HOUSE BILL NO. 520
(As Passed the House)


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

SECTION 1. Section 73-19-1, Mississippi Code of 1972, is reenacted as follows:

73-19-1. The practice of optometry is defined to be the application of optical principles, through technical methods and devices in the examination of human eyes for the purpose of ascertaining departures from the normal, measuring their functional powers and adapting optical accessories for the aid thereof. The practice of optometry shall include the prescribing and use of therapeutic pharmaceutical agents by optometrists certified under Sections 73-19-153 through 73-19-165. The practice of optometry shall not include the performing of any invasive surgery including laser surgery, but shall not preclude the removal of superficial foreign bodies from the eye or other noninvasive procedures. Nothing in this section or any other provision of law shall be construed to prohibit optometrists who have been certified under Sections 73-19-153 through 73-19-165 from providing postophthalmic surgical or clinical care and management with the advice and consultation of the operating or treating physician.

SECTION 2. Section 73-19-3, Mississippi Code of 1972, is reenacted as follows:
73-19-3. It shall not be lawful for any person in this state to engage in the practice of optometry or to hold himself out as a practitioner of optometry, or attempt to determine by an examination of the eyes the kind of glasses needed by any person, or to hold himself out as able to examine the eyes of any person for the purpose of fitting the same with glasses, excepting those hereinafter exempted, unless he has first fulfilled the requirements of this chapter and has received a certificate of licensure from the State Board of Optometry created by this chapter, nor shall it be lawful for any person in this state to represent that he is the lawful holder of a certificate of licensure such as provided for in this chapter, when in fact he is not such lawful holder or to impersonate any licensed practitioner of optometry, or to fail to register the certificate as provided by law.

SECTION 3. Section 73-19-5, Mississippi Code of 1972, is reenacted as follows:

73-19-5. (1) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction for his first offense shall be fined not more than Five Hundred Dollars ($500.00) at the discretion of the court, and upon conviction for a second or later offense shall be fined not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) or imprisoned not less than six (6) months nor more than one (1) year, at the discretion of the court.

(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 Sections 73-19-1 through 73-19-111, 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.

SECTION 4. Section 73-19-7, Mississippi Code of 1972, is reenacted as follows:

73-19-7. The Governor, with the advice and consent of the Senate, shall appoint a State Board of Optometry, consisting of five (5) persons, citizens of Mississippi, each of whom shall be a nonmedical man or woman actually engaged in the practice of optometry for five (5) years next preceding his appointment. Within ninety (90) days after March 25, 1974, the Governor shall appoint: one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years, and one (1) member for a term of five (5) years; and upon the expiration of all such terms their successors shall be appointed by the Governor for a term of five (5) years. From and after July 1, 1983, the appointments to the board shall be made with one (1) member to be appointed from each of the congressional districts as existing on January 1, 1980; provided that the present members of the State Board of Optometry whose terms have not expired by July 1, 1983, shall continue to serve until their terms of office have expired. Each member shall remain in office after the expiration of his term until his successor shall be duly appointed and qualified.

No person so appointed shall be a stockholder in or a member of the faculty or of the board of trustees of any school of optometry, or serve to exceed two (2) five-year terms.

Vacancies on said board shall be filled by appointment by the Governor, with the advice and consent of the Senate, from a list consisting of three (3) of its members, or by appointment of any qualified member of the association.
SECTION 5. Section 73-19-9, Mississippi Code of 1972, is reenacted as follows:

73-19-9. The State Board of Optometry shall organize by the election from its members of a president and a secretary, who shall hold their respective offices for one (1) year.

It shall hold regular meetings for examination, beginning on the second week of January and July of each year, and additional meetings at such times and places as the board shall determine, said additional meetings not to exceed ten (10) meeting days annually, but the July meeting shall be held in the City of Jackson.

A majority of the board shall constitute a quorum, but a less number may adjourn from time to time.

The board shall make such rules and regulations as may be necessary to carry out the provisions of this chapter; provided, however, that it shall require the concurrence of a majority of the members of the board to grant or revoke a license.

SECTION 6. Section 73-19-11, Mississippi Code of 1972, is reenacted as follows:

73-19-11. Before entering upon the discharge of the duties of his office the Secretary of the State Board of Optometry shall give a bond to the state, to be approved by the board, in the sum of Two Thousand Dollars ($2,000.00) conditioned for the faithful discharge of the duties of his office. The premium for such bond to be paid from the funds paid into the State Treasury by the secretary of the board.

Such bond, with the approval of the board and oath of office indorsed thereon, shall be deposited with the Secretary of State and kept in his office. Each month all monies received by the secretary shall be paid by him into the State Treasury to the credit of a fund for the use of the State Board of Optometry.

SECTION 7. Section 73-19-13, Mississippi Code of 1972, is reenacted as follows:
73-19-13. Each member of the State Board of Optometry shall be entitled to receive per diem as authorized under Section 25-3-69 in addition to all actual, necessary expenses incurred in the discharge of official duties, including mileage as authorized by law for state officials and employees.

The secretary shall receive an annual salary, to be fixed by the board, and his necessary expenses incurred in the discharge of his official duties. The State Board of Optometry may engage the services of an attorney to assist it in the discharge of its duties on terms to be fixed by the board.

The compensation and expenses of the secretary, attorney and members of the board, and the expenses of the board necessary in carrying out the provisions of this chapter, shall be paid from the fund in the State Treasury for use of the board on the requisition signed by the president and secretary of the board and the warrant of the auditor of the state; provided, however, that said compensation and expenses shall not exceed the amount paid into the State Treasury under the provisions of this chapter; and provided further, that all expenditures from such special fund shall be authorized by the Legislature and shall be subject to all applicable provisions of the state budget law.

SECTION 8. Section 73-19-15, Mississippi Code of 1972, is reenacted as follows:

73-19-15. The State Board of Optometry shall have an official seal and shall keep a record of its proceedings, a register of persons registered as optometrists and register licenses by it revoked.

Its records shall be open to public inspection, and it shall keep on file all examination papers for a period of ninety (90) days after each examination. A transcript of an entry in such records certified by the secretary under the seal of the board, shall be evidence of the facts therein stated. The board shall annually on or before January 1 make a report to the Governor of
all its official acts during the preceding year, and of its
receipts and disbursements, and a full and complete report of the
conditions of optometry in this state.

SECTION 9. Section 73-19-17, Mississippi Code of 1972, is
reenacted as follows:

73-19-17. Any person over the age of twenty-one (21) years,
of good moral character, and who has graduated from a high school
or preparatory school affiliated with and recognized by a state
university, and who has graduated from a reputable school or
college of optometry, shall be entitled to stand the examination
for license to practice optometry in Mississippi. The examining
Board of Optometry shall keep on file a list of schools or
colleges of optometry which are recognized by said board. The
examination to practice optometry shall consist of tests in
practical, theoretical and physiological optics, in theoretical
and practical optometry and in anatomy and physiology of the eye
and in pathology as applied to optometry. The State Board of
Optometry shall not examine or certify any optometrist in any
therapeutic procedures unless the optometrist has successfully
completed the proper didactic education and supervised clinical
training taught by an institution accredited by a regional or
professional accreditation organization that is recognized or
approved by the Council on Postsecondary Accreditation of the
United States Department of Education, or its successor, and
approved by the State Board of Optometry with the advice and
consultation of the designated members of the State Board of
Medical Licensure and the State Board of Pharmacy.

SECTION 10. Section 73-19-19, Mississippi Code of 1972, is
reenacted as follows:

73-19-19. Every person desiring to be licensed as in this
chapter provided, shall file with the secretary an application,
verified by oath, setting forth the facts which entitle the
applicant to examination and licensure under the provisions of
this chapter. The said board shall hold at least two (2) examinations each year. In case of failure at any examination the applicant, after the expiration of six (6) months and within two (2) years, shall have the privilege of a second examination by the board without the payment of an additional fee. In the case of any applicant who shall fail the examination twice, said applicant shall not be permitted to again take the examination until he has completed a further course of study outlined by the board and paid the examination fee therefor. Every applicant who shall pass the examination, and who shall otherwise comply with the provisions of this chapter, shall receive from the said board under its seal a certificate of licensure entitling him to practice optometry in this state, which certificate shall be duly registered in a record book to be properly kept by the secretary of the board for that purpose, which shall be open to public inspection, and a duly certified copy of said record shall be received as evidence in all courts of this state in the trial of any case.

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 11. Section 73-19-21, Mississippi Code of 1972, is reenacted as follows:

73-19-21. Said board shall charge the following fees for examination, registrations and renewals of certificates: The sum of not more than Two Hundred Dollars ($200.00) for an examination of an applicant who is a resident of Mississippi and not more than Three Hundred Dollars ($300.00) for a nonresident of Mississippi to cover the additional expenses of checking references, character and other statements contained in the application. Every registered optometrist who desires to continue the practice of optometry shall, biennially, on or before January 1, pay to the secretary of the board a renewal registration fee of not more than Four Hundred Dollars ($400.00) for which he shall receive a
renewal of his certificate. The board, in its discretion, may set
the renewal registration fee at different amounts for registered
optometrists, for registered optometrists certified to use
diagnostic pharmaceutical agents, and for registered optometrists
certified to use diagnostic and therapeutic pharmaceutical agents,
not to exceed the maximum amount prescribed in this section.

In case of neglect to pay the renewal registration fee herein
specified, the board may revoke such certificate and the holder
thereof may be reinstated by complying with the conditions
specified in this chapter. But no certificate or permit shall be
revoked without giving sixty (60) days' notice to the delinquent,
who, within such period shall have the right of renewal of such
certificate on payment of the renewal fee with a penalty of not
more than Fifteen Dollars ($15.00), provided, that retirement from
practice for a period not exceeding five (5) years shall not
deprive the holder of said certificate of the right to renew his
certificate on the payment of all lapsed fees. The board shall
adopt a seal and certificate of suitable design and shall conduct
its examination at Jackson, in this state. Its permanent records
shall be kept in the office of the secretary, which records shall
be open to public inspection.

SECTION 12. Section 73-19-23, Mississippi Code of 1972, is
reenacted as follows:

73-19-23. (1) The board shall refuse to grant a certificate
of licensure to any applicant and may cancel, revoke or suspend
the operation of any certificate by it granted for any or all of
the following reasons, to-wit: unprofessional and unethical
conduct or the conviction of a crime involving moral turpitude,
habitual intemperance in the use of ardent spirits, or stimulants,
narcotics, or any other substance which impairs the intellect and
judgment to such an extent as to incapacitate one for the
performance of the duties of an optometrist. The certificate of
licensure of any person can be revoked for violating any section of this chapter.

(2) The board shall further be authorized to take disciplinary action against a licensee for any unlawful acts which shall include violations of regulations promulgated by the board, as well as the following acts:

(a) Fraud or misrepresentation in applying for or procuring an optometric license or in connection with applying for or procuring periodic renewal of an optometric license.

(b) Cheating on or attempting to subvert the optometric licensing examination(s).

(c) The conviction of a felony in this state or any other jurisdiction, or the entry of guilty or nolo contendere plea to a felony charge.

(d) The conviction of a felony as defined by federal law, or the entry of a guilty or nolo contendere plea to a felony charge.

(e) Conduct likely to deceive, defraud or harm the public.

(f) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, device, treatment or remedy prescribed by him or her or used at his or her direction in the treatment of any disease or other condition.

(g) Willfully or negligently violating the confidentiality between doctor and patient, except as required by law.

(h) Negligence or gross incompetence in the practice of optometry as determined by the board.

(i) Being found mentally incompetent or insane by any court of competent jurisdiction.

(j) The use of any false, fraudulent, deceptive or misleading statement in any document connected with the practice of optometry.
(k) Aiding or abetting the practice of optometry by an unlicensed, incompetent or impaired person.

(l) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's practice of optometry.

(m) Being addicted or habituated to a drug or intoxicant.

(n) Violating any state or federal law or regulation relating to a drug legally classified as a controlled substance.

(o) Obtaining any fee by fraud, deceit or misrepresentation.

(p) Disciplinary action of another state or jurisdiction against a licensee or other authorization to practice optometry based upon acts or conduct by the licensee similar to acts or conduct which would constitute grounds for action as defined in this chapter, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.

(q) Failure to report to the board the relocation of his or her office in or out of the jurisdiction, or to furnish floor plans as required by regulation.

(r) Violation of any provision(s) of the Optometry Practice Act or the rules and regulations of the board or of an action, stipulation or agreement of the board.

(s) To advertise in a manner that tends to deceive, mislead or defraud the public.

(t) The designation of any person licensed under this chapter, other than by the terms "optometrist," "Doctor of Optometry" or "O.D."

(u) To knowingly submit or cause to be submitted any misleading, deceptive or fraudulent representation on a claim form, bill or statement.

(v) To practice or attempt to practice optometry while his or her license is suspended.
(3) Any person who is holder of a certificate of licensure or who is an applicant for examination for a certificate of licensure, against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing in Jackson, Mississippi, before the board, at which hearing he may be represented by counsel. At such hearing witnesses may be examined for and against the accused respecting the said charges, and said hearing orders or appeals will be conducted according to the procedure now provided in Section 73-25-27. The suspension of a certificate of licensure, by reason of the use of stimulants or narcotics may be removed when the holder thereof shall have been adjudged by the said board to be cured and capable of practicing optometry.

(4) In addition to the reasons specified in subsections (1) and (2) 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 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 13. Section 73-19-25, Mississippi Code of 1972, is reenacted as follows:

73-19-25. An applicant for a certificate of licensure who has been examined by the state board of another state which, through reciprocity, similarly accredits the holder of a certificate issued by the board of this state to the full privileges of practice within such state, on the payment of a fee
of not more than Fifty Dollars ($50.00) to the said board and on filing in the office of the board a true and attested copy of the said license, certified by the president or secretary of the state board issuing the same, and showing also that the standard requirements adopted and enforced by said board are equal to that provided by this state, may, without further examination, receive a certificate of licensure, provided that such applicant has not previously failed at an examination held by the board of this state.

SECTION 14. Section 73-19-27, Mississippi Code of 1972, is reenacted as follows:

73-19-27. Nothing in this chapter shall be construed as conferring on the holder of any certificate of licensure issued by said board the title of oculist, ophthalmologist, or any other word or abbreviation indicating that he is engaged in the practice of medicine or surgery, or the treatment or the diagnosis of diseases of, or injuries to, the human eye, or the right to use drugs or medicines in any forms for the treatment or examination of the human eye. However, optometrists who have been certified by the board under the provisions of Sections 73-19-101 through 73-19-109 may use diagnostic pharmaceutical agents in the practice of optometry in accordance with the requirements of Sections 73-19-101 through 73-19-109, and optometrists who have been certified by the board under the provisions of Sections 73-19-153 through 73-19-165 may use therapeutic pharmaceutical agents in the practice of optometry in accordance with the requirements of Sections 73-19-153 through 73-19-165. Nothing contained in Chapter 303, Laws of 1991, shall be construed as expanding the scope of practice of a licensed optometrist beyond that authorized prior to July 1, 1991.

SECTION 15. Section 73-19-29, Mississippi Code of 1972, is reenacted as follows:
73-19-29. The provisions of this chapter shall not apply to physicians or surgeons practicing under authority of licenses issued under the laws of this state for the practice of medicine or surgery. And provided that this chapter shall not prohibit merchants and druggists who are actually engaged in business in this state from selling and assisting purchasers in fitting spectacles and eye glasses in their place of business at time of sale.

SECTION 16. Section 73-19-31, Mississippi Code of 1972, is amended as follows:

73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33 through 73-19-45, which create the Mississippi Board of Optometry and prescribe its duties and powers, shall stand repealed as of July 1, 2005.

SECTION 17. Section 73-19-33, Mississippi Code of 1972, is reenacted as follows:

73-19-33. Complaints, irrespective of source, touching upon the professional conduct or conduct evincing unfitness for the practice of optometry made against optometrists licensed in this state, that may be received by or that may come to the attention of any member of the board, shall be referred by the president of the board to an impartial member of the board for preliminary investigation and further action as may be appropriate. The complaint must be in writing and signed by the person making the complaint or charge and shall contain the street address of the complaining party and each witness.

SECTION 18. Section 73-19-35, Mississippi Code of 1972, is reenacted as follows:

73-19-35. When any complaint or charge touching upon the professional conduct or conduct evincing unfitness for the practice of optometry against any optometrist subject to discipline hereunder is referred to a member of the board for investigation, the board member shall take the following action:
(a) Cause the complaint or charge to be filed and
docketed with the secretary of the board; and
(b) Refer the complaint to the board investigator for
further investigation and report.

SECTION 19. Section 73-19-37, Mississippi Code of 1972, is
reenacted as follows:

73-19-37. The board investigator shall immediately
investigate the complaint; and upon completion of his
investigation he shall inform the accused optometrist that a
complaint has been filed against him and that he is under
investigation, advise the accused optometrist of the general
nature of the charges, furnish him a copy of the complaint and any
evidence supporting it, and afford the accused optometrist an
opportunity to respond. Communications and notices to the accused
optometrist shall be transmitted by registered or certified mail,
postage prepaid, to the last known residence or business address
of the licensee.

SECTION 20. Section 73-19-39, Mississippi Code of 1972, is
reenacted as follows:

73-19-39. After completion of his investigation, the board
investigator shall make a report of his findings and
recommendations to the member of the board designated to
investigate the matter. After receipt of the investigator's
report, the board member shall take the following action:

(a) If upon review of the complaint, board
investigator's report and any written response by the accused
optometrist, the board member determines that there is not
reasonable ground to believe that the accused optometrist has been
guilty of unprofessional conduct or conduct evincing unfitness for
the practice of optometry, the board member shall present his
findings and recommendations to the board at the next regular
board meeting. The board may dismiss the complaint or may prepare
a formal complaint against the licensee as provided in Section
73-19-41, Mississippi Code of 1972. In the event of dismissal, the person filing the complaint and the accused optometrist shall be given written notice of the board's determination.

(b) If the board member determines there is reasonable cause to believe the accused optometrist is guilty of such conduct, which, if proven, would warrant suspension for a definite or an indefinite period or license revocation, the board member shall request the board to prepare and file a formal complaint against the accused optometrist. The board may dismiss the complaint or may prepare a formal complaint against the licensee as provided in Section 73-19-41, Mississippi Code of 1972. In the event of a dismissal, the person filing the complaint and the accused optometrist shall be given written notice of the board's determination.

SECTION 21. Section 73-19-41, Mississippi Code of 1972, is reenacted as follows:

73-19-41. (1) The board shall fix a time and place for any formal complaint hearing and shall cause a written notice specifying the offense or offenses for which the licensee is charged and notice of the time and place of the hearing to be served upon the licensee at least twenty (20) days prior to the hearing date. Such notice may be served by mailing a copy thereof by certified mail, postage prepaid, to the last known residence or business address of the licensee.

(2) The board is hereby authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers at such hearing. Process issued by the board shall extend to all parts of the state and shall be served by any person designated by the board for such service.

(3) The accused shall have the right to appear either personally or by counsel or both to produce witnesses or evidence in his behalf, to cross-examine witnesses and to have subpoenas issued by the board.
(4) At the hearing, the board shall administer oaths as may be necessary for the proper conduct of the hearing. All hearings shall be conducted by the board, with the exception of the investigating board member who shall not participate in the hearing. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient evidence to sustain it. All proceedings shall be transcribed by a court reporter.

(5) Where, in any proceeding before the board, any witness fails or refuses to attend upon a subpoena issued by the board, refuses to testify, or refuses to produce any books and papers the production of which is called for by a subpoena, the attendance of such witness, the giving of his testimony or the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(6) The board shall, within sixty (60) days after conclusion of the hearing, reduce its decision to writing and forward an attested true copy thereof to the last known residence or business address of such licensee by way of United States first class, certified mail, postage prepaid.

SECTION 22. Section 73-19-43, Mississippi Code of 1972, is reenacted as follows:

73-19-43. (1) Upon finding of the existence of grounds for discipline of any person holding a license, seeking a license, or seeking to renew a license under the provisions of this chapter, the board may impose one or more of the following penalties:

(a) Suspension of the offender's license for a term to be determined by the board;

(b) Revocation of the offender's license;
(c) Restriction of the offender's license to prohibit
the offender from performing certain acts or from engaging in the
practice of optometry in a particular manner for a term to be
determined by the board;

(d) Imposition of a monetary penalty as follows:
   (i) For the first violation, a monetary penalty of
not less than Fifty Dollars ($50.00) nor more than Five Hundred
Dollars ($500.00) for each violation;
   (ii) For the second violation and subsequent
violations, a monetary penalty of not less than One Hundred
Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00)
for each violation;

(e) Refusal to renew offender's license;

(f) Placement of the offender on probation and
supervision by the board for a period to be determined by the
board;

(g) Public or private reprimand.

(2) Any person whose license has been suspended, revoked or
restricted pursuant to this chapter, whether voluntarily or by
action of the board, shall have the right to petition the board at
reasonable intervals for reinstatement of such license. Such
petition shall be made in writing and in the form prescribed by
the board. Upon investigation and hearing, the board may, in its
discretion, grant or deny such petition, or it may modify its
original finding to reflect any circumstances which have changed
sufficiently to warrant such modifications. The procedure for the
reinstatement of a license that is suspended for being out of
compliance with an order for support, as defined in Section
93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as
the case may be.

(3) Nothing herein shall be construed as barring criminal
prosecutions for violation of this chapter where such violations
are deemed as criminal offenses in other statutes of this state or of the United States.

(4) A monetary penalty assessed and levied under this section shall be paid to the board by the licensee upon the expiration of the period allowed for appeal of such penalties under Section 73-19-45, Mississippi Code of 1972, or may be paid sooner if the licensee elects. Money collected by the board under this section shall be deposited to the credit of the General Fund of the State Treasury.

(5) When payment of a monetary penalty assessed and levied by the board against a licensee in accordance with this section is not paid by the licensee when due under this section, the board shall have the power to institute and maintain proceedings in its name for enforcement of payment in the Chancery Court of the First Judicial District of Hinds County, Mississippi. When such proceedings are instituted, the board shall certify its order to the chancery court and the matter shall thereupon be heard in due course by the court, which shall review the order and make its determination thereon. The hearing on the matter may, in the discretion of the chancellor, be tried in vacation. If the chancellor finds no errors on the face of the board's order, the board shall have a judgment for the amount due which shall be enforceable as all other judgments.

SECTION 23. Section 73-19-45, Mississippi Code of 1972, is reenacted as follows:

73-19-45. (1) The right to appeal from a final action of the board is hereby granted. Such appeal shall be to the chancery court of the county of residence of the licensee and shall be on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be taken within thirty (30) days after notice of the action of the board. The appeal shall be perfected upon filing notice of the appeal with the chancery court and by the prepayment of all costs, including the cost of the
preparation of the record of the proceedings by the board, and the filing of a bond in the sum of Two Hundred Dollars ($200.00), conditioned that if the action of the board be affirmed by the chancery court, the licensee will pay the costs of the appeal and the action in the chancery court. A copy of the Notice of Appeal shall be served upon board counsel.

(2) If there is an appeal, such appeal may, in the discretion of and on motion to the chancery court, act as a supersedeas. The chancery court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may, in the discretion of the chancellor, be tried in vacation. The scope of review of the chancery court shall be limited to a review of the record made before the board to determine if the action of the board is unlawful for the reason that it was (a) not supported by substantial evidence, (b) arbitrary or capricious, (c) beyond the power of the board to make, or (d) in violation of some statutory or constitutional right of the appellant. The decision of the chancery court may be appealed to the Supreme Court in the manner provided by the rules of the Supreme Court.

(3) 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.

SECTION 24. This act shall take effect and be in force from and after July 1, 2001.