* \* is \* \* \* empowered to require the  
936 attendance of witnesses, reimburse witnesses for necessary  
937 expenses and mileage incurred \* \* \*, subpoena documents and

938 records, employ and compensate expert witnesses, administer oaths,  
939 and hear testimony, either oral or documentary, for and against  
940 the accused. \* \* \* Hearings shall be conducted by a majority of  
941 the members of the board. A record of the hearing shall be made  
942 which shall consist \* \* \* of all testimony received and all  
943 documents and other material introduced. If after such hearing  
944 the board shall be satisfied that the accused has been guilty of  
945 the offense charged in the accusation, it shall thereupon, without  
946 further notice, order such disciplinary action as it deems proper.

947 SECTION 11. Sections 11 through 19 of this act shall be  
948 known as the "Mississippi Disabled Dentist Law."

949 SECTION 12. The license of any dentist or dental hygienist  
950 in this state shall be subject to restriction, suspension or  
951 revocation, as hereinafter provided, in case of inability of the  
952 licensee to practice dentistry or dental hygiene with reasonable  
953 skill or safety to patients by reason of one or more of the  
954 following:

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

959 SECTION 13. (1) If the State Board of Dental Examiners has  
960 reasonable cause to believe that a dentist or dental hygienist  
961 licensed to practice dentistry or dental hygiene in this state is  
962 unable to practice with reasonable skill and safety to patients  
963 because of a condition described in Section 12, such board of  
964 dental examiners shall cause an examination of such dentist or  
965 dental hygienist to be made as described in subsection (2) of this  
966 section and shall, following such examination, take appropriate  
967 action within the provisions of Sections 11 through 19.

968 (2) Examination of a dentist or dental hygienist under this  
969 section shall be conducted by an examining committee designated by  
970 the board. Such examining committee shall be composed of at least

971 two (2) practicing dentists, three (3) practicing physicians, and  
972 shall include at least one (1) psychiatrist if a question of  
973 mental illness is involved.

974 SECTION 14. (1) The examining committee assigned to examine  
975 a dentist or dental hygienist pursuant to referral by the board  
976 under Section 13 shall conduct an examination of such dentist or  
977 dental hygienist for the purpose of determining his fitness to  
978 practice dentistry or dental hygiene with reasonable skill and  
979 safety to patients, either on a restricted or unrestricted basis,  
980 and shall report its findings and recommendations to the board.  
981 The committee shall order the dentist or dental hygienist to  
982 appear before the committee for examination and give him ten (10)  
983 days' notice of the time and place of the examination, together  
984 with a statement of the cause for such examination. Such notice  
985 shall be served upon the dentist or dental hygienist either  
986 personally or by registered or certified mail with return receipt  
987 requested.

988 (2) If the examining committee, in its discretion, should  
989 deem an independent mental or physical examination of the dentist  
990 or dental hygienist necessary to its determination of the fitness  
991 of the dentist or dental hygienist to practice, the committee  
992 shall order the dentist or dental hygienist to submit to such  
993 examination. Any person licensed to practice dentistry or dental  
994 hygiene in this state shall be deemed to have waived all  
995 objections to the admissibility of the examining committee's  
996 report in any proceedings before the board under Sections 11  
997 through 19 on the grounds of privileged communication. Any  
998 dentist or dental hygienist ordered to an examination before the  
999 committee under this subsection shall be entitled to an  
1000 independent mental or physical examination if he makes a request  
1001 therefor.

1002 (3) Any dentist or dental hygienist who submits to a  
1003 diagnostic mental or physical examination as ordered by the

1004 examining committee shall have a right to designate another  
1005 physician to be present at the examination and make an independent  
1006 report to the board.

1007 (4) Failure of a dentist or dental hygienist to comply with  
1008 a committee order under subsection (1) to appear before it for  
1009 examination or to submit to mental or physical examination under  
1010 subsection (2) shall be reported by the committee to the board,  
1011 and unless due to circumstances beyond the control of the dentist  
1012 or dental hygienist, shall be grounds for suspension by the board  
1013 of his license to practice dentistry or dental hygiene in this  
1014 state until such time as such dentist or dental hygienist has  
1015 complied with the order of the committee.

1016 (5) The examining committee may inspect patient records in  
1017 accordance with the rules and regulations duly promulgated by the  
1018 board of dental examiners.

1019 SECTION 15. A dentist or dental hygienist may request in  
1020 writing to the board a restriction of his license to practice  
1021 dentistry or dental hygiene. The board may grant such request for  
1022 restriction and shall have authority, if it deems appropriate, to  
1023 attach conditions to the licensure of the dentist or dental  
1024 hygienist to practice dentistry or dental hygiene within specified  
1025 limitations, and waive the commencement of any proceeding under  
1026 Section 17. Removal of a voluntary restriction on licensure to  
1027 practice dentistry or dental hygiene shall be subject to the  
1028 procedure for reinstatement of license in Section 18.

1029 SECTION 16. (1) The examining committee shall report to the  
1030 board its findings on the examination of the dentist or dental  
1031 hygienist under Section 14, the determination of the committee as  
1032 to the fitness of the dentist or dental hygienist to engage in the  
1033 practice of dentistry or dental hygiene with reasonable skill and  
1034 safety to patients, either on a restricted or unrestricted basis,  
1035 and any management that the committee may recommend. Such  
1036 recommendation by the committee shall be advisory only and shall

1037 not be binding on the board.

1038 (2) The board may accept or reject the recommendation of the  
1039 examining committee to permit a dentist or dental hygienist to  
1040 continue to practice with or without any restriction on his  
1041 license to practice dentistry or dental hygiene, or may refer the  
1042 matter back to the examining committee for further examination and  
1043 report thereon.

1044 (3) In the absence of a voluntary agreement by a dentist or  
1045 dental hygienist under Section 15 for restriction of the licensure  
1046 of such dentist or dental hygienist to practice dentistry or  
1047 dental hygiene, any dentist or dental hygienist shall be entitled  
1048 to a hearing in formal proceedings before the board and a  
1049 determination on the evidence as to whether or not restriction,  
1050 suspension or revocation of licensure shall be imposed.

1051 SECTION 17. (1) The board may proceed against a dentist or  
1052 dental hygienist under Sections 11 through 19 by serving upon such  
1053 dentist or dental hygienist at least fifteen (15) days' notice of  
1054 a time and place fixed for a hearing, together with copies of the  
1055 examining committee's report and diagnosis. Such notice and  
1056 reports shall be served upon the dentist or dental hygienist  
1057 either personally or by registered or certified mail with return  
1058 receipt requested.

1059 (2) At the hearing the dentist or dental hygienist shall  
1060 have the right to be present, to be represented by counsel, to  
1061 produce witnesses or evidence in his behalf, to cross-examine  
1062 witnesses, and to have subpoenas issued by the board.

1063 (3) At the conclusion of the hearing, the board shall make a  
1064 determination of the merits and may issue an order imposing one or  
1065 more of the following:

1066 (a) Make a recommendation that the dentist or dental  
1067 hygienist submit to the care, counseling or treatment by  
1068 physicians acceptable to the board.

1069 (b) Suspend or restrict the license to practice



1070 dentistry or dental hygiene for the duration of his impairment.

1071 (c) Revoke the license of the dentist or dental  
1072 hygienist.

1073 (4) The board may temporarily suspend the license of any  
1074 dentist or dental hygienist without a hearing, simultaneously with  
1075 the institution of proceedings for a hearing under this section,  
1076 if it finds that the evidence in support of the examining  
1077 committee's determination is clear, competent and unequivocal and  
1078 that his continuation in practice would constitute an imminent  
1079 danger to public health and safety.

1080 (5) Neither the record of the proceedings nor any order  
1081 entered against a dentist or dental hygienist may be used against  
1082 him in any other legal proceedings except upon judicial review as  
1083 provided herein.

1084 SECTION 18. (1) A dentist or dental hygienist whose  
1085 licensure has been restricted, suspended or revoked under Sections  
1086 11 through 17, voluntarily or by action of the board, shall have a  
1087 right, at reasonable intervals, to petition for reinstatement of  
1088 his license and to demonstrate that he can resume the competent  
1089 practice of dentistry or dental hygiene with reasonable skill and  
1090 safety to patients. Such petition shall be made in writing and on  
1091 a form prescribed by the board. Action of the board on such  
1092 petition shall be initiated by referral to and examination by the  
1093 examining committee pursuant to the provisions of Sections 13 and  
1094 14. The board may, upon written recommendation of the examining  
1095 committee, restore the licensure of the dentist or dental  
1096 hygienist on a general or limited basis or institute a proceeding  
1097 pursuant to Section 17 for the determination of the fitness of the  
1098 dentist or dental hygienist to resume his practice.

1099 (2) All orders of the board entered under Sections 17(3) and  
1100 17(4) shall be subject to judicial review by appeal to the  
1101 chancery court of the county of the residence of the dentist or  
1102 dental hygienist involved against whom the order is rendered,

1103 within thirty (30) days following the date of entry of the order,  
1104 the appeal to be taken and perfected in the same manner as  
1105 provided in Section 73-9-65.

1106 SECTION 19. There shall be no liability on the part of and  
1107 no action for damages against:

1108 (a) Any member of the examining committee or the board  
1109 for any action undertaken or performed by such member within the  
1110 scope of the functions of such committee or the board under  
1111 Sections 11 through 18 when acting without malice and in the  
1112 reasonable belief that the action taken by him is warranted; or

1113 (b) Any person providing information to the committee  
1114 or to the board without malice in the reasonable belief that such  
1115 information is accurate.

1116 SECTION 20. No state board or agency that licenses health  
1117 care providers shall promulgate or enforce any rule or regulation  
1118 affecting the practice of its licensees that does not apply  
1119 equally to the practice of all of its licensees. This section  
1120 applies to all rules and regulations promulgated and implemented  
1121 by those boards or agencies both before and after July 1, 2000.

1122 SECTION 21. This act shall take effect and be in force from  
1123 and after July 1, 2000.