MISSISSIPPI LEGISLATURE REGULAR SESSION 2001

By: Representative Ford To: Public Health and Welfare

HOUSE BILL NO. 519

AN ACT TO AMEND SECTIONS 73-31-3, 73-31-5 AND 73-31-7, MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF PSYCHOLOGY AND PRESCRIBE ITS POWERS AND DUTIES, TO EXTEND THE DATE OF REPEAL FROM JULY 1, 2001, TO JULY 1, 2002; TO AMEND SECTIONS 73-31-9, 73-31-13, 73-31-21, 73-31-23 AND 73-31-27, MISSISSIPPI CODE OF 1972, WHICH PROVIDE THE LICENSE REQUIREMENTS AND FEES AND THE PENALTIES FOR VIOLATING THIS ACT, TO EXTEND THE DATE OF REPEAL FROM JULY 1, 2001, TO JULY 1, 2002; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-31-3, Mississippi Code of 1972, is amended as follows:

73-31-3. When used in this chapter, the word or term:

(a) "Board" means the Mississippi State Board of Psychology.

(b) "Institution of higher education" means any regionally accredited institution of higher education in the United States, accredited by an accrediting body recognized by the U.S. Department of Education, including a professional school, that offers a full-time doctoral course of study in psychology that is acceptable to the board; for Canadian universities, such term means an institution of higher education is authorized by Provincial statute or Royal Charter to grant doctoral degrees.

(c) "Person" includes an individual, firm, partnership, association or corporation.

(d) "Practice of psychology" means the description, interpretation and modification of human behavior through the application of psychological principles and procedures. The practice of psychology includes, but is not limited to, the assessment of personal characteristics such as intelligence, personality, ability, and other cognitive, behavioral and
neuropsychological functioning, and efforts to change or improve symptomatic, maladaptive behavior or mental health through psychotherapy procedures including psychoanalysis, behavior therapy, biofeedback and hypnosis. Psychologists diagnose and treat mental and emotional disorders, disorders of habit and conduct, and disorders associated with physical illness or injury. Psychological services are provided to individuals, families, groups and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

(e) "Psychologist" is a person who represents himself or herself to be a psychologist by using any title or description of services incorporating the words "psychological," "psychologist," "psychology," or who represents that he or she possesses expert qualification in any area of psychology, or offers to the public, or renders to individuals or to groups of individuals services defined as the practice of psychology by this chapter.

This section shall stand repealed from and after July 1, 2002.

SECTION 2. Section 73-31-5, Mississippi Code of 1972, is amended as follows:

73-31-5. (1) There is hereby created a Mississippi State Board of Psychology consisting of seven (7) members who are citizens of the United States and residing in the State of Mississippi. One (1) member of the board shall be a person who is not a psychologist or a mental health professional but who has expressed a continuing interest in the field of psychology. Each board member shall otherwise be licensed under this chapter. At all times the board shall be composed of three (3) members who are faculty at institutions of higher learning that grant doctoral degrees, or staff or faculty of an American Psychological Association approved doctoral level internship. Three (3) members...
of the board shall be engaged in the professional practice of psychology. The membership of the board shall reflect a diversity of practice specialties.

(2) When the term of each psychologist member ends the Governor shall, within thirty (30) days, appoint as his successor, for a term of five (5) years, a psychologist who holds a doctoral degree from an institution of higher education and who has been licensed under this chapter. When the term of the member who is not a psychologist ends, the Governor shall, within thirty (30) days, appoint a qualified person as his successor for a term of five (5) years. No board member shall serve for consecutive terms. Any vacancy occurring in the board membership other than by expiration of term shall be filled by the Governor by appointment for the unexpired term of such member. All appointments of psychologist members of the board shall be made from a list containing the names of at least three (3) eligible nominees for each vacancy submitted by the Mississippi Psychological Association. Each board member shall receive a certificate of appointment from the Governor before entering on the discharge of his duties, and within thirty (30) days from the effective date of his appointment shall subscribe an oath for the faithful performance of his official duty before any officer authorized to administer oaths in this state, and shall file the same with the Secretary of State. To enable the board to have regular, planned changes in membership the following one-time changes in length of terms of board members is enacted:

(a) One (1) of the two (2) practice members appointed in 1998 will serve a three-year term.

(b) The practice member appointed in 2002 will serve a three-year term.

(c) One of the two (2) academic members appointed in 2002 will serve a four-year term.
(3) The Governor may remove any board member for misconduct, incompetency, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon.

(4) Each board member shall serve without compensation, but shall receive actual traveling and incidental expenses necessarily incurred while engaged in the discharge of official duties.

This section shall stand repealed from and after July 1, 2002.

SECTION 3. Section 73-31-7, Mississippi Code of 1972, is amended as follows:

73-31-7. (1) The board shall annually elect from its membership a chairman and executive secretary at a meeting held during the last two (2) quarters of the fiscal year. The board shall meet at such other times as it deems necessary or advisable, or as deemed necessary and advisable by the chairman or a majority of its members or the Governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board shall constitute a quorum at any meeting or hearing; except that when only four (4) members are present, decisions not gaining unanimous support shall be decided by mail ballot to all board members within fifteen (15) days succeeding the board meeting. Any meeting at which the chairman is not present shall be chaired by his designee.

(2) The board is authorized and empowered to:

(a) Adopt and, from time to time, revise such rules and regulations not inconsistent with, and as may be necessary to carry into effect the provisions of this chapter.

(b) Within the funds available, employ and/or contract with a stenographer and other personnel, and contract for services, as are necessary for the proper performance of its work under this chapter.
(c) Adopt a seal, and the executive secretary shall have the care and custody thereof.

(d) Examine, license, and renew the license of duly qualified applicants.

(e) Conduct hearings upon complaints concerning the disciplining or licensing of applicants and psychologists.

(f) Deny, approve, withhold, revoke, suspend and/or otherwise discipline applicants and licensed psychologists.

(g) Cause the prosecution and enjoinder of all persons violating this chapter, and incur necessary expenses therefor.

(h) Charge a fee of not more than Two Hundred Fifty Dollars ($250.00) to a qualified psychologist as determined by the board who is applying for certification by the board to conduct examinations in civil commitment proceedings.

(i) Purchase general liability insurance coverage, including errors and omissions insurance, to cover the official actions of the board members and suits against them in their individual capacity. Such coverage shall be in an amount determined by the board to be adequate, and the costs of such insurance shall be paid out of any funds available to the board.

(j) Enter into agreements of reciprocity with other states, jurisdictions and organizations.

(3) Within thirty (30) days after the close of each fiscal year ending June 30, the board shall submit an official report, reviewed and signed by all board members, to the Governor concerning the work of the board during the preceding fiscal year. The report shall include the names of all psychologists to whom licenses have been granted; any cases heard and decisions rendered in relation to the work of the board; the names, remuneration and duties of any employees of the board; and an account of all monies received and expended by the board.

This section shall stand repealed from and after July 1, 2002.
SECTION 4. Section 73-31-9, Mississippi Code of 1972, is amended as follows:

73-31-9. (1) All fees from applicants seeking licensing under this chapter and all license renewal fees received under this chapter shall be nonrefundable.

(2) The board shall charge an application fee to be determined by the board but not to exceed Three Hundred Dollars ($300.00) to applicants for licensing, and shall charge the applicant for the expenses incurred by the board for examination of the applicant.

(3) Every licensed psychologist in this state shall annually pay to the board a fee determined by the board but not to exceed Two Hundred Dollars ($200.00); and the executive secretary shall thereupon issue a renewal of the license for a term of one (1) year. The license of any psychologist who shall fail to renew during the month of July in each and every year shall lapse; the failure to renew the license, however, shall not deprive said psychologist of the right of renewal thereafter. Such lapsed license may be renewed within a period of two (2) years after such lapse upon payment of all fees in arrears. A psychologist wishing to renew a license which has been lapsed for more than two (2) years shall be required to reapply for licensure.

(4) On July 1, 1993, and every odd numbered year thereafter, no psychologist license shall be renewed unless the psychologist shows evidence of a minimum of twenty (20) clock hours of continuing education activities approved by the board.

(5) All fees and any other monies received by the board shall be deposited in a special fund that is created in the State Treasury and shall be used for the implementation and administration of this chapter when appropriated by the Legislature for such purpose. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies, and disbursements from...
the special fund shall be made by the State Treasurer only upon
warrants issued by the State Fiscal Officer upon requisitions
signed by the chairman or executive secretary of the board. Any
interest earned on this special fund shall be credited by the
State Treasurer to the fund and shall not be paid into the State
General Fund. Any unexpended monies remaining in the special fund
at the end of a fiscal year shall not lapse into the State General
Fund. The State Auditor shall audit the financial affairs of the
board and the transactions involving the special fund at least
once a year in the same manner as for other special fund agencies.

This section shall stand repealed from and after July 1, 2002.

SECTION 5. Section 73-31-13, Mississippi Code of 1972, is
amended as follows:

73-31-13. The board shall issue a license as a psychologist
to each applicant who shall file an application upon a form and in
such manner as the board prescribes, accompanied by such fee as is
required by this chapter; and who furnishes evidence satisfactory
to the board that he:

(a) Is at least twenty-one (21) years of age; and

(b) Is a citizen of the United States, a Canadian
citizen applying for licensure under the terms of a reciprocity
agreement, or has declared his intention to become a citizen. A
statement by the applicant under oath that he is a citizen, a
Canadian citizen applying for licensure under the terms of a
reciprocity agreement, or that he intends to apply for citizenship
when he becomes eligible to make such application, shall be
sufficient proof of compliance with this requirement; and

(c) Is of good moral character; and

(d) Is not in violation of any of the provisions of
this chapter and the rules and regulations adopted thereunder; and

(e) Holds a doctoral degree in psychology from an
institution of higher education that is: regionally accredited by
an accrediting body recognized by the U.S. Department of Education, or authorized by Provincial statute or Royal Charter to grant doctoral degrees: and from a program accredited by the American Psychological Association, or the Canadian Psychological Association. For graduates from newly established programs seeking accreditation or in areas where no accreditation exists, applicants for licensure shall have completed a doctoral program in psychology that meets recognized acceptable professional standards as determined by the board. For applicants graduating from doctoral level psychology training programs outside of the United States of America or Canada, applicants for licensure shall have completed a doctoral program in psychology that meets recognized acceptable professional standards as determined by the board; and

(f) Has two (2) years of supervised experience in the same area of emphasis as the academic degree, which includes an internship and one (1) year of supervised post-doctoral experience, that meet the standards of training as defined by the board. Each year (or equivalent) shall be comprised of at least two thousand (2,000) hours of actual work, to include direct service, training and supervisory time. A predoctoral internship may be counted as one (1) of the two (2) years of experience; and

(g) Demonstrates professional knowledge by passing a written and oral examination in psychology prescribed by the board; except that upon examination of credentials the board may, by unanimous consent, consider these credentials adequate evidence of professional knowledge.

Upon investigation of the application and other evidence submitted, the board shall, not less than thirty (30) days prior to the examination, notify each applicant that the application and evidence submitted is satisfactory and accepted or unsatisfactory and rejected; if rejected, said notice shall state the reasons for such rejection.
The place of examination shall be designated in advance by the board, and such examination shall be given at such time and place and under such supervision as the board may determine. The examination used by the board shall consist of written tests and oral tests, and shall fairly test the applicant's knowledge and application thereof in those areas deemed relevant by the board. These shall include, but not be limited to, the following: history of psychology, statistical methods, experimental design, personality theory and psychology of learning. In addition, the applicant shall be required to demonstrate his knowledge and application thereof in those areas deemed relevant to his specialty and/or those services he intends to offer to the public.

The board shall evaluate the results from both the written and oral examinations. The passing scores for the written and oral examinations shall be established by the board in its rules and regulations and in no event shall be a score of less than seventy percent (70%) correct. In the event an applicant fails to receive a passing score on the entire examination, he may reapply and shall be allowed to take a subsequent examination. An applicant who has failed two (2) successive examinations by the board may not reapply until after two (2) years from the date of the last examination failed. The board shall keep the written examination scores, and an accurate transcript of the questions and answers relating to the oral examinations, and the grade assigned to each answer thereof, as part of its records for at least two (2) years subsequent to the date of examination.

If any psychologist duly licensed under this chapter shall, by virtue of additional training and experience, become qualified to practice in a specialty other than that for which he was deemed competent at the time of initial licensing, and wishes to offer such service under the provisions of this chapter, he shall at the time of annual renewal of licenses submit additional credentials and be given the opportunity to demonstrate his knowledge and
application thereof in areas deemed relevant to his specialty.

This procedure shall be considered a necessary part of the renewal process, and no charge in addition to the renewal fee shall be levied.

This section shall stand repealed from and after July 1, 2002.

Each application or filing made under this section shall include the Social Security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 6. Section 73-31-21, Mississippi Code of 1972, is amended as follows:

73-31-21. (1) The board, by an affirmative vote of at least four (4) of its seven (7) members, shall withhold, deny, revoke or suspend any license issued or applied for in accordance with the provisions of this chapter, or otherwise discipline a licensed psychologist, upon proof that the applicant or licensed psychologist:

(a) Has violated the current code of ethics of the American Psychological Association or other codes of ethical standards adopted by the board; or

(b) Has been convicted of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof; or

(c) Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to any other person or the public, or to an extent that such use impairs his ability to perform the work of a professional psychologist with safety to the public; or

(d) Has impersonated another person holding a psychologist license or allowed another person to use his license; or
(e) Has used fraud or deception in applying for a license or in taking an examination provided for in this chapter; or

(f) Has accepted commissions or rebates or other forms of remuneration for referring clients to other professional persons; or

(g) Has allowed his name or license issued under this chapter to be used in connection with any person or persons who perform psychological services outside of the area of their training, experience or competence; or

(h) Is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof; or

(i) Has willfully or negligently violated any of the provisions of this chapter. The board may recover from any person disciplined under this chapter, the costs of investigation, prosecution, and adjudication of the disciplinary action.

(2) Notice shall be effected by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days nor more than sixty (60) days from the date of such mailing or such service, at which time the applicant or licentiate shall be given an opportunity for a prompt and fair hearing. For the purpose of such hearing the board, acting by and through its executive secretary, may subpoena persons and papers on its own behalf and on behalf of the applicant or licentiate, may administer oaths and may take testimony. Such testimony, when properly transcribed, together with such papers and exhibits, shall be admissible in evidence for or against the applicant or licentiate. At such hearing applicant or licentiate may appear by counsel and personally in his own behalf. Any person sworn and examined by a witness in such hearing shall not be held to answer criminally, nor shall any papers or documents produced by such witness be competent evidence in any criminal proceedings against such
witness other than for perjury in delivering his evidence. On the basis of any such hearing, or upon default of applicant or licentiate, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licentiate. The decision of the board denying, revoking or suspending the license shall become final thirty (30) days after so mailed or served unless within said period the licentiate appeals the decision to the chancery court, pursuant to the provisions hereof, and the proceedings in chancery shall be conducted as other matters coming before the court. All proceedings and evidence, together with exhibits, presented at such hearing before the board in the event of appeal shall be admissible in evidence in said court.

(3) The board may subpoena persons and papers on its own behalf and on behalf of the respondent, may administer oaths and may compel the testimony of witnesses. It may issue commissions to take testimony, and testimony so taken and sworn to shall be admissible in evidence for and against the respondent. The board shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the board, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance therewith.

(4) Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment fixes a probationary period for applicant or licentiate. Such order and judgment shall continue in effect unless upon appeal the court by proper order or decree terminates it earlier. The board may make public its order and judgments in such manner and form as it deems proper. It shall, in event of the suspension or revocation of a license, direct the clerk of the circuit court of the county in which that license was recorded to cancel such record.
(5) Nothing in this section shall be construed as limiting or revoking the authority of any court or of any licensing or registering officer or board, other than the State Board of Psychological Examiners, to suspend, revoke and reinstate licenses and to cancel registrations under the provisions of Section 91-29-311.

(6) Suspension by the board of the license of a psychologist shall be for a period not exceeding one (1) year. At the end of this period the board shall reevaluate the suspension, and shall either reinstate or revoke the license. A person whose license has been revoked under the provisions of this section may reapply for license after more than two (2) years have elapsed from the date such denial or revocation is legally effective.

(7) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.
(8) This section shall stand repealed from and after July 1, 2002.

SECTION 7. Section 73-31-23, Mississippi Code of 1972, is amended as follows:

73-31-23. (1) It shall be a misdemeanor:

(a) For any person not licensed under this chapter to represent himself as a psychologist or practice psychology in the manner prescribed in Section 73-31-3 of this chapter; or

(b) For any person to represent himself as a psychologist or practice psychology in the manner prescribed in Section 73-31-3 of this chapter during the time that his license as a psychologist shall be suspended or revoked or lapsed; or

(c) For any person to otherwise violate the provisions of this chapter.

Such misdemeanor shall be punishable, upon conviction, by imprisonment for not more than sixty (60) days or by a fine of not more than Three Hundred Dollars ($300.00), or by both such fine and imprisonment. Each violation shall be deemed a separate offense. Such misdemeanor shall be prosecuted by the district attorney of the judicial district in which the offense was committed in the name of the people of the State of Mississippi.

(2) Any entity, organization or person, including the board, any member of the board, and its agents or employees, acting in good faith and without malice, who makes any report or information available to the board regarding violation of any of the provisions of this chapter, or who assists in the organization, investigation or preparation of any such report or information or assists the board in carrying out any of its duties or functions provided by law, shall be immune from civil or criminal liability for such acts.

The immunity granted pursuant to the provisions of this subsection shall not apply to and shall not be available to any psychologist who is the subject of any report or information.
relating to a violation by such psychologist of the provisions of this chapter.

This section shall stand repealed from and after July 1, 2002.

SECTION 8. Section 73-31-27, Mississippi Code of 1972, is amended as follows:

73-31-27. (1) Nothing in this chapter shall be construed to limit:

(a) The activities, services, and use of an official title on the part of a person in the employ of a federal, state, county or municipal agency, or of other political subdivisions, or any educational institution chartered by the state, insofar as such activities, services and use of an official title are a part of the duties of his office or position with such agency or institution; or

(b) The activities, services and use of an official title on the part of a person in the employ of an exempt organization (in any state) who may be employed by another exempt organization for a consulting fee; or

(c) The activities and services of a student, intern or trainee in psychology pursuing a course of study in psychology at an institution of higher education, if these activities and services constitute a part of his supervised course of study; or

(d) The services and activities of members of other professional groups licensed or certified by the State of Mississippi who perform work of a psychological nature consistent with their training, work experience history, and with any code of ethics of their respective professions, provided they do not hold themselves out to be psychologists. The practice of psychology as defined by this act overlaps with the activities of other professional groups and it is not the intent of this act to regulate the activities of these professional groups.
(2) Individuals certified by the Mississippi State Department of Education may use appropriate titles such as "school psychologist," "certified school psychologist," "educational psychologist" or "psychometrist" when practicing in school, educational or related settings.

(3) Lecturers from any school or college may utilize their academic or research title when invited to present lectures to institutions or organizations.

(4) Nothing in this chapter shall be construed as permitting psychologists licensed under this chapter to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state, nor shall anything in this chapter be construed as prohibiting psychiatrists from engaging in the practice of psychiatry.

This section shall stand repealed from and after July 1, 2002.

SECTION 9. This act shall take effect and be in force from and after July 1, 2001.