

By: Huggins

To: Public Health and
WelfareSENATE BILL NO. 2516
(As Passed the Senate)

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 (4) No state board that licenses health care providers shall
113 promulgate or enforce any rule or regulation that affects the
114 practice of its licensees which does not apply equally to the
115 practice of all its licensees. This provision applies to all
116 rules and regulations made and effected by such boards both prior
117 to and subsequent to the effective date of this act.

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

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

131 In addition, the board shall include one (1) * * * member who
132 shall be a regularly licensed, registered dental hygienist with at
133 least five (5) years' practical experience. The dental hygienist
134 member shall be appointed by the Governor from the state at large
135 from a list of six (6) dental hygienists. Each of the dental
136 hygienists listed shall be the dental hygienist receiving the
137 highest number of votes in his or her individual district from a

138 poll conducted and compiled by the board. The poll shall consist
139 of a blank ballot with three (3) spaces for nomination provided to
140 all licensed dental hygienists in the state by district. The
141 dental hygienist member shall serve for a term of four (4) years
142 and may succeed himself or herself in office. Any vacancy in the
143 dental hygienist board membership shall be filled by the Governor
144 within sixty (60) days by appointment from the list of nominees
145 submitted for the existing term of office. During the course of
146 each calendar year, the board shall take like polls of all
147 licensed dental hygienists practicing in the state, and shall
148 prepare a new list of six (6) dental hygienists, such list to
149 consist of the dental hygienist receiving the highest number of
150 votes in each district, to be submitted to the Governor which
151 shall be used in the appointment of the dental hygienist member
152 from the state at large. The terms of the dental hygienist member
153 shall be computed from July 1, 1995.

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

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

166 Appointments one (1) and two (2) in 1964 and each fourth year
167 thereafter; appointment three (3) in 1965 and each fourth year
168 thereafter; appointment four (4) in 1966 and each fourth year
169 thereafter; and appointments five (5) and six (6) in 1967 and each
170 fourth year thereafter. Each subsequent appointment shall be made

171 in chronological order of respective expiration dates; provided,
172 however, that each appointee holding office at the time of passage
173 of this chapter shall continue to serve until the expiration date
174 of the period for which he was appointed, and appointment of such
175 incumbent's successors shall be made in order of the expiration
176 dates of their present commissions.

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

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

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

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

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

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

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

201 Dental District Five: George, Greene, Hancock, Harrison,
202 Jackson, Pearl River, Stone;

203 Dental District Six: Adams, Amite, Claiborne, Copiah,

204 Franklin, Jefferson Davis, Jefferson, Lawrence, Lincoln, Marion,
205 Pike, Simpson, Walthall, Wilkinson;
206 and request the submission from each such dental district of three
207 (3) nominations for appointment as members of the board. Thirty
208 (30) days after submitting such request, the board shall list all
209 nominations by district according to the number of votes each
210 received. The top three (3) names from each district shall then
211 be considered as a list of names to be submitted to the Governor
212 as referred to above each time a vacancy occurs in one (1) of the
213 six (6) positions appointed from districts or whenever the
214 Governor requests such submission. During the course of each
215 calendar year, the board shall take like polls of all licensed
216 dentists practicing in each dental district, and shall prepare new
217 lists therefrom to be submitted to the Governor which shall be
218 used in the appointment of the six (6) members appointed from
219 districts.

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

234 The Secretary of State shall, at his discretion, at any time
235 there is sufficient cause, investigate the method and procedure of
236 taking such polls and establishing such lists, and the board shall

237 make available to him all records involved therein; and if the
238 Secretary of State should find cause therefor he may, upon
239 specifying such cause, declare the list invalid, whereupon the
240 board shall follow the procedure set out above to establish a new
241 list. If a vacancy exists and no list is available, the Board of
242 Dental Examiners is * * * to follow the above-described procedure
243 in establishing a new list for the appropriate dental district.

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

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

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

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

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

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

267 (c) Have successfully completed Parts I and II of the
268 National Board of Examinations of the Joint Commission on National
269 Dental Examinations, unless the applicant graduated from an

270 approved dental school prior to 1960.

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

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

276 (b) Be proficient in oral and written communications in
277 the English language;

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

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

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

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

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

301 (a) * * * Be of good moral character, be possessed of a
302 high school education and have attained the age of eighteen (18)

303 years; and

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

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

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

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

315 (b) Be proficient in oral and written communications in
316 the English language;

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

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

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

333 (f) Have successfully completed the National Board
334 Dental Hygiene Examinations by the Joint Commission on National
335 Dental Examinations.

336 (6) Applications shall be made in the form and content as
337 required in this section and as shall be prescribed by the board,
338 and each applicant shall submit upon request such proof as the
339 board may require as to age, character and qualifications.
340 Applications must be signed by two (2) * * * citizens of the state
341 of which the applicant is a resident, attesting under oath that
342 the applicant * * * is of good moral character. All applicants
343 for licensure shall submit an endorsement from all states in which
344 he or she is currently licensed or has ever been licensed to
345 practice dentistry or dental hygiene * * *. The board may
346 disallow the licensure examination to any applicant who has been
347 found guilty of any of the grounds for disciplinary action as
348 enumerated in Section 73-9-61.

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

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

368 (9) Each application or filing made under this section shall

369 include the social security number(s) of the applicant in
370 accordance with Section 93-11-64, Mississippi Code of 1972.

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

373 73-9-24. (1) In addition to the method for obtaining a
374 license to practice dentistry or dental hygiene by way of
375 examination as provided by Section 73-9-23, Mississippi Code of
376 1972, the board, in its sole discretion, may grant a license to a
377 candidate who meets the following criteria:

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

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

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

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

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

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

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

401 (h) Has not failed at any time, a licensure examination

402 administered by the Mississippi State Board of Dental Examiners;

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

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

408 (k) Successfully passes a written jurisprudence
409 examination;

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

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

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

418 (ii) Questioning under oath.

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

421 (iv) Substance abuse testing or treatment.

422 (v) Background checks for criminal or fraudulent
423 activities.

424 (vi) Participation in Continuing Education.

425 (vii) A current certificate in cardiopulmonary
426 resuscitation.

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

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

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

433 (xi) Proof of professional liability coverage and
434 that such coverage has not been refused, declined, canceled,

435 nonrenewed or modified.

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

439 (2) The board shall be granted sufficient time to conduct a
440 complete inquiry into the applicant's qualifications for licensure
441 by credentials, and the board may adopt such rules and regulations
442 pertaining to time needed to conduct investigations and
443 responsibility of applicants to produce verifiable documentation.

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

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

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

460 73-9-25. The regular meeting of the state board of dental
461 examiners shall be held annually at such place, date and time as
462 the board may determine in its discretion, for the purpose of
463 examining applicants for license to practice dentistry and dental
464 hygiene, and continue in session until all applicants for license
465 have been examined and their examinations have been approved or
466 disapproved. Said board may meet more often if necessary, in the
467 discretion of the board, at such times and places as it may deem

468 proper for the examination of applicants who may wish to practice
469 dentistry or dental hygiene in this state, to administer makeup
470 examinations, or for the purpose of enforcing the dental laws of
471 the state. * * *

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

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

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

495 73-9-43. (1) The secretary shall collect in advance all
496 fees provided for in this chapter as established by the board, not
497 to exceed:

498 Application for dental license.....\$ 600.00
499 Application for dental license through credentials...2,500.00
500 Application for dental specialty license.....400.00

501 * * *

502 Application for dental institutional, teaching or provisional

503 license.....600.00

504 Application for dental hygiene license.....400.00

505 Application for dental hygiene license through

506 credentials.....750.00

507 Application for dental hygiene institutional,

508 teaching, or provisional license.....400.00

509 Application for general anesthesia permit.....400.00

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

511 Application for radiology permit.....100.00

512 Annual dental license renewal.....300.00

513 Annual dental specialty license renewal.....100.00

514 * * *

515 Annual dental institutional, teaching or provisional

516 license renewal.....300.00

517 Annual dental hygiene license renewal.....150.00

518 Annual dental hygiene institutional, teaching, or

519 provisional license renewal.....150.00

520 Annual general anesthesia * * * permit renewal.....100.00

521 Annual IV sedation permit renewal.....100.00

522 Annual radiology permit renewal.....75.00

523 Penalty for delinquent renewal of dental licenses;

524 dental specialty licenses; and dental institutional,

525 teaching, and provisional licenses:

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

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

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

529 Penalty for delinquent renewal of dental hygiene

530 licenses and dental hygiene institutional, teaching,

531 and provisional licenses:

532 First month (plus annual renewal fee).....50.00

533 Second month (plus annual renewal fee).....75.00

534	<u>Third month (plus annual renewal fee).....</u>	<u>100.00</u>
535	<u>Penalty for delinquent renewal of radiology permits:</u>	
536	<u>First month (plus annual renewal fee).....</u>	<u>45.00</u>
537	<u>Second month (plus annual renewal fee).....</u>	<u>65.00</u>
538	<u>Third month (plus annual renewal fee).....</u>	<u>75.00</u>
539	<u>Penalty for non-notification of change of address.....</u>	<u>50.00</u>
540	<u>Penalty for duplicate renewal forms and</u>	
541	<u>certification cards.....</u>	<u>50.00</u>
542	<u>Duplicate or replacement license or permit.....</u>	<u>40.00</u>
543	<u>Certification of licensure status.....</u>	<u>40.00</u>
544	<u>Certified copy of license or permit.....</u>	<u>40.00</u>
545	<u>Handling fee for nonsufficient funds check.....</u>	<u>50.00</u>
546	<u>Requests for database information.....</u>	<u>300.00</u>
547	<u>Radiology examinations administered in board's</u>	
548	<u>Office.....</u>	<u>100.00</u>
549	<u>Dental and dental hygiene licensure examination</u>	
550	<u>manuals.....</u>	<u>50.00</u>
551	<u>Dental and dental hygiene licensure by</u>	
552	<u>credentials packets.....</u>	<u>50.00</u>
553	<u>Laws and/or regulations.....</u>	<u>50.00</u>
554	<u>Disciplinary action orders.....</u>	<u>25.00</u>
555	<u>Newsletters.....</u>	<u>20.00</u>

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

558 (2) The board may enact and enforce for delinquency in
559 payment for any fees set out in this section a penalty in addition
560 to the fee of an amount up to but not in excess of the fee. An
561 additional fee of an amount equal to the first penalty may be
562 assessed for each thirty (30) days, or part thereof, of
563 delinquency. If any licensed and registered dentist or dental
564 hygienist should be delinquent in payment of registration fees for
565 a period as long as ninety (90) days, such person shall be
566 presumed to be no longer practicing and shall be stricken from the

567 rolls, and in order to practice his or her profession in this
568 state thereafter may, at the discretion of the board, be
569 considered as a new applicant and subject to examination and other
570 licensing requirements as an original applicant.

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

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

596 (5) All fees collected from applicants, duplicate licenses,
597 certificates of recommendation and certified copies of licenses
598 shall be distributed among the members of the board in such
599 proportion as to allow the secretary twice the remuneration each

600 of the other seven (7) members receive as their compensation for
601 examining applicants for licensure. Provided, however, that for
602 examining applicants for licensure the secretary shall receive no
603 more than Twenty-four Hundred Dollars (\$2400.00) per year and no
604 other member shall receive more than Twelve Hundred Dollars
605 (\$1200.00) per year. The receipt of said compensation shall not
606 entitle members of the board to receive or be eligible for any
607 state employee group insurance, retirement or other fringe
608 benefits. Provided further, that any fees or income other than
609 the maximum allowable for examining applicants for licensure as
610 set out above shall be accounted for and may be used as needed in
611 carrying out the provisions of this chapter.

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

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

630 73-9-61. (1) Upon satisfactory proof, and in accordance
631 with statutory provisions elsewhere set out for such hearings and
632 protecting the rights of accused as well as the public, the State

633 Board of Dental Examiners may deny the issuance or renewal of a
634 license or may revoke or suspend the license of any licensed
635 dentist or dental hygienist practicing in the State of
636 Mississippi, or take any other action in relation to said license
637 as the board may deem proper under the circumstances, for any of
638 the following reasons:

639 (a) Misrepresentation in obtaining a license, or
640 attempting to obtain, obtaining, attempting to renew or renewing a
641 license or professional credential by making any material
642 misrepresentation, including the signing in his professional
643 capacity any certificate that is known to be false at the time he
644 makes or signs such certificate.

645 (b) Willful violation of any of the rules or
646 regulations duly promulgated by the board, or of any of the rules
647 or regulations duly promulgated by the appropriate dental
648 licensure agency of another state or jurisdiction.

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

654 (d) Administering, dispensing or prescribing any
655 prescriptive medication or drug * * * outside the course of
656 legitimate professional dental practice.

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

665 (f) Practicing incompetently or negligently, regardless

666 of whether there is actual harm to the patient.

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

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

678 (i) Delegating professional responsibilities to a
679 person who is not qualified by training, experience or licensure
680 to perform them.

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

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

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

697 (i) Committing any crime involving moral
698 turpitude.

699 (ii) Practicing deceit or other fraud upon the
700 public.

701 (iii) Practicing dentistry or dental hygiene under
702 a false or assumed name.

703 (iv) Advertising that is false, deceptive or
704 misleading.

705 (v) Announcing a specialized practice shall be
706 considered advertising that tends to deceive or mislead the public
707 unless the dentist announcing as a specialist conforms to other
708 statutory provisions and the duly promulgated rules or regulations
709 of the board pertaining to practice of dentistry in the State of
710 Mississippi.

711 * * *

712 (m) Failure to provide and maintain reasonable sanitary
713 facilities and conditions or failure to follow board rules
714 regarding infection control.

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

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

720 (ii) Conduct of a licensee that is intended to
721 intimidate, coerce, influence or trick any person employed by or
722 for the licensee in a dental practice or educational setting for
723 the purpose of engaging in sexual activity or activity intended
724 for the sexual gratification of the licensee.

725 (o) Violation of a lawful order of the board previously
726 entered in a disciplinary or licensure hearing; failure to
727 cooperate with any lawful request or investigation by the board;
728 or failure to comply with a lawfully issued subpoena of the board.

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

732 (g) Practicing dentistry or dental hygiene while such
733 person's license is suspended.

734 (2) In lieu of revocation of a license as provided for
735 above, the board may suspend the license of the offending dentist
736 or dental hygienist, suspend the sedation permit of the offending
737 dentist, or take any other action in relation to his license as
738 the board may deem proper under the circumstances.

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

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

756 (a) For the first violation of any of subparagraph (a),
757 (b), (c), (d), * * * (f), (i), (l), (m), (n), (o) or (g) of
758 subsection (1) of this section, a monetary penalty of not less
759 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
760 (\$500.00).

761 (b) For the second violation of any of subparagraph
762 (a), (b), (c), (d), * * * (f), (i), (l), (m), (n), (o) or (g) of
763 subsection (1) of this section, a monetary penalty of not less
764 than One Hundred Dollars (\$100.00) nor more than One Thousand

765 Dollars (\$1,000.00).

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

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

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

782 (6) A licensee shall have the right of appeal from the
783 assessment and levy of a monetary penalty as provided in this
784 section under the same conditions as a right of appeal is provided
785 elsewhere for appeals from an adverse ruling, order or decision of
786 the board.

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

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

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

801 (9) When payment of a monetary penalty assessed and levied
802 by the board against a licensee in accordance with this section is
803 not paid by the licensee when due under this section, the board
804 shall have power to institute and maintain proceedings in its name
805 for enforcement of payment in the chancery court of the county and
806 judicial district of residence of the licensee, and if the
807 licensee be a nonresident of the State of Mississippi, such
808 proceedings shall be in the Chancery Court of the First Judicial
809 District of Hinds County, Mississippi.

810 (10) In addition to the reasons specified in subsection (1)
811 of this section, the board shall be authorized to suspend the
812 license of any licensee for being out of compliance with an order
813 for support, as defined in Section 93-11-153. The procedure for
814 suspension of a license for being out of compliance with an order
815 for support, and the procedure for the reissuance or reinstatement
816 of a license suspended for that purpose, and the payment of any
817 fees for the reissuance or reinstatement of a license suspended
818 for that purpose, shall be governed by Section 93-11-157 or
819 93-11-163, as the case may be. If there is any conflict between
820 any provision of Section 93-11-157 or 93-11-163 and any provision
821 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
822 as the case may be, shall control.

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

825 73-9-63. A complaint may be filed with the secretary or
826 executive director of the board, * * * by any person charging a
827 licensed dentist or dental hygienist with the commission of any of
828 the offenses enumerated in the preceding section. Such complaint
829 shall be in writing and signed by the accuser, or accusers. If
830 upon review of the complaint, the board determines that there is

831 not substantial justification to believe that the accused dentist
832 or dental hygienist has committed any of the offenses enumerated
833 in the preceding section, it may dismiss the complaint * * *. In
834 the event of a dismissal, the person filing the complaint and the
835 accused dentist or dental hygienist shall be given written notice
836 of the board's determination. If the board determines there is
837 reasonable cause to believe the accused has committed said
838 offenses, and a hearing should be held to determine the validity
839 of the complaint, the executive director of the board shall set a
840 day for a hearing, and shall transmit to the accused a true copy
841 of all papers filed with him, relating to such complaint, and
842 shall notify the accused that on the day fixed for hearing he may
843 appear and show cause if any why his or her license to practice
844 dentistry or dental hygiene in the state should not be revoked or
845 have other disciplinary action taken against it. The board may,
846 by regulation, establish an investigative panel consisting of at
847 least two (2) people, one (1) of whom shall be a board member, to
848 review complaints to determine the existence of probable cause and
849 whether such complaints should proceed to formal hearing.

850 Nothing in this section shall prevent the board from
851 determining that it should investigate a licensee without a signed
852 complaint provided that a prior determination is made that
853 probable cause exists that a violation of this chapter may have
854 occurred.

855 For the purpose of such hearings or investigation of
856 complaints, the board * * * is hereby empowered to require the
857 attendance of witnesses, reimburse witnesses for necessary
858 expenses and mileage incurred * * *, subpoena documents and
859 records, employ and compensate expert witnesses, administer oaths,
860 and hear testimony, either oral or documentary, for and against
861 the accused. * * * Hearings shall be conducted by a majority of
862 the members of the board. A record of the hearing shall be made
863 which shall consist * * * of all testimony received and all

864 documents and other material introduced. If after such hearing
865 the board shall be satisfied that the accused has been guilty of
866 the offense charged in the accusation, it shall thereupon, without
867 further notice, order such disciplinary action as it deems proper.

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

870 SECTION 11. The license of any dentist or dental hygienist
871 in this state shall be subject to restriction, suspension or
872 revocation, as hereinafter provided, in case of inability of the
873 licensee to practice dentistry or dental hygiene with reasonable
874 skill or safety to patients by reason of one or more of the
875 following:

876 (a) Mental illness;

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

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

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

889 (2) Examination of a dentist or dental hygienist under this
890 section shall be conducted by an examining committee designated by
891 the board. Such examining committee shall be composed of at least
892 two (2) practicing dentists, three (3) practicing physicians, and
893 shall include at least one (1) psychiatrist if a question of
894 mental illness is involved.

895 SECTION 13. (1) The examining committee assigned to examine
896 a dentist or dental hygienist pursuant to referral by the board

897 under Section 12 shall conduct an examination of such dentist or
898 dental hygienist for the purpose of determining his fitness to
899 practice dentistry or dental hygiene with reasonable skill and
900 safety to patients, either on a restricted or unrestricted basis,
901 and shall report its findings and recommendations to the board.
902 The committee shall order the dentist or dental hygienist to
903 appear before the committee for examination and give him ten (10)
904 days' notice of the time and place of the examination, together
905 with a statement of the cause for such examination. Such notice
906 shall be served upon the dentist or dental hygienist either
907 personally or by registered or certified mail with return receipt
908 requested.

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

923 (3) Any dentist or dental hygienist who submits to a
924 diagnostic mental or physical examination as ordered by the
925 examining committee shall have a right to designate another
926 physician to be present at the examination and make an independent
927 report to the board.

928 (4) Failure of a dentist or dental hygienist to comply with
929 a committee order under subsection (1) to appear before it for

930 examination or to submit to mental or physical examination under
931 subsection (2) shall be reported by the committee to the board,
932 and unless due to circumstances beyond the control of the dentist
933 or dental hygienist, shall be grounds for suspension by the board
934 of his license to practice dentistry or dental hygiene in this
935 state until such time as such dentist or dental hygienist has
936 complied with the order of the committee.

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

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

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

959 (2) The board may accept or reject the recommendation of the
960 examining committee to permit a dentist or dental hygienist to
961 continue to practice with or without any restriction on his
962 license to practice dentistry or dental hygiene, or may refer the

963 matter back to the examining committee for further examination and
964 report thereon.

965 (3) In the absence of a voluntary agreement by a dentist or
966 dental hygienist under Section 14 for restriction of the licensure
967 of such dentist or dental hygienist to practice dentistry or
968 dental hygiene, any dentist or dental hygienist shall be entitled
969 to a hearing in formal proceedings before the board and a
970 determination on the evidence as to whether or not restriction,
971 suspension or revocation of licensure shall be imposed.

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

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

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

987 (a) Make a recommendation that the dentist or dental
988 hygienist submit to the care, counseling or treatment by
989 physicians acceptable to the board.

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

992 (c) Revoke the license of the dentist or dental
993 hygienist.

994 (4) The board may temporarily suspend the license of any
995 dentist or dental hygienist without a hearing, simultaneously with

996 the institution of proceedings for a hearing under this section,
997 if it finds that the evidence in support of the examining
998 committee's determination is clear, competent and unequivocal and
999 that his continuation in practice would constitute an imminent
1000 danger to public health and safety.

1001 (5) Neither the record of the proceedings nor any order
1002 entered against a dentist or dental hygienist may be used against
1003 him in any other legal proceedings except upon judicial review as
1004 provided herein.

1005 SECTION 17. (1) A dentist or dental hygienist whose
1006 licensure has been restricted, suspended or revoked under Sections
1007 10 through 16, voluntarily or by action of the board, shall have a
1008 right, at reasonable intervals, to petition for reinstatement of
1009 his license and to demonstrate that he can resume the competent
1010 practice of dentistry or dental hygiene with reasonable skill and
1011 safety to patients. Such petition shall be made in writing and on
1012 a form prescribed by the board. Action of the board on such
1013 petition shall be initiated by referral to and examination by the
1014 examining committee pursuant to the provisions of Sections 12 and
1015 13. The board may, upon written recommendation of the examining
1016 committee, restore the licensure of the dentist or dental
1017 hygienist on a general or limited basis or institute a proceeding
1018 pursuant to Section 16 for the determination of the fitness of the
1019 dentist or dental hygienist to resume his practice.

1020 (2) All orders of the board entered under Section 16(3) and
1021 (4) shall be subject to judicial review by appeal to the chancery
1022 court of the county of the residence of the dentist or dental
1023 hygienist involved against whom the order is rendered, within
1024 thirty (30) days following the date of entry of the order, said
1025 appeal to be taken and perfected in the same manner as provided in
1026 Section 73-9-65.

1027 SECTION 18. There shall be no liability on the part of and
1028 no action for damages against:

1029 (a) Any member of the examining committee or the board
1030 for any action undertaken or performed by such member within the
1031 scope of the functions of such committee or the board under
1032 Sections 10 through 17 when acting without malice and in the
1033 reasonable belief that the action taken by him is warranted; or

1034 (b) Any person providing information to the committee
1035 or to the board without malice in the reasonable belief that such
1036 information is accurate.

1037 SECTION 19. This act shall take effect and be in force from
1038 and after July 1, 2000.