

By: Huggins

To: Public Health and
WelfareCOMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2516

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 73-9-43, MISSISSIPPI CODE OF 1972,
17 TO INCREASE THE ANNUAL LICENSE RENEWAL FEE FOR DENTISTS AND TO
18 PROVIDE THAT A PORTION OF THOSE FEES MAY BE USED TO SUPPORT A
19 PROGRAM TO AID IMPAIRED LICENSEES; TO AMEND SECTION 73-9-61,
20 MISSISSIPPI CODE OF 1972, TO CLARIFY THE GROUNDS UPON WHICH A
21 DENTAL OR DENTAL HYGIENE LICENSE MAY BE DENIED, REVOKED, SUSPENDED
22 OR OTHER DISCIPLINARY ACTION TAKEN; TO AMEND SECTION 73-9-63,
23 MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROCEDURES USED WHEN
24 INITIATING DISCIPLINARY ACTION BEFORE THE DENTAL BOARD AND TO
25 GRANT CERTAIN SUBPOENA POWERS; TO CODIFY THE MISSISSIPPI DISABLED
26 DENTIST LAW; AND FOR RELATED PURPOSES.

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

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

30 73-9-3. "Dentistry" is defined as the evaluation, diagnosis,
31 prevention and/or treatment (nonsurgical, surgical or related
32 procedures) of diseases, disorders and/or conditions of the oral
33 cavity, maxillofacial area and/or the adjacent and associated
34 structures and their impact on the human body; provided by a
35 dentist, within the scope of his education, training and
36 experience, in accordance with the ethics of the profession and
37 applicable law, provided that nothing herein shall be so construed
38 as to prevent:

- 39 1. The practice of his profession by a regularly
40 licensed and registered physician under the laws of this state
41 unless he practices dentistry as a specialty; or
- 42 2. The performance of mechanical work upon inanimate
43 objects by persons working in dental offices under their
44 supervision; or
- 45 3. The operation of a dental laboratory and taking work
46 by written work authorization from regularly licensed and
47 registered dentists as provided for elsewhere in this chapter; or
- 48 4. Dentists from outside the state from giving
49 educational clinics or demonstrations before a dental society,
50 convention or association; or
- 51 5. Licensed dentists from outside the state from being
52 called into Mississippi by licensed dentists of this state for
53 consultative or operative purposes when such consultative or
54 operative purposes have been authorized or approved by the Board
55 of Dental Examiners for specified periods of time or as provided
56 for by rules and regulations set forth by the board; or
- 57 6. Applicants for license to practice dentistry in this
58 state from working during examination by and under the supervision
59 and direction of the Board of Dental Examiners; or
- 60 7. The practice of dentistry or of dental hygiene by
61 students under the supervision of instructors in any dental
62 school, college, or dental department of any school, college, or
63 university, or school of dental hygiene recognized by the board,
64 but such activities shall not be carried on for profit; or
- 65 8. Dental or dental hygiene students enrolled in
66 accredited dental or dental hygiene schools from participating in
67 off-site training recognized and approved by the board; or
- 68 9. A regularly licensed and registered dentist from the
69 delegation of procedures to a regularly licensed and registered
70 hygienist or other competent dental auxiliary personnel * * *
71 while acting under the direct supervision * * * and full

72 responsibility of the dentist except as follows: Those procedures
73 which require the professional judgment and skill of a dentist
74 such as diagnosis, treatment planning, surgical procedures
75 involving hard or soft tissues, or any intra-oral procedure of an
76 irreversible nature which could result in injury to the patient.
77 Provided, however, the dentist shall delegate the removal of
78 calcareous deposits only to a regularly licensed and registered
79 dental hygienist as regulated by the State Board of Dental
80 Examiners.

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

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

87 73-9-5. (1) For the purpose of this chapter, a dental
88 hygienist shall be an individual who has completed an accredited
89 dental hygiene education program, passed the national dental
90 hygiene board and is licensed by the State Board of Dental
91 Examiners to provide, as an auxiliary to the dentist, preventive
92 care services including, but not limited to, scaling and
93 polishing. In fulfilling these services, dental hygienists
94 provide treatment that helps to prevent oral disease such as
95 dental caries and periodontal disease and for educating patients
96 in prevention of these and other dental problems.

97 (2) The work of dental hygienists and dental assistants
98 while working in the office of a regularly licensed and registered
99 dentist shall at all times be under the direct supervision * * *
100 of the dentist. Dental hygienists in the employ of the State
101 Board of Health or public school boards shall be limited to only
102 performing oral hygiene instruction and screening when under the
103 general supervision and direction of regularly licensed and
104 registered dentists. Dental hygienists recognized by the board of

105 dental examiners when making public demonstrations of dental
106 hygiene for educational purposes shall be under the general
107 supervision and direction of regularly licensed and registered
108 dentists.

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

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

114 73-9-7. The duties of the Mississippi State Board of Dental
115 Examiners, or the board, * * * shall be to carry out the purposes
116 and provisions of the laws pertaining to the practice of dentistry
117 and dental hygiene * * *. The board shall consist of seven (7)
118 regularly licensed, registered and practicing dentists, each a
119 graduate of an accredited college of dentistry and each a
120 regularly licensed, registered and practicing dentist within the
121 State of Mississippi for a period of five (5) or more years next
122 preceding his appointment. No dentist shall be eligible for
123 appointment who is connected in any way with any school of
124 dentistry or the dental supply business.

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

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

148 Except as hereinafter provided, each member of the
149 board * * * shall hold office for the particular term of four (4)
150 years to which he is appointed as differentiated and set out in
151 this section and until his successor shall be duly appointed and
152 qualified. Any appointment made to fill a vacancy or to replace
153 an incumbent holding over shall terminate in accordance with the
154 designation of the particular term as set out below and until his
155 successor is duly appointed and qualified.

156 Except for the original appointments, the term of each of the
157 seven (7) dentist appointees provided for herein shall be for a
158 period of four (4) years and shall terminate on and after June
159 30th of the year set out below for each appointive position:

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

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

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

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

183 Dental District One: Alcorn, Benton, Calhoun, Chickasaw,
184 Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall,
185 Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union,
186 Webster;

187 Dental District Two: Bolivar, Carroll, Coahoma, DeSoto,
188 Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery,
189 Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica,
190 Washington, Yalobusha, Yazoo;

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

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

195 Dental District Five: George, Greene, Hancock, Harrison,
196 Jackson, Pearl River, Stone;

197 Dental District Six: Adams, Amite, Claiborne, Copiah,
198 Franklin, Jefferson Davis, Jefferson, Lawrence, Lincoln, Marion,
199 Pike, Simpson, Walthall, Wilkinson;

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

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

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

228 The Secretary of State shall, at his discretion, at any time
229 there is sufficient cause, investigate the method and procedure of
230 taking such polls and establishing such lists, and the board shall
231 make available to him all records involved therein; and if the
232 Secretary of State should find cause therefor he may, upon
233 specifying such cause, declare the list invalid, whereupon the
234 board shall follow the procedure set out above to establish a new
235 list. If a vacancy exists and no list is available, the Board of
236 Dental Examiners is * * * to follow the above-described procedure

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

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

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

243 73-9-23. (1) No person who desires to practice dentistry or
244 dental hygiene in the State of Mississippi shall be licensed until
245 that person has passed an examination by the board. Applicants
246 for examination shall apply in writing to the secretary of the
247 board for an examination at least thirty (30) days prior to the
248 examination and shall upon application pay a nonrefundable
249 fee * * * as elsewhere provided in this chapter.

250 (2) An applicant for licensure by examination * * * as a
251 dentist who is a graduate of a dental school accredited by the
252 Commission on Accreditation of Dental and Dental Auxiliary
253 Educational Programs of the American Dental Association (ADA),
254 shall:

255 (a) * * * Be of good moral character, be possessed of a
256 high school education, and have attained the age of twenty-one
257 (21) years; * * *

258 (b) Exhibit with the application a diploma or
259 certificate of graduation from the ADA accredited dental
260 school * * *; and

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

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

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

270 (b) Be proficient in oral and written communications in
271 the English language;

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

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

278 (e) Must present documentation of having completed at
279 least two (2) or more years of full-time post-doctoral general
280 dental education in a dental school accredited by the Commission
281 on Accreditation of Dental and Dental Auxiliary Educational
282 Programs of the American Dental Association, and has been
283 certified by the dean of the accredited dental school as having
284 achieved the same level of didactic and clinical competence as
285 expected of a graduate of the school; and

286 (f) Have successfully completed Parts I and II of the
287 National Board Examinations of the Joint Commission on National
288 Dental Examinations unless the applicant graduated from an
289 approved dental school prior to 1960.

290 (4) An applicant for licensure by examination as a dental
291 hygienist who is a graduate of a dental hygiene school accredited
292 by the Commission on Accreditation of Dental and Dental Auxiliary
293 Educational Programs of the American Dental Association (ADA)
294 shall:

295 (a) * * * Be of good moral character, be possessed of a
296 high school education and have attained the age of eighteen (18)
297 years; and

298 (b) Exhibit with the application a diploma or
299 certificate of graduation from the ADA accredited dental hygiene
300 school * * *; and

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

303 Dental Examinations.

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

307 (a) * * * Be of good moral character and have attained
308 the age of eighteen (18) years;

309 (b) Be proficient in oral and written communications in
310 the English language;

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

315 (d) Have been licensed as a dental hygienist or
316 admitted to the practice of dental hygiene in the foreign country
317 in which the applicant received foreign dental hygiene school
318 training;

319 (e) Must present documentation of having completed at
320 least one or more years of full-time post-graduate clinical
321 education in a dental hygiene school accredited by the Commission
322 on Accreditation of Dental and Dental Auxiliary Educational
323 Programs of the American Dental Association, and has been
324 certified by the dean of the accredited dental hygiene school as
325 having achieved the same level of didactic and clinical competence
326 as expected of a graduate of the school; and

327 (f) Have successfully completed the National Board
328 Dental Hygiene Examinations by the Joint Commission on National
329 Dental Examinations.

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

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

336 the applicant * * * is of good moral character. All applicants
337 for licensure shall submit an endorsement from all states in which
338 he or she is currently licensed or has ever been licensed to
339 practice dentistry or dental hygiene * * *. The board may
340 disallow the licensure examination to any applicant who has been
341 found guilty of any of the grounds for disciplinary action as
342 enumerated in Section 73-9-61.

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

355 (8) The Board of Dental Examiners may, at its own
356 discretion, accept certification of a licensure applicant, either
357 dentist or dental hygienist, by the National Board of Dental
358 Examiners in lieu of the written examination. However, in all
359 such instances the board shall retain the right to administer such
360 further practical examinations and demonstrations as it deems
361 necessary.

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

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

367 73-9-24. (1) In addition to the method for obtaining a
368 license to practice dentistry or dental hygiene by way of

369 examination as provided by Section 73-9-23, Mississippi Code of
370 1972, the board, in its sole discretion, may grant a license to a
371 candidate who meets the following criteria:

372 (a) Submit proof of graduation from a dental school or
373 school of dental hygiene accredited by the Commission on
374 Accreditation of Dental and Dental Auxiliary Educational Programs
375 of the American Dental Association (ADA).

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

379 (c) Currently hold a valid, unrestricted and unexpired
380 license in a state whose standards for licensure are determined by
381 the board as equivalent to Mississippi's standards, and which
382 state grants reciprocity or licensure by credentials to licensees
383 of the State of Mississippi;

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

387 (e) Has not been the subject of pending or final
388 disciplinary action in any state in which the applicant has been
389 licensed;

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

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

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

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

399 (j) Has successfully completed all parts of the
400 National Board of Examinations unless the applicant graduated from
401 an approved dental or dental hygiene school prior to 1960;

402 (k) Successfully passes a written jurisprudence
403 examination;

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

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

409 (i) Information from the National Practitioner
410 Data Bank and/or the American Association of Dental Examiners
411 Clearinghouse for Disciplinary Information.

412 (ii) Questioning under oath.

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

415 (iv) Substance abuse testing or treatment.

416 (v) Background checks for criminal or fraudulent
417 activities.

418 (vi) Participation in Continuing Education.

419 (vii) A current certificate in cardiopulmonary
420 resuscitation.

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

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

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

427 (xi) Proof of professional liability coverage and
428 that such coverage has not been refused, declined, canceled,
429 nonrenewed or modified.

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

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

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

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

447 (4) Any applicant applying for a specialty license by
448 credentials must stay within his board recognized specialty and
449 must practice only that specialty within the State of Mississippi.
450 A specialty license holder must hold a general dentistry license
451 prior to obtaining a specialty license.

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

454 73-9-25. The regular meeting of the state board of dental
455 examiners shall be held annually at such place, date and time as
456 the board may determine in its discretion, for the purpose of
457 examining applicants for license to practice dentistry and dental
458 hygiene, and continue in session until all applicants for license
459 have been examined and their examinations have been approved or
460 disapproved. Said board may meet more often if necessary, in the
461 discretion of the board, at such times and places as it may deem
462 proper for the examination of applicants who may wish to practice
463 dentistry or dental hygiene in this state, to administer makeup
464 examinations, or for the purpose of enforcing the dental laws of
465 the state. * * *

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

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

484 The state shall furnish necessary equipment for the required
485 practical examinations for dentists and dental hygienists, and
486 properly house and care for same.

487 SECTION 7. Section 73-9-43, Mississippi Code of 1972, is
488 amended as follows:[CR7]

489 73-9-43. (1) The secretary shall collect in advance all
490 fees provided for in this chapter as established by the board, not
491 to exceed:

492 Application for dental license.....\$ 600.00
493 Application for dental license through credentials...2,500.00
494 Application for dental specialty license.....400.00
495 * * *
496 Application for dental institutional, teaching or provisional
497 license.....600.00
498 Application for dental hygiene license.....400.00
499 Application for dental hygiene license through
500 credentials.....750.00

501	<u>Application for dental hygiene institutional,</u>	
502	<u>teaching, or provisional license.....</u>	<u>400.00</u>
503	Application for general anesthesia permit.....	<u>400.00</u>
504	Application for I.V. sedation permit.....	<u>400.00</u>
505	Application for radiology permit.....	<u>100.00</u>
506	Annual <u>dental license renewal</u>	<u>300.00</u>
507	Annual <u>dental specialty license renewal</u>	<u>100.00</u>
508	* * *	
509	Annual <u>dental institutional, teaching or provisional</u>	
510	<u>license renewal</u>	<u>300.00</u>
511	<u>Annual dental hygiene license renewal</u>	<u>150.00</u>
512	<u>Annual dental hygiene institutional, teaching, or</u>	
513	<u>provisional license renewal</u>	<u>150.00</u>
514	Annual <u>general anesthesia * * * permit renewal</u>	<u>100.00</u>
515	<u>Annual IV sedation permit renewal</u>	<u>100.00</u>
516	Annual radiology permit <u>renewal</u>	<u>75.00</u>
517	<u>Penalty for delinquent renewal of dental licenses;</u>	
518	<u>dental specialty licenses; and dental institutional,</u>	
519	<u>teaching, and provisional licenses:</u>	
520	<u>First month (plus annual renewal fee).....</u>	<u>100.00</u>
521	<u>Second month (plus annual renewal fee).....</u>	<u>150.00</u>
522	<u>Third month (plus annual renewal fee).....</u>	<u>200.00</u>
523	<u>Penalty for delinquent renewal of dental hygiene</u>	
524	<u>licenses and dental hygiene institutional, teaching,</u>	
525	<u>and provisional licenses:</u>	
526	<u>First month (plus annual renewal fee).....</u>	<u>50.00</u>
527	<u>Second month (plus annual renewal fee).....</u>	<u>75.00</u>
528	<u>Third month (plus annual renewal fee).....</u>	<u>100.00</u>
529	<u>Penalty for delinquent renewal of radiology permits:</u>	
530	<u>First month (plus annual renewal fee).....</u>	<u>45.00</u>
531	<u>Second month (plus annual renewal fee).....</u>	<u>65.00</u>
532	<u>Third month (plus annual renewal fee).....</u>	<u>75.00</u>
533	<u>Penalty for non-notification of change of address.....</u>	<u>50.00</u>

534	<u>Penalty for duplicate renewal forms and</u>	
535	<u>certification cards</u>	<u>50.00</u>
536	Duplicate <u>or replacement</u> license <u>or permit</u>	40.00
537	<u>Certification of licensure status</u>	40.00
538	Certified copy of license <u>or permit</u>	40.00
539	Handling fee for nonsufficient funds <u>check</u>	50.00
540	<u>Requests for database information</u>	<u>300.00</u>
541	<u>Radiology examinations administered in board's</u>	
542	<u>Office</u>	<u>100.00</u>
543	<u>Dental and dental hygiene licensure examination</u>	
544	<u>manuals</u>	<u>50.00</u>
545	<u>Dental and dental hygiene licensure by</u>	
546	<u>credentials packets</u>	<u>50.00</u>
547	<u>Laws and/or regulations</u>	<u>50.00</u>
548	<u>Disciplinary action orders</u>	<u>25.00</u>
549	<u>Newsletters</u>	<u>20.00</u>

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

552 (2) The board may enact and enforce for delinquency in
553 payment for any fees set out in this section a penalty in addition
554 to the fee of an amount up to but not in excess of the fee. An
555 additional fee of an amount equal to the first penalty may be
556 assessed for each thirty (30) days, or part thereof, of
557 delinquency. If any licensed and registered dentist or dental
558 hygienist should be delinquent in payment of registration fees for
559 a period as long as ninety (90) days, such person shall be
560 presumed to be no longer practicing and shall be stricken from the
561 rolls, and in order to practice his or her profession in this
562 state thereafter may, at the discretion of the board, be
563 considered as a new applicant and subject to examination and other
564 licensing requirements as an original applicant.

565 (3) The secretary shall faithfully account for all monies
566 received by the board. All fees and any other monies received by

567 the board, except monetary penalties collected under Section
568 73-9-61, shall be deposited in a special fund that is created in
569 the State Treasury and shall be used for the implementation and
570 administration of this chapter when appropriated by the
571 Legislature for such purpose. The monies in the special fund
572 shall be subject to all provisions of the state budget laws that
573 are applicable to special fund agencies, and disbursements from
574 the special fund shall be made by the State Treasurer only upon
575 warrants issued by the State Fiscal Officer upon requisitions
576 signed by the president, secretary or administrative officer of
577 the board. Any interest earned on this special fund shall be
578 credited by the State Treasurer to the fund and shall not be paid
579 into the State General Fund. Any unexpended monies remaining in
580 the special fund at the end of a fiscal year shall not lapse into
581 the State General Fund.

582 (4) It shall be the duty of the State Auditor to audit the
583 financial affairs of the board, the transactions involving the
584 special fund and the books of the secretary of the board at least
585 once a year in the same manner as for other special fund agencies,
586 and at any time requested to do so by a majority of the board
587 casting their vote for such audit and while in a lawfully called
588 meeting. The report of the State Auditor shall be incorporated in
589 the minute book of the board.

590 (5) All fees collected from applicants, duplicate licenses,
591 certificates of recommendation and certified copies of licenses
592 shall be distributed among the members of the board in such
593 proportion as to allow the secretary twice the remuneration each
594 of the other seven (7) members receive as their compensation for
595 examining applicants for licensure. Provided, however, that for
596 examining applicants for licensure the secretary shall receive no
597 more than Twenty-four Hundred Dollars (\$2400.00) per year and no
598 other member shall receive more than Twelve Hundred Dollars
599 (\$1200.00) per year. The receipt of said compensation shall not

600 entitle members of the board to receive or be eligible for any
601 state employee group insurance, retirement or other fringe
602 benefits. Provided further, that any fees or income other than
603 the maximum allowable for examining applicants for licensure as
604 set out above shall be accounted for and may be used as needed in
605 carrying out the provisions of this chapter.

606 (6) Fees collected from annual registration shall be used to
607 maintain an office adequately staffed insofar as funds are
608 available and provide other services as may be needed for carrying
609 out the powers and duties of the board within the provisions of
610 this chapter. Fees collected from annual registration shall also
611 be used to pay the per diem and defray the expense of members of
612 the board for attendance at meetings other than those for the
613 purpose of examining applicants for licenses. In addition, a
614 portion of the fee charged for annual dentist registration, annual
615 specialty registration, annual dental hygienist registration, and
616 annual institutional, teaching or provisional registration may be
617 used to support a program to aid impaired dentists and/or dental
618 hygienists. The payment of per diem and expense for attending
619 said board meetings shall be in addition to the compensation
620 permitted above for examining applicants for licensure, and the
621 per diem shall not exceed the amount provided in Section 25-3-69.

622 SECTION 8. Section 73-9-61, Mississippi Code of 1972, is
623 amended as follows:[CR8]

624 73-9-61. (1) Upon satisfactory proof, and in accordance
625 with statutory provisions elsewhere set out for such hearings and
626 protecting the rights of accused as well as the public, the State
627 Board of Dental Examiners may deny the issuance or renewal of a
628 license or may revoke or suspend the license of any licensed
629 dentist or dental hygienist practicing in the State of
630 Mississippi, or take any other action in relation to said license
631 as the board may deem proper under the circumstances, for any of
632 the following reasons:

633 (a) Misrepresentation in obtaining a license, or
634 attempting to obtain, obtaining, attempting to renew or renewing a
635 license or professional credential by making any material
636 misrepresentation, including the signing in his professional
637 capacity any certificate that is known to be false at the time he
638 makes or signs such certificate.

639 (b) Willful violation of any of the rules or
640 regulations duly promulgated by the board, or of any of the rules
641 or regulations duly promulgated by the appropriate dental
642 licensure agency of another state or jurisdiction.

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

648 (d) Administering, dispensing or prescribing any
649 prescriptive medication or drug * * * outside the course of
650 legitimate professional dental practice.

651 (e) Being convicted or found guilty of or entering a
652 plea of nolo contendere to, regardless of adjudication, a
653 violation of any federal or state law regulating the possession,
654 distribution or use of any narcotic drug or any drug considered a
655 controlled substance under state or federal law, a certified copy
656 of the conviction order or judgment rendered by the trial court
657 being prima facie evidence thereof, notwithstanding the pendency
658 of any appeal.

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

661 (g) Being convicted or found guilty of or entering a
662 plea of nolo contendere to, regardless of adjudication, a crime in
663 any jurisdiction which relates to the practice of dentistry or
664 dental hygiene, a certified copy of the conviction order or
665 judgment rendered by the trial court being prima facie evidence

666 thereof, notwithstanding the pendency of any appeal.

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

672 (i) Delegating professional responsibilities to a
673 person who is not qualified by training, experience or licensure
674 to perform them.

675 (j) The refusal of a licensing authority of another
676 state or jurisdiction to issue or renew a license, permit or
677 certificate to practice dentistry or dental hygiene in that
678 jurisdiction or the revocation, suspension or other restriction
679 imposed on a license, permit or certificate issued by such
680 licensing authority which prevents or restricts practice in that
681 jurisdiction, a certified copy of the disciplinary order or action
682 taken by the other state or jurisdiction being prima facie
683 evidence thereof, notwithstanding the pendency of any appeal.

684 (k) Surrender of a license or authorization to practice
685 dentistry or dental hygiene in another state or jurisdiction when
686 the board has reasonable cause to believe that said surrender is
687 made to avoid or in anticipation of a disciplinary action.

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

691 (i) Committing any crime involving moral
692 turpitude.

693 (ii) Practicing deceit or other fraud upon the
694 public.

695 (iii) Practicing dentistry or dental hygiene under
696 a false or assumed name.

697 (iv) Advertising that is false, deceptive or
698 misleading.

699 (v) Announcing a specialized practice shall be
700 considered advertising that tends to deceive or mislead the public
701 unless the dentist announcing as a specialist conforms to other
702 statutory provisions and the duly promulgated rules or regulations
703 of the board pertaining to practice of dentistry in the State of
704 Mississippi.

705 * * *

706 (m) Failure to provide and maintain reasonable sanitary
707 facilities and conditions or failure to follow board rules
708 regarding infection control.

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

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

714 (ii) Conduct of a licensee that is intended to
715 intimidate, coerce, influence or trick any person employed by or
716 for the licensee in a dental practice or educational setting for
717 the purpose of engaging in sexual activity or activity intended
718 for the sexual gratification of the licensee.

719 (o) Violation of a lawful order of the board previously
720 entered in a disciplinary or licensure hearing; failure to
721 cooperate with any lawful request or investigation by the board;
722 or failure to comply with a lawfully issued subpoena of the board.

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

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

728 (2) In lieu of revocation of a license as provided for
729 above, the board may suspend the license of the offending dentist
730 or dental hygienist, suspend the sedation permit of the offending
731 dentist, or take any other action in relation to his license as

732 the board may deem proper under the circumstances.

733 (3) When a license to practice dentistry or dental hygiene
734 is revoked or suspended by the board, the board may, in its
735 discretion, stay such revocation or suspension and simultaneously
736 place the licensee on probation upon the condition that such
737 licensee shall not violate the laws of the State of Mississippi
738 pertaining to the practice of dentistry or dental hygiene and
739 shall not violate the rules and regulations of the board and shall
740 not violate any terms in relation to his license as may be set by
741 the board.

742 (4) In a proceeding conducted under this section by the
743 board for the denial, revocation or suspension of a license to
744 practice dentistry or dental hygiene, the board shall have the
745 power and authority for the grounds stated for such denial,
746 revocation or suspension, and in addition thereto or in lieu of
747 such denial, revocation or suspension may assess and levy upon any
748 person licensed to practice dentistry or dental hygiene in the
749 State of Mississippi, a monetary penalty, as follows:

750 (a) For the first violation of any of subparagraph (a),
751 (b), (c), (d), * * * (f), (i), (l), (m), (n), (o) or (q) of
752 subsection (1) of this section, a monetary penalty of not less
753 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
754 (\$500.00).

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

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

765 (d) For any violation of any of subparagraphs (a)
766 through (g) of subsection (1) of this section, those reasonable
767 costs that are expended by the board in the investigation and
768 conduct of a proceeding for licensure revocation or suspension,
769 including but not limited to the cost of process service, court
770 reporters, expert witnesses and investigators.

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

776 (6) A licensee shall have the right of appeal from the
777 assessment and levy of a monetary penalty as provided in this
778 section under the same conditions as a right of appeal is provided
779 elsewhere for appeals from an adverse ruling, order or decision of
780 the board.

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

785 (8) A monetary penalty assessed and levied under this
786 section shall be paid to the board by the licensee upon the
787 expiration of the period allowed for appeal of such penalties
788 under this section or may be paid sooner if the licensee elects.
789 With the exception of subsection (4)(d) of this section, monetary
790 penalties collected by the board under this section shall be
791 deposited to the credit of the General Fund of the State Treasury.

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

795 (9) When payment of a monetary penalty assessed and levied
796 by the board against a licensee in accordance with this section is
797 not paid by the licensee when due under this section, the board

798 shall have power to institute and maintain proceedings in its name
799 for enforcement of payment in the chancery court of the county and
800 judicial district of residence of the licensee, and if the
801 licensee be a nonresident of the State of Mississippi, such
802 proceedings shall be in the Chancery Court of the First Judicial
803 District of Hinds County, Mississippi.

804 (10) In addition to the reasons specified in subsection (1)
805 of this section, the board shall be authorized to suspend the
806 license of any licensee for being out of compliance with an order
807 for support, as defined in Section 93-11-153. The procedure for
808 suspension of a license for being out of compliance with an order
809 for support, and the procedure for the reissuance or reinstatement
810 of a license suspended for that purpose, and the payment of any
811 fees for the reissuance or reinstatement of a license suspended
812 for that purpose, shall be governed by Section 93-11-157 or
813 93-11-163, as the case may be. If there is any conflict between
814 any provision of Section 93-11-157 or 93-11-163 and any provision
815 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
816 as the case may be, shall control.

817 SECTION 9. Section 73-9-63, Mississippi Code of 1972, is
818 amended as follows:[CR9]

819 73-9-63. A complaint may be filed with the secretary or
820 executive director of the board, * * * by any person charging a
821 licensed dentist or dental hygienist with the commission of any of
822 the offenses enumerated in the preceding section. Such complaint
823 shall be in writing and signed by the accuser, or accusers. If
824 upon review of the complaint, the board determines that there is
825 not substantial justification to believe that the accused dentist
826 or dental hygienist has committed any of the offenses enumerated
827 in the preceding section, it may dismiss the complaint * * *. In
828 the event of a dismissal, the person filing the complaint and the
829 accused dentist or dental hygienist shall be given written notice
830 of the board's determination. If the board determines there is

831 reasonable cause to believe the accused has committed said
832 offenses, and a hearing should be held to determine the validity
833 of the complaint, the executive director of the board shall set a
834 day for a hearing, and shall transmit to the accused a true copy
835 of all papers filed with him, relating to such complaint, and
836 shall notify the accused that on the day fixed for hearing he may
837 appear and show cause if any why his or her license to practice
838 dentistry or dental hygiene in the state should not be revoked or
839 have other disciplinary action taken against it. The board may,
840 by regulation, establish an investigative panel consisting of at
841 least two (2) people, one (1) of whom shall be a board member, to
842 review complaints to determine the existence of probable cause and
843 whether such complaints should proceed to formal hearing.

844 Nothing in this section shall prevent the board from
845 determining that it should investigate a licensee without a signed
846 complaint provided that a prior determination is made that
847 probable cause exists that a violation of this chapter may have
848 occurred.

849 For the purpose of such hearings or investigation of
850 complaints, the board * * * is hereby empowered to require the
851 attendance of witnesses, reimburse witnesses for necessary
852 expenses and mileage incurred * * *, subpoena documents and
853 records, employ and compensate expert witnesses, administer oaths,
854 and hear testimony, either oral or documentary, for and against
855 the accused. * * * Hearings shall be conducted by a majority of
856 the members of the board. A record of the hearing shall be made
857 which shall consist * * * of all testimony received and all
858 documents and other material introduced. If after such hearing
859 the board shall be satisfied that the accused has been guilty of
860 the offense charged in the accusation, it shall thereupon, without
861 further notice, order such disciplinary action as it deems proper.

862 SECTION 10. Sections 10 through 18 of this act shall be
863 known as the "Mississippi Disabled Dentist Law."

864 SECTION 11. The license of any dentist or dental hygienist
865 in this state shall be subject to restriction, suspension or
866 revocation, as hereinafter provided, in case of inability of the
867 licensee to practice dentistry or dental hygiene with reasonable
868 skill or safety to patients by reason of one or more of the
869 following:

870 (a) Mental illness;

871 (b) Physical illness, including, but not limited to,
872 deterioration through the aging process, or loss of motor skill;

873 (c) Excessive use or abuse of drugs, including alcohol.

874 SECTION 12. (1) If the State Board of Dental Examiners has
875 reasonable cause to believe that a dentist or dental hygienist
876 licensed to practice dentistry or dental hygiene in this state is
877 unable to practice with reasonable skill and safety to patients
878 because of a condition described in Section 11, such board of
879 dental examiners shall cause an examination of such dentist or
880 dental hygienist to be made as described in subsection (2) of this
881 section and shall, following such examination, take appropriate
882 action within the provisions of Sections 10 through 18.

883 (2) Examination of a dentist or dental hygienist under this
884 section shall be conducted by an examining committee designated by
885 the board. Such examining committee shall be composed of at least
886 two (2) practicing dentists, three (3) practicing physicians, and
887 shall include at least one (1) psychiatrist if a question of
888 mental illness is involved.

889 SECTION 13. (1) The examining committee assigned to examine
890 a dentist or dental hygienist pursuant to referral by the board
891 under Section 12 shall conduct an examination of such dentist or
892 dental hygienist for the purpose of determining his fitness to
893 practice dentistry or dental hygiene with reasonable skill and
894 safety to patients, either on a restricted or unrestricted basis,
895 and shall report its findings and recommendations to the board.
896 The committee shall order the dentist or dental hygienist to

897 appear before the committee for examination and give him ten (10)
898 days' notice of the time and place of the examination, together
899 with a statement of the cause for such examination. Such notice
900 shall be served upon the dentist or dental hygienist either
901 personally or by registered or certified mail with return receipt
902 requested.

903 (2) If the examining committee, in its discretion, should
904 deem an independent mental or physical examination of the dentist
905 or dental hygienist necessary to its determination of the fitness
906 of the dentist or dental hygienist to practice, the committee
907 shall order the dentist or dental hygienist to submit to such
908 examination. Any person licensed to practice dentistry or dental
909 hygiene in this state shall be deemed to have waived all
910 objections to the admissibility of the examining committee's
911 report in any proceedings before the board under Sections 10
912 through 18 on the grounds of privileged communication. Any
913 dentist or dental hygienist ordered to an examination before the
914 committee under this subsection shall be entitled to an
915 independent mental or physical examination if he makes a request
916 therefor.

917 (3) Any dentist or dental hygienist who submits to a
918 diagnostic mental or physical examination as ordered by the
919 examining committee shall have a right to designate another
920 physician to be present at the examination and make an independent
921 report to the board.

922 (4) Failure of a dentist or dental hygienist to comply with
923 a committee order under subsection (1) to appear before it for
924 examination or to submit to mental or physical examination under
925 subsection (2) shall be reported by the committee to the board,
926 and unless due to circumstances beyond the control of the dentist
927 or dental hygienist, shall be grounds for suspension by the board
928 of his license to practice dentistry or dental hygiene in this
929 state until such time as such dentist or dental hygienist has

930 complied with the order of the committee.

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

934 SECTION 14. A dentist or dental hygienist may request in
935 writing to the board a restriction of his license to practice
936 dentistry or dental hygiene. The board may grant such request for
937 restriction and shall have authority, if it deems appropriate, to
938 attach conditions to the licensure of the dentist or dental
939 hygienist to practice dentistry or dental hygiene within specified
940 limitations, and waive the commencement of any proceeding under
941 Section 16. Removal of a voluntary restriction on licensure to
942 practice dentistry or dental hygiene shall be subject to the
943 procedure for reinstatement of license in Section 17.

944 SECTION 15. (1) The examining committee shall report to the
945 board its findings on the examination of the dentist or dental
946 hygienist under Section 13, the determination of the committee as
947 to the fitness of the dentist or dental hygienist to engage in the
948 practice of dentistry or dental hygiene with reasonable skill and
949 safety to patients, either on a restricted or unrestricted basis,
950 and any management that the committee may recommend. Such
951 recommendation by the committee shall be advisory only and shall
952 not be binding on the board.

953 (2) The board may accept or reject the recommendation of the
954 examining committee to permit a dentist or dental hygienist to
955 continue to practice with or without any restriction on his
956 license to practice dentistry or dental hygiene, or may refer the
957 matter back to the examining committee for further examination and
958 report thereon.

959 (3) In the absence of a voluntary agreement by a dentist or
960 dental hygienist under Section 14 for restriction of the licensure
961 of such dentist or dental hygienist to practice dentistry or
962 dental hygiene, any dentist or dental hygienist shall be entitled

963 to a hearing in formal proceedings before the board and a
964 determination on the evidence as to whether or not restriction,
965 suspension or revocation of licensure shall be imposed.

966 SECTION 16. (1) The board may proceed against a dentist or
967 dental hygienist under Sections 10 through 18 by serving upon such
968 dentist or dental hygienist at least fifteen (15) days' notice of
969 a time and place fixed for a hearing, together with copies of the
970 examining committee's report and diagnosis. Such notice and
971 reports shall be served upon the dentist or dental hygienist
972 either personally or by registered or certified mail with return
973 receipt requested.

974 (2) At said hearing the dentist or dental hygienist shall
975 have the right to be present, to be represented by counsel, to
976 produce witnesses or evidence in his behalf, to cross-examine
977 witnesses, and to have subpoenas issued by the board.

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

981 (a) Make a recommendation that the dentist or dental
982 hygienist submit to the care, counseling or treatment by
983 physicians acceptable to the board.

984 (b) Suspend or restrict the license to practice
985 dentistry or dental hygiene for the duration of his impairment.

986 (c) Revoke the license of the dentist or dental
987 hygienist.

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

995 (5) Neither the record of the proceedings nor any order

996 entered against a dentist or dental hygienist may be used against
997 him in any other legal proceedings except upon judicial review as
998 provided herein.

999 SECTION 17. (1) A dentist or dental hygienist whose
1000 licensure has been restricted, suspended or revoked under Sections
1001 10 through 16, voluntarily or by action of the board, shall have a
1002 right, at reasonable intervals, to petition for reinstatement of
1003 his license and to demonstrate that he can resume the competent
1004 practice of dentistry or dental hygiene with reasonable skill and
1005 safety to patients. Such petition shall be made in writing and on
1006 a form prescribed by the board. Action of the board on such
1007 petition shall be initiated by referral to and examination by the
1008 examining committee pursuant to the provisions of Sections 12 and
1009 13. The board may, upon written recommendation of the examining
1010 committee, restore the licensure of the dentist or dental
1011 hygienist on a general or limited basis or institute a proceeding
1012 pursuant to Section 16 for the determination of the fitness of the
1013 dentist or dental hygienist to resume his practice.

1014 (2) All orders of the board entered under Section 16(3) and
1015 (4) shall be subject to judicial review by appeal to the chancery
1016 court of the county of the residence of the dentist or dental
1017 hygienist involved against whom the order is rendered, within
1018 thirty (30) days following the date of entry of the order, said
1019 appeal to be taken and perfected in the same manner as provided in
1020 Section 73-9-65.

1021 SECTION 18. There shall be no liability on the part of and
1022 no action for damages against:

1023 (a) Any member of the examining committee or the board
1024 for any action undertaken or performed by such member within the
1025 scope of the functions of such committee or the board under
1026 Sections 10 through 17 when acting without malice and in the
1027 reasonable belief that the action taken by him is warranted; or

1028 (b) Any person providing information to the committee

1029 or to the board without malice in the reasonable belief that such
1030 information is accurate.

1031 SECTION 19. This act shall take effect and be in force from
1032 and after July 1, 2000.