

By: Representative Ford

To: Public Health and Welfare

HOUSE BILL NO. 479

1 AN ACT TO REENACT SECTIONS 73-9-1 THROUGH 73-9-65,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE STATE BOARD OF DENTAL
3 EXAMINERS AND PRESCRIBE ITS DUTIES AND POWERS; TO AMEND SECTION
4 73-9-67, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON
5 THE PROVISIONS OF LAW THAT CREATE THE STATE BOARD OF DENTAL
6 EXAMINERS AND PRESCRIBE ITS DUTIES AND POWERS; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 73-9-1, Mississippi Code of 1972, is
10 reenacted as follows:

11 73-9-1. Every person who desires to practice dentistry or
12 dental hygiene in this state must obtain a license to do so as
13 hereinafter provided; but this section shall not apply to dentists
14 or dental hygienists now holding permanent licenses to practice
15 provided the same have been recorded as required by law.

16 **SECTION 2.** Section 73-9-3, Mississippi Code of 1972, is
17 reenacted as follows:

18 73-9-3. "Dentistry" is defined as the evaluation, diagnosis,
19 prevention and/or treatment (nonsurgical, surgical or related
20 procedures) of diseases, disorders and/or conditions of the oral
21 cavity, maxillofacial area and/or the adjacent and associated
22 structures and their impact on the human body; provided by a
23 dentist, within the scope of his education, training and
24 experience, in accordance with the ethics of the profession and
25 applicable law, provided that nothing herein shall be so construed
26 as to prevent:

- 27 1. The practice of his profession by a regularly
28 licensed and registered physician under the laws of this state
29 unless he practices dentistry as a specialty; or



30 2. The performance of mechanical work upon inanimate
31 objects by persons working in dental offices under their
32 supervision; or

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

36 4. Dentists from outside the state from giving
37 educational clinics or demonstrations before a dental society,
38 convention or association; or

39 5. Licensed dentists from outside the state from being
40 called into Mississippi by licensed dentists of this state for
41 consultative or operative purposes when such consultative or
42 operative purposes have been authorized or approved by the Board
43 of Dental Examiners for specified periods of time or as provided
44 for by rules and regulations set forth by the board; or

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

48 7. The practice of dentistry or of dental hygiene by
49 students under the supervision of instructors in any dental
50 school, college, or dental department of any school, college, or
51 university, or school of dental hygiene recognized by the board,
52 but such activities shall not be carried on for profit; or

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

56 9. A regularly licensed and registered dentist from the
57 delegation of procedures to a regularly licensed and registered
58 hygienist or other competent dental auxiliary personnel while
59 acting under the direct supervision and full responsibility of the
60 dentist except as follows: Those procedures which require the
61 professional judgment and skill of a dentist such as diagnosis,
62 treatment planning, surgical procedures involving hard or soft



63 tissues, or any intra-oral procedure of an irreversible nature
64 which could result in injury to the patient. Provided, however,
65 the dentist may delegate the removal of calcareous deposits only
66 to a regularly licensed and registered dental hygienist as
67 regulated by the State Board of Dental Examiners.

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

72 **SECTION 3.** Section 73-9-5, Mississippi Code of 1972, is
73 reenacted as follows:

74 73-9-5. (1) For the purpose of this chapter, a dental
75 hygienist shall be an individual who has completed an accredited
76 dental hygiene education program, passed the national dental
77 hygiene board and is licensed by the State Board of Dental
78 Examiners to provide, as an auxiliary to the dentist, preventive
79 care services including, but not limited to, scaling and
80 polishing. In fulfilling these services, dental hygienists
81 provide treatment that helps to prevent oral disease such as
82 dental caries and periodontal disease and for educating patients
83 in prevention of these and other dental problems.

84 (2) The work of dental hygienists and dental assistants
85 while working in the office of a regularly licensed and registered
86 dentist shall at all times be under the direct supervision of the
87 dentist. Dental hygienists in the employ of the State Board of
88 Health or public school boards shall be limited to only performing
89 oral hygiene instruction and screening when under the general
90 supervision and direction of regularly licensed and registered
91 dentists. Dental hygienists recognized by the board of dental
92 examiners when making public demonstrations of dental hygiene for
93 educational purposes shall be under the general supervision and
94 direction of regularly licensed and registered dentists.



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

98 **SECTION 4.** Section 73-9-7, Mississippi Code of 1972, is
99 reenacted as follows:

100 73-9-7. The duties of the Mississippi State Board of Dental
101 Examiners, or "the board," shall be to carry out the purposes and
102 provisions of the laws pertaining to the practice of dentistry and
103 dental hygiene. The board shall consist of seven (7) regularly
104 licensed, registered and practicing dentists, each a graduate of
105 an accredited college of dentistry and each a regularly licensed,
106 registered and practicing dentist within the State of Mississippi
107 for a period of five (5) or more years next preceding his
108 appointment. No dentist shall be eligible for appointment who is
109 connected in any way with any school of dentistry or the dental
110 supply business.

111 In addition, the board shall include one (1) member who shall
112 be a regularly licensed, registered dental hygienist with at least
113 five (5) years' practical experience. The dental hygienist member
114 shall be appointed by the Governor from the state at large from a
115 list of six (6) dental hygienists. Each of the dental hygienists
116 listed shall be the dental hygienist receiving the highest number
117 of votes in his or her individual district from a poll conducted
118 and compiled by the board. The poll shall consist of a blank
119 ballot with three (3) spaces for nomination provided to all
120 licensed dental hygienists in the state by district. The dental
121 hygienist member shall serve for a term of four (4) years and may
122 succeed himself or herself in office. Any vacancy in the dental
123 hygienist board membership shall be filled by the Governor within
124 sixty (60) days by appointment from the list of nominees submitted
125 for the existing term of office. During the course of each
126 calendar year, the board shall take like polls of all licensed
127 dental hygienists practicing in the state, and shall prepare a new



128 list of six (6) dental hygienists, such list to consist of the
129 dental hygienist receiving the highest number of votes in each
130 district, to be submitted to the Governor, which shall be used in
131 the appointment of the dental hygienist member from the state at
132 large. The terms of the dental hygienist member shall be computed
133 from July 1, 1995.

134 Except as hereinafter provided, each member of the board
135 shall hold office for the particular term of four (4) years to
136 which he is appointed as differentiated and set out in this
137 section and until his successor shall be duly appointed and
138 qualified. Any appointment made to fill a vacancy or to replace
139 an incumbent holding over shall terminate in accordance with the
140 designation of the particular term as set out below and until his
141 successor is duly appointed and qualified.

142 Except for the original appointments, the term of each of the
143 seven (7) dentist appointees provided for herein shall be for a
144 period of four (4) years and shall terminate on and after June
145 30th of the year set out below for each appointive position:

146 Appointments one (1) and two (2) in 1964 and each fourth year
147 thereafter; appointment three (3) in 1965 and each fourth year
148 thereafter; appointment four (4) in 1966 and each fourth year
149 thereafter; and appointments five (5) and six (6) in 1967 and each
150 fourth year thereafter. Each subsequent appointment shall be made
151 in chronological order of respective expiration dates; provided,
152 however, that each appointee holding office at the time of passage
153 of this chapter shall continue to serve until the expiration date
154 of the period for which he was appointed, and appointment of such
155 incumbent's successors shall be made in order of the expiration
156 dates of their present commissions.

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



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

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

169 Dental District One: Alcorn, Benton, Calhoun, Chickasaw,
170 Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall,
171 Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union,
172 Webster;

173 Dental District Two: Bolivar, Carroll, Coahoma, DeSoto,
174 Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery,
175 Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica,
176 Washington, Yalobusha, Yazoo;

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

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

181 Dental District Five: George, Greene, Hancock, Harrison,
182 Jackson, Pearl River, Stone;

183 Dental District Six: Adams, Amite, Claiborne, Copiah,
184 Franklin, Jefferson Davis, Jefferson, Lawrence, Lincoln, Marion,
185 Pike, Simpson, Walthall, Wilkinson;

186 and request the submission from each such dental district of three
187 (3) nominations for appointment as members of the board. Thirty
188 (30) days after submitting such request, the board shall list all
189 nominations by district according to the number of votes each
190 received. The top three (3) names from each district shall then
191 be considered as a list of names to be submitted to the Governor
192 as referred to above each time a vacancy occurs in one (1) of the



193 six (6) positions appointed from districts or whenever the
194 Governor requests such submission. During the course of each
195 calendar year, the board shall take like polls of all licensed
196 dentists practicing in each dental district, and shall prepare new
197 lists therefrom to be submitted to the Governor which shall be
198 used in the appointment of the six (6) members appointed from
199 districts.

200 It is the purpose of this section that no more than one (1)
201 appointee of the six (6) members appointed from districts shall
202 serve from any district at any one (1) time; provided, however,
203 that the members serving on the effective date of this section
204 shall continue until their term of office has expired. All
205 subsequent appointments of the six (6) members appointed from
206 districts shall be made in accordance with the provisions of this
207 section, shall be designated by district, and shall be selected by
208 district in accordance with the appropriate list submitted
209 therefor. The names on the lists shall be given priority in
210 accordance with the votes for each nominee. In case of a tie,
211 such persons receiving tie votes shall have their names placed on
212 the list even though it results in more than three (3) names on
213 such list from that district.

214 The Secretary of State shall, at his discretion, at any time
215 there is sufficient cause, investigate the method and procedure of
216 taking such polls and establishing such lists, and the board shall
217 make available to him all records involved therein; and if the
218 Secretary of State should find cause therefor he may, upon
219 specifying such cause, declare the list invalid, whereupon the
220 board shall follow the procedure set out above to establish a new
221 list. If a vacancy exists and no list is available, the Board of
222 Dental Examiners is to follow the above-described procedure in
223 establishing a new list for the appropriate dental district.



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

227 **SECTION 5.** Section 73-9-9, Mississippi Code of 1972, is
228 reenacted as follows:

229 73-9-9. The Governor may remove any member of said board on
230 proof of inefficiency, incompetency, immorality, unprofessional
231 conduct, or continued absence from the state, for failure to
232 perform duties, or for other sufficient cause. Any member who
233 shall not attend two (2) consecutive meetings of the board, for
234 any reason other than illness of such member, shall be subject to
235 removal by the Governor. The president of the board shall notify
236 the Governor in writing when any such member has failed to attend
237 two (2) consecutive regular meetings. No removal shall be made
238 without first giving the accused an opportunity to be heard in
239 refutation of the charges made against him, and he shall be
240 entitled to receive a copy of the charges at the time of filing.

241 **SECTION 6.** Section 73-9-11, Mississippi Code of 1972, is
242 reenacted as follows:

243 73-9-11. Each person appointed as a member of the board
244 shall qualify by taking the oath prescribed by the Constitution
245 for the state officers, and shall file certificate thereof in the
246 office of the Secretary of State within fifteen (15) days after
247 his appointment. A majority of the board shall at all times
248 constitute a quorum for the transaction of business.

249 **SECTION 7.** Section 73-9-13, Mississippi Code of 1972, is
250 reenacted as follows:

251 73-9-13. The State Board of Dental Examiners shall each year
252 elect from their number a president and a secretary-treasurer to
253 serve for the coming year and until their successors are
254 qualified. The board shall have a seal with appropriate wording
255 to be kept by the secretary. The secretary shall be required to
256 make bond in such sum and with such surety as the board may



257 determine. It shall be the duty of the secretary to keep a
258 complete record of the acts and proceedings of the board and to
259 preserve all papers, documents and correspondence received by the
260 board relating to its duties and office. The proceedings shall at
261 all reasonable times be open to public inspection.

262 The board shall have the following powers and duties:

263 (a) To carry out the purposes and provisions of the
264 state laws pertaining to dentistry and dental hygiene, and the
265 practice thereof and matters related thereto, particularly
266 Sections 73-9-1 through 73-9-65, together with all amendments and
267 additions thereto.

268 (b) To regulate the practice of dentistry and to
269 promulgate reasonable regulations as are necessary or convenient
270 for the protection of the public.

271 (c) To make rules and regulations by which clinical
272 facilities within institutions, schools, colleges, universities
273 and other agencies may be recognized and approved for the practice
274 of dentistry or of dental hygiene by unlicensed persons therein,
275 as a precondition to their being excepted from the general
276 practice act and authorized in accordance with Section 73-9-3(7)
277 and (8).

278 (d) To provide for the enforcement of and to enforce
279 the laws of the State of Mississippi and the rules and regulations
280 of the State Board of Dental Examiners.

281 (e) To compile at least once each calendar year and to
282 maintain an adequate list of prospective dentist appointees for
283 approval by the Governor as provided for elsewhere by law, such
284 list being based upon a comprehensive poll of all licensed and
285 registered dentists in the state, the names being arranged in
286 order of preference as shown by such poll.

287 (f) To issue licenses to dentists and dental hygienists
288 when found to be qualified.



289 (g) To provide for annual reregistration of dentists
290 and dental hygienists.

291 (h) To maintain an up-to-date list of all registered
292 dentists and dental hygienists in the state, together with their
293 addresses.

294 (i) To examine applicants for the practice of dentistry
295 or dental hygiene at least annually.

296 (j) To issue licenses or duplicates and annual
297 reregistration certificates, to collect and account for fees for
298 same.

299 (k) To maintain an office adequately staffed insofar as
300 funds are available for the purposes of carrying out the powers
301 and duties of the board.

302 (l) To provide by appropriate rules and regulations,
303 within the provisions of the state laws, for revoking or
304 suspending dentists' and dental hygienists' licenses and a system
305 of fines for lesser penalties.

306 (m) To prosecute, investigate or initiate prosecution
307 for violations of the laws of the state pertaining to practice of
308 dentistry or dental hygiene, or matters affecting the rights and
309 duties, or related thereto.

310 (n) To provide by rules for the conduct of as much
311 board business as practicable by mail, which, when so done, shall
312 be and have the same force and effect as if done in a regular
313 meeting duly organized.

314 (o) To adopt rules and regulations providing for the
315 reasonable regulation of advertising by dentists and dental
316 hygienists.

317 (p) To employ, in its discretion, a duly licensed
318 attorney to represent the board in individual cases.

319 (q) To employ, in its discretion, technical and
320 professional personnel to conduct dental office sedation site



321 visits, monitor state board examinations and carry out the powers
322 and duties of the board.

323 **SECTION 8.** Section 73-9-15, Mississippi Code of 1972, is
324 reenacted as follows:

325 73-9-15. All board action on rules, regulations and policy
326 matters, such as required to be by vote, shall be by roll call or
327 mail ballot wherein the vote of each member shall be recorded
328 whether for, against or otherwise. The dental hygienist member of
329 the board shall only vote on rules, regulations, policy and
330 administrative matters relating to the licensing, qualifications
331 and practice of dental hygiene. The results of such vote shall be
332 a public record except that information pertaining to personal
333 investigations or examinations shall be confidential unless waived
334 by such persons investigated or examined.

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

337 73-9-17. The board is authorized to prescribe and enforce
338 regulations and to perform those acts compatible with and
339 authorized by, either directly or by implication, the laws of the
340 state for the purpose of implementing the provisions of this
341 chapter.

342 **SECTION 10.** Section 73-9-19, Mississippi Code of 1972, is
343 reenacted as follows:

344 73-9-19. The State Board of Dental Examiners shall maintain
345 a compiled list of the names and post office addresses of all
346 dentists and dental hygienists registered and practicing in the
347 state, arranged alphabetically by name and also by the towns where
348 their offices are situated. Every dentist or dental hygienist
349 shall promptly keep the board advised of any change in address of
350 his office or residence. Every registered dentist shall exhibit
351 his full name in plain readable letters in the offices or rooms
352 where his professional business is transacted.



353 Every licensed dentist and dental hygienist shall, in
354 accordance with the laws and rules and regulations of the board,
355 together with appropriate required information and registration
356 fee, apply within the period of sixty (60) days prior to September
357 1 of each year for annual registration, and the board shall issue
358 such annual registration certificate to any dentist or dental
359 hygienist in active practice and in good standing with the board.
360 Any dentist or dental hygienist performing acts constituting
361 practice or attempted practice of the profession of dentistry or
362 dental hygiene without legally having in his custody a valid
363 active registration certificate or duly issued duplicate therefor
364 in accordance with provisions elsewhere set out may be found
365 guilty and punished or prosecuted therefor in accordance with law;
366 provided, that the filing of such application, the payment of such
367 fee, and the issuance of such certificate therefor, shall not
368 entitle the holder thereof to lawfully practice dentistry or
369 dental hygiene within the State of Mississippi unless he has in
370 fact been previously licensed as such practitioner by the State
371 Board of Dental Examiners as provided by this chapter, and has
372 duly recorded his license in the county or counties in which the
373 same may be required by law to be recorded, and unless said
374 license is in full force and effect; and provided further, that in
375 any prosecution for the unlawful practice of dentistry such
376 receipt showing payment of the annual registration fee required by
377 this chapter shall not be treated as evidence that the holder
378 thereof is lawfully entitled to practice dentistry.

379 Any licensed dentist or dental hygienist who is registered
380 but not actively practicing in the State of Mississippi at the
381 time of making application for renewal, shall be registered on the
382 "inactive" list and shall not be authorized to practice such
383 profession in this state. Such "inactive" list shall be
384 maintained by the board and shall set out the names and
385 post-office addresses of all dentists and dental hygienists



386 registered but not actively practicing in this state, arranged
387 alphabetically by name and also by the towns and states of their
388 last known professional or residential address. However, licensed
389 dentists or dental hygienists actively practicing in another state
390 at a veterans hospital, federal government facility or residency
391 graduate school program at the time of renewal shall not be
392 registered on the inactive list.

393 Only the dentists and dental hygienists registered on the
394 appropriate list as actively practicing in the State of
395 Mississippi shall be authorized to practice such profession. For
396 the purpose of this section, any licensed dentist or dental
397 hygienist who has actively practiced his profession for at least
398 three (3) months of the immediately preceding license renewal
399 period shall be considered in active practice.

400 No dentist or dental hygienist shall be registered on the
401 "inactive" list until the dentist or dental hygienist has been
402 furnished a statement of intent to take such action by the board;
403 and the board shall notify the licensee by mail that on the day
404 fixed for hearing he may appear and show cause, if any, why his
405 license to practice dentistry or dental hygiene should remain
406 active. The licensee may be present at the hearing in person, by
407 counsel, or both. For the purpose of such hearing the board is
408 hereby empowered to require the attendance of witnesses,
409 administer oaths and hear testimony, either oral or documentary,
410 for and against the licensee, and if after such hearing, the board
411 shall be satisfied that the dentist or dental hygienist shall be
412 registered on the inactive list, it shall thereupon without
413 further notice take such action.

414 Any licensed dentist or dental hygienist registered on the
415 "inactive" list shall not be eligible for registration on the
416 active list until either of the following conditions have been
417 satisfied:



418 (a) Written application shall be submitted to the
419 Secretary of the State Board of Dental Examiners stating the
420 reasons for such inactivity and setting forth such other
421 information as the board may require on an individual basis; or

422 (b) Evidence to the satisfaction of the board shall be
423 submitted that they have actively practiced their profession in
424 good standing in another state and have not been guilty of conduct
425 that would warrant suspension or revocation as provided by
426 applicable law.

427 **SECTION 11.** Section 73-9-21, Mississippi Code of 1972, is
428 reenacted as follows:

429 73-9-21. Such stationery, blank books and forms as may be
430 needed by the board in the discharge of its duties shall be
431 furnished to it in the manner as like supplies are furnished other
432 state departments.

433 **SECTION 12.** Section 73-9-23, Mississippi Code of 1972, is
434 reenacted as follows:

435 73-9-23. (1) No person who desires to practice dentistry or
436 dental hygiene in the State of Mississippi shall be licensed until
437 that person has passed an examination by the board. Applicants
438 for examination shall apply in writing to the secretary of the
439 board for an examination at least thirty (30) days prior to the
440 examination and shall upon application pay a nonrefundable fee as
441 elsewhere provided in this chapter.

442 (2) An applicant for licensure by examination as a dentist
443 who is a graduate of a dental school accredited by the Commission
444 on Accreditation of Dental and Dental Auxiliary Educational
445 Programs of the American Dental Association (ADA), shall:

446 (a) Be of good moral character, be possessed of a high
447 school education, and have attained the age of twenty-one (21)
448 years;



449 (b) Exhibit with the application a diploma or
450 certificate of graduation from the ADA accredited dental school;
451 and

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

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

459 (a) Be of good moral character and have attained the
460 age of twenty-one (21) years;

461 (b) Be proficient in oral and written communications in
462 the English language;

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

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

469 (e) Must present documentation of having completed at
470 least two (2) or more years of full-time post-doctoral general
471 dental education in a dental school accredited by the Commission
472 on Accreditation of Dental and Dental Auxiliary Educational
473 Programs of the American Dental Association, and has been
474 certified by the dean of the accredited dental school as having
475 achieved the same level of didactic and clinical competence as
476 expected of a graduate of the school; and

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



481 (4) An applicant for licensure by examination as a dental
482 hygienist who is a graduate of a dental hygiene school accredited
483 by the Commission on Accreditation of Dental and Dental Auxiliary
484 Educational Programs of the American Dental Association (ADA)
485 shall:

486 (a) Be of good moral character, be possessed of a high
487 school education and have attained the age of eighteen (18) years;
488 and

489 (b) Exhibit with the application a diploma or
490 certificate of graduation from the ADA accredited dental hygiene
491 school; and

492 (c) Have successfully completed the National Board
493 Dental Hygiene Examinations by the Joint Commission on National
494 Dental Examinations.

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

498 (a) Be of good moral character and have attained the
499 age of eighteen (18) years;

500 (b) Be proficient in oral and written communications in
501 the English language;

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

506 (d) Have been licensed as a dental hygienist or
507 admitted to the practice of dental hygiene in the foreign country
508 in which the applicant received foreign dental hygiene school
509 training;

510 (e) Must present documentation of having completed at
511 least one or more years of full-time post-graduate clinical
512 education in a dental hygiene school accredited by the Commission
513 on Accreditation of Dental and Dental Auxiliary Educational



514 Programs of the American Dental Association, and has been
515 certified by the dean of the accredited dental hygiene school as
516 having achieved the same level of didactic and clinical competence
517 as expected of a graduate of the school; and

518 (f) Have successfully completed the National Board
519 Dental Hygiene Examinations by the Joint Commission on National
520 Dental Examinations.

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

525 Applications must be signed by two (2) citizens of the state of
526 which the applicant is a resident, attesting under oath that the
527 applicant is of good moral character. All applicants for
528 licensure shall submit an endorsement from all states in which he
529 or she is currently licensed or has ever been licensed to practice
530 dentistry or dental hygiene. The board may disallow the licensure
531 examination to any applicant who has been found guilty of any of
532 the grounds for disciplinary action as enumerated in Section
533 73-9-61.

534 (7) Examination shall be as elsewhere provided in this
535 chapter and the board may by its rules and regulations prescribe
536 reasonable professional standards for oral, written, clinical and
537 other examinations given to applicants. Each applicant shall
538 appear before the board and be examined to determine his or her
539 learning and skill in dentistry or dental hygiene. If found by
540 the members of the board conducting the examination to possess
541 sufficient learning and skill therein and to be of good moral
542 character, the board shall, as early as practicable, grant to such
543 person a license to practice dentistry or dental hygiene, as the
544 case may be, which shall be signed by each member of the board who
545 attended the examination and approved the issuance of a license.



546 (8) The Board of Dental Examiners may, at its own
547 discretion, accept certification of a licensure applicant, either
548 dentist or dental hygienist, by the National Board of Dental
549 Examiners in lieu of the written examination. However, in all
550 such instances the board shall retain the right to administer such
551 further practical examinations and demonstrations as it deems
552 necessary.

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

556 **SECTION 13.** Section 73-9-24, Mississippi Code of 1972, is
557 reenacted as follows:

558 73-9-24. (1) In addition to the method for obtaining a
559 license to practice dentistry or dental hygiene by way of
560 examination as provided by Section 73-9-23, Mississippi Code of
561 1972, the board, in its sole discretion, may grant a license to a
562 candidate who meets the following criteria:

563 (a) Submit proof of graduation from a dental school or
564 school of dental hygiene accredited by the Commission on
565 Accreditation of Dental and Dental Auxiliary Educational Programs
566 of the American Dental Association (ADA).

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

570 (c) Currently hold a valid, unrestricted and unexpired
571 license in a state whose standards for licensure are determined by
572 the board as equivalent to Mississippi's standards, and which
573 state grants reciprocity or licensure by credentials to licensees
574 of the State of Mississippi;

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



578 (e) Has not been the subject of pending or final
579 disciplinary action in any state in which the applicant has been
580 licensed;

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

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

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

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

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

593 (k) Successfully passes a written jurisprudence
594 examination;

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

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

600 (i) Information from the National Practitioner
601 Data Bank and/or the American Association of Dental Examiners
602 Clearinghouse for Disciplinary Information.

603 (ii) Questioning under oath.

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

606 (iv) Substance abuse testing or treatment.

607 (v) Background checks for criminal or fraudulent
608 activities.

609 (vi) Participation in Continuing Education.



610 (vii) A current certificate in cardiopulmonary
611 resuscitation.

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

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

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

618 (xi) Proof of professional liability coverage and
619 that such coverage has not been refused, declined, canceled,
620 nonrenewed or modified.

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

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

629 (3) Any applicant failing to meet the criteria in subsection
630 (1) above shall not be eligible for a license based on
631 credentials. Upon meeting the criteria in subsection (1), the
632 Mississippi State Board of Dental Examiners may, in its
633 discretion, issue to the applicant a license to practice
634 dentistry, or dental hygiene, unless grounds for denial of
635 licensure exist as enumerated in Section 73-9-61. Evidence of
636 falsification in the application for licensure through
637 credentialing will result in revocation of such license.

638 (4) Any applicant applying for a specialty license by
639 credentials must stay within his board recognized specialty and
640 must practice only that specialty within the State of Mississippi.
641 A specialty license holder must hold a general dentistry license
642 prior to obtaining a specialty license.



643 **SECTION 14.** Section 73-9-25, Mississippi Code of 1972, is
644 reenacted as follows:

645 73-9-25. The regular meeting of the state board of dental
646 examiners shall be held annually at such place, date and time as
647 the board may determine in its discretion, for the purpose of
648 examining applicants for license to practice dentistry and dental
649 hygiene, and continue in session until all applicants for license
650 have been examined and their examinations have been approved or
651 disapproved. The board may meet more often if necessary, in the
652 discretion of the board, at such times and places as it may deem
653 proper for the examination of applicants who may wish to practice
654 dentistry or dental hygiene in this state, to administer makeup
655 examinations, or for the purpose of enforcing the dental laws of
656 the state.

657 As far as practicable, all examinations, except as to
658 character, shall be upon written questions. Examinations for
659 license to practice dentistry shall be upon the following
660 subjects: anatomy, anesthesiology, biochemistry, community
661 health, dental auxiliary utilization, dental materials science,
662 diagnosis and treatment planning, embryology, endodontics, ethics,
663 growth and development, history, hospital dental service, internal
664 medicine, jurisprudence, microbiology, occlusion, operative
665 dentistry, oral anatomy, oral and maxillofacial surgery,
666 orthodontics and dentofacial orthopedics, oral and maxillofacial
667 pathology, pediatric dentistry, pharmacology, physiology, practice
668 administration, preventive dentistry, prosthodontics-fixed and
669 removable, oral and maxillofacial radiology and roentgenology, as
670 they pertain to dentistry, together with a practical examination
671 in operative and mechanical dentistry. Examinations for license
672 to practice dental hygiene shall cover the subjects taught in the
673 recognized schools of dental hygiene together with such other
674 subjects and practical demonstrations as the board may require.



675 The state shall furnish necessary equipment for the required
676 practical examinations for dentists and dental hygienists, and
677 properly house and care for same.

678 **SECTION 15.** Section 73-9-27, Mississippi Code of 1972, is
679 reenacted as follows:

680 73-9-27. Each license issued by the board shall bear a
681 serial number, the full name and residence of licensee, the date
682 of issuance, the seal of the board, and shall be attested by the
683 signatures of all the board attending the examination. Certified
684 copies of the license may be issued by the president and secretary
685 under their signature and seal, for which the secretary shall
686 collect a fee as elsewhere provided in this chapter.

687 **SECTION 16.** Section 73-9-28, Mississippi Code of 1972, is
688 reenacted as follows:

689 73-9-28. The Mississippi State Board of Dental Examiners is
690 hereby vested with the authority to promulgate rules and
691 regulations allowing special categories of licenses, certificates,
692 specialty certificates and permits whereby institutional, teaching
693 and provisional privileges may be granted on an individual basis,
694 pursuant to such rules and regulations prescribing the
695 qualifications, conditions and limitations of such privileges as
696 may be established by the board. Such qualifications, conditions
697 and limitations shall pertain to applicants who require but are
698 eligible for less than complete resident licensure as provided for
699 in the dental practice act.

700 Application for such special category of license,
701 certificate, specialty certificate or permit, and the renewal
702 thereof, shall be made to the secretary of the board in writing in
703 accordance with such rules and regulations as the board may adopt.
704 The secretary shall collect a fee therefor as provided in Section
705 73-9-43.

706 **SECTION 17.** Section 73-9-29, Mississippi Code of 1972, is
707 reenacted as follows:



708 73-9-29. Any dentist of this state licensed by the
709 Mississippi State Board of Dental Examiners, who has complied with
710 the requirements specified by the Council on Dental Education of
711 the American Dental Association, in a specialty branch of
712 dentistry or who has otherwise met the requirements of the rules
713 and regulations promulgated by the board may apply for a
714 certificate as a specialist. Such application shall be
715 accompanied by the payment of a fee not to exceed Four Hundred
716 Dollars (\$400.00) and such application must be on file for at
717 least sixty (60) days prior to the regular meeting of the board,
718 and if the application is accepted the applicant may be notified
719 to appear for examination before the board and a committee of that
720 particular specialty, if available, appointed by the board.
721 Examinations may be oral, written, or both, and the applicant may
722 be required to demonstrate his knowledge and proficiency in the
723 specialty in which he desires to be certified. The board is
724 authorized to certify specialists in all specialty areas approved
725 by the American Dental Association.

726 Any dentist not licensed by the Mississippi State Board of
727 Dental Examiners but who is eligible to take the Mississippi State
728 Board examination, and is further eligible for specialty
729 examination, may take both examinations at the discretion of the
730 board.

731 No licensed dentist shall hold himself out to the public as a
732 specialist, or publicly announce as being specially qualified in
733 any particular branch of dentistry, or publicly announce as giving
734 special attention to any branch of dentistry, until he has been
735 issued a certificate by the board authorizing him to do so.
736 Failure to comply shall be cause for his dental license to be
737 revoked or suspended.

738 Only the following shall be eligible to announce as
739 specialists:



740 (a) A diplomate of a specialty board approved by the
741 American Dental Association;

742 (b) A dentist who has complied with requirements as
743 specified by the Council on Dental Education of the American
744 Dental Association for graduate training in the specialty sought
745 to be announced, such training to meet the educational or training
746 requirement for diplomate status;

747 (c) A dentist who has announced a specialized practice
748 in one (1) of the special areas of dental practice within the
749 State of Mississippi for at least five (5) years prior to January
750 1, 1970, and who meets the requirements elsewhere in this section
751 may be granted a specialist certificate upon application and
752 payment only of an initial specialty registration fee.

753 A dentist specialist's certificate shall be revoked upon the
754 revocation of the holder's license to practice dentistry in
755 Mississippi.

756 **SECTION 18.** Section 73-9-33, Mississippi Code of 1972, is
757 reenacted as follows:

758 73-9-33. Every person who receives a license to practice
759 dentistry or dental hygiene in the state must file it for record
760 in the office of the clerk of the circuit court of the county or
761 county district in which he or she shall reside within thirty (30)
762 days after its issuance; if he or she fail to do so, if engaged in
763 the practice of dentistry or dental hygiene, he or she shall
764 thereafter be liable for practicing without license so long as the
765 same shall remain unrecorded. When such license shall be filed,
766 the clerk shall record the same in the book in which the licenses
767 of physicians are recorded, upon payment to him of the lawful fee;
768 and when recorded the original shall be delivered on demand to the
769 licensee. On removal from one county or county district to
770 another, the license must be recorded in the county or county
771 district to which licensee removed. It shall be the duty of the
772 circuit clerk of each county within this state to make and file,



773 with the secretary of the board, on or before the first day of
774 January of each year, a list of all the licenses filed during the
775 preceding year with such clerk, both dentists and dental
776 hygienists, and also all other licensed and registered dentists
777 and dental hygienists in the county.

778 **SECTION 19.** Section 73-9-35, Mississippi Code of 1972, is
779 reenacted as follows:

780 73-9-35. The holder of either of the licenses provided for,
781 shall at all times, upon request, exhibit same, together with the
782 certificate of recordation, to any member of the Board of Dental
783 Examiners, or his authorized agent or to any officer of the law.

784 **SECTION 20.** Section 73-9-37, Mississippi Code of 1972, is
785 reenacted as follows:

786 73-9-37. If a license to practice dentistry or dental
787 hygiene be issued and be lost or destroyed, the board may issue
788 another in lieu thereof, upon satisfactory proof of such loss or
789 destruction.

790 **SECTION 21.** Section 73-9-39, Mississippi Code of 1972, is
791 reenacted as follows:

792 73-9-39. It shall be unlawful for any person or persons to
793 practice or offer to practice dentistry under, or use the name of
794 any company, association or corporation or business name or any
795 name except his or their own in a manner which is in violation of
796 Section 73-9-61, or to operate, manage or be employed in any room,
797 rooms or office where dental work is done or contracted for, and
798 that is operated under the name of any company, association, trade
799 name or corporation in a manner which is in violation of Section
800 73-9-61.

801 **SECTION 22.** Section 73-9-41, Mississippi Code of 1972, is
802 reenacted as follows:

803 73-9-41. (1) No person shall practice, attempt to practice
804 or offer to practice dentistry or dental hygiene within the state
805 without first having been authorized and issued a license by the



806 board; nor shall any person practice, attempt to practice, or
807 offer to practice dentistry or dental hygiene within the state
808 during any period of suspension of his license by the board or
809 after revocation by the board of any license theretofore issued to
810 the offending person.

811 (2) A person not licensed to practice dentistry under the
812 laws of this state shall not perform any act which would
813 constitute the practice of dentistry or dental hygiene as defined
814 in Sections 73-9-3 and 73-9-5, including, but not limited to, the
815 following: (a) take impressions or casts of the human mouth or
816 teeth, (b) construct or supply dentures without the work
817 authorization or prescription of a person licensed under the laws
818 of this state to practice dentistry, and (c) construct or supply
819 dentures from impressions or casts without the work authorization
820 or prescription of a person licensed under the laws of this state
821 to practice dentistry.

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

827 (4) In addition to any other civil remedy or criminal
828 penalty provided for by law, the executive director or the
829 secretary of the board may issue a summons to appear before the
830 board to any person or persons who the executive director or any
831 member of the board has probable cause to believe has violated
832 this section by practicing, attempting to practice, or offering to
833 practice dentistry or dental hygiene without a current, valid
834 license or permit and any necessary witnesses. The summons issued
835 by the board shall command each person to whom it is directed to
836 attend and give testimony at a time and place therein specified.
837 The summons shall be served upon the individual personally or by
838 any type of mailing requiring a return receipt and shall include a



839 statement of the charges and an explanation of the manner in which
840 the unlicensed person shall be required to respond to the board.

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

847 (a) For the first violation, a monetary penalty of not
848 more than Five Hundred Dollars (\$500.00).

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

851 (c) For the third and any subsequent violations, a
852 monetary penalty of not more than Five Thousand Dollars
853 (\$5,000.00).

854 (d) For any violation, the board may assess those
855 reasonable costs that are expended by the board in the
856 investigation and conduct of the hearing as provided in subsection
857 (4) above, including, but not limited to, the cost of process
858 service, court reporters, expert witnesses and other witness
859 expenses paid by the board, and investigators. Appeals from the
860 board's decision may be taken as provided in Section 73-9-65. Any
861 monetary penalty or assessment levied under this section shall be
862 paid to the board by the illegal practitioner upon the expiration
863 of the period allowed for appealing such penalties or may be paid
864 sooner if the illegal practitioner elects. Monetary penalties
865 collected by the board under this section shall be deposited to
866 the credit of the General Fund of the State Treasury. Any monies
867 collected for assessment of costs by the board shall be deposited
868 into the special fund of the board.

869 (6) No person practicing dentistry or dental hygiene without
870 a current valid license or temporary permit shall have the right
871 to receive any compensation for services so rendered. In addition



872 to any other penalties imposed under this section, any person who
873 practices dentistry or dental hygiene without a license shall
874 return any fees collected for practicing dentistry or dental
875 hygiene and shall be liable for any damages resulting from
876 negligent conduct. The board or any patient shall have the right
877 to enforce the obligation provided in this section.

878 **SECTION 23.** Section 73-9-43, Mississippi Code of 1972, is
879 reenacted as follows:

880 73-9-43. (1) The secretary shall collect in advance all
881 fees provided for in this chapter as established by the board, not
882 to exceed:

883	Application for dental license.....	\$ 600.00
884	Application for dental license through credentials..	2,500.00
885	Application for dental specialty license.....	400.00
886	Application for dental institutional, teaching or provisional	
887	license.....	600.00
888	Application for dental hygiene license.....	400.00
889	Application for dental hygiene license through	
890	credentials.....	750.00
891	Application for dental hygiene institutional,	
892	teaching, or provisional license.....	400.00
893	Application for general anesthesia permit.....	400.00
894	Application for I.V. sedation permit.....	400.00
895	Application for radiology permit.....	100.00
896	Annual dental license renewal.....	300.00
897	Annual dental specialty license renewal.....	100.00
898	Annual dental institutional, teaching or provisional	
899	license renewal.....	300.00
900	Annual dental hygiene license renewal.....	150.00
901	Annual dental hygiene institutional, teaching, or	
902	provisional license renewal.....	150.00
903	Annual general anesthesia permit renewal.....	100.00
904	Annual I.V. sedation permit renewal.....	100.00



905	Annual radiology permit renewal.....	75.00
906	Penalty for delinquent renewal of dental licenses;	
907	dental specialty licenses; and dental institutional,	
908	teaching, and provisional licenses:	
909	First month (plus annual renewal fee).....	100.00
910	Second month (plus annual renewal fee).....	150.00
911	Third month (plus annual renewal fee).....	200.00
912	Penalty for delinquent renewal of dental hygiene	
913	licenses and dental hygiene institutional, teaching,	
914	and provisional licenses:	
915	First month (plus annual renewal fee).....	50.00
916	Second month (plus annual renewal fee).....	75.00
917	Third month (plus annual renewal fee).....	100.00
918	Penalty for delinquent renewal of radiology permits:	
919	First month (plus annual renewal fee).....	45.00
920	Second month (plus annual renewal fee).....	65.00
921	Third month (plus annual renewal fee).....	75.00
922	Penalty for nonnotification of change of address.....	50.00
923	Penalty for duplicate renewal forms and	
924	certification cards.....	50.00
925	Duplicate or replacement license or permit.....	40.00
926	Certification of licensure status.....	40.00
927	Certified copy of license or permit.....	40.00
928	Handling fee for nonsufficient funds check.....	50.00
929	Requests for database information.....	300.00
930	Radiology examinations administered in board's	
931	office.....	100.00
932	Dental and dental hygiene licensure examination	
933	manuals.....	50.00
934	Dental and dental hygiene licensure by	
935	credentials packets.....	50.00
936	Laws and/or regulations.....	50.00
937	Disciplinary action orders.....	25.00



938 Newsletters..... 20.00

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

941 (2) The board may enact and enforce for delinquency in
942 payment for any fees set out in this section a penalty in addition
943 to the fee of an amount up to but not in excess of the fee. An
944 additional fee of an amount equal to the first penalty may be
945 assessed for each thirty (30) days, or part thereof, of
946 delinquency. If any licensed and registered dentist or dental
947 hygienist should be delinquent in payment of registration fees for
948 a period as long as ninety (90) days, such person shall be
949 presumed to be no longer practicing and shall be stricken from the
950 rolls, and in order to practice his or her profession in this
951 state thereafter may, at the discretion of the board, be
952 considered as a new applicant and subject to examination and other
953 licensing requirements as an original applicant.

954 (3) The secretary shall faithfully account for all monies
955 received by the board. All fees and any other monies received by
956 the board, except monetary penalties collected under Section
957 73-9-61, shall be deposited in a special fund that is created in
958 the State Treasury and shall be used for the implementation and
959 administration of this chapter when appropriated by the
960 Legislature for such purpose. The monies in the special fund
961 shall be subject to all provisions of the state budget laws that
962 are applicable to special fund agencies, and disbursements from
963 the special fund shall be made by the State Treasurer only upon
964 warrants issued by the State Fiscal Officer upon requisitions
965 signed by the president, secretary or administrative officer of
966 the board. Any interest earned on this special fund shall be
967 credited by the State Treasurer to the fund and shall not be paid
968 into the State General Fund. Any unexpended monies remaining in
969 the special fund at the end of a fiscal year shall not lapse into
970 the State General Fund.



971 (4) It shall be the duty of the State Auditor to audit the
972 financial affairs of the board, the transactions involving the
973 special fund and the books of the secretary of the board at least
974 once a year in the same manner as for other special fund agencies,
975 and at any time requested to do so by a majority of the board
976 casting their vote for such audit and while in a lawfully called
977 meeting. The report of the State Auditor shall be incorporated in
978 the minute book of the board.

979 (5) All fees collected from applicants, duplicate licenses,
980 certificates of recommendation and certified copies of licenses
981 shall be distributed among the members of the board in such
982 proportion as to allow the secretary twice the remuneration each
983 of the other seven (7) members receive as their compensation for
984 examining applicants for licensure. Provided, however, that for
985 examining applicants for licensure the secretary shall receive no
986 more than Twenty-four Hundred Dollars (\$2400.00) per year and no
987 other member shall receive more than Twelve Hundred Dollars
988 (\$1200.00) per year. The receipt of said compensation shall not
989 entitle members of the board to receive or be eligible for any
990 state employee group insurance, retirement or other fringe
991 benefits. Provided further, that any fees or income other than
992 the maximum allowable for examining applicants for licensure as
993 set out above shall be accounted for and may be used as needed in
994 carrying out the provisions of this chapter.

995 (6) Fees collected from annual registration shall be used to
996 maintain an office adequately staffed insofar as funds are
997 available and provide other services as may be needed for carrying
998 out the powers and duties of the board within the provisions of
999 this chapter. Fees collected from annual registration shall also
1000 be used to pay the per diem and defray the expense of members of
1001 the board for attendance at meetings other than those for the
1002 purpose of examining applicants for licenses. In addition, a
1003 portion of the fee charged for annual dentist registration, annual



1004 specialty registration, annual dental hygienist registration, and
1005 annual institutional, teaching or provisional registration may be
1006 used to support a program to aid impaired dentists and/or dental
1007 hygienists. The payment of per diem and expense for attending
1008 said board meetings shall be in addition to the compensation
1009 permitted above for examining applicants for licensure, and the
1010 per diem shall not exceed the amount provided in Section 25-3-69.

1011 **SECTION 24.** Section 73-9-45, Mississippi Code of 1972, is
1012 reenacted as follows:

1013 73-9-45. Each member of the board and each licensed and
1014 practicing dentist and dental hygienist is constituted an agent
1015 who shall investigate all complaints and all alleged cases of
1016 noncompliance with, or violation of the provisions of this chapter
1017 and shall bring all such matters to the notice of the proper
1018 prosecuting officers, where it appears probable that an offense
1019 has been committed.

1020 **SECTION 25.** Section 73-9-47, Mississippi Code of 1972, is
1021 reenacted as follows:

1022 73-9-47. The board shall, as far as practicable, provide by
1023 rule for the conduct of its business by mail, but all examinations
1024 shall be conducted in person by the board, or by a quorum thereof
1025 as provided herein.

1026 Any official action or vote taken by mail shall be preserved
1027 by the secretary in the same manner as the minutes of regular
1028 meetings.

1029 **SECTION 26.** Section 73-9-49, Mississippi Code of 1972, is
1030 reenacted as follows:

1031 73-9-49. The secretary of the board shall, at its regular
1032 annual meeting, submit a report of its receipts and disbursements
1033 for the preceding year, and a report of its actions in general
1034 during the preceding year. Said report when approved by the board
1035 shall be filed with the Governor on or before December 31st of
1036 each year.



1037 **SECTION 27.** Section 73-9-51, Mississippi Code of 1972, is
1038 reenacted as follows:

1039 73-9-51. No member of the board shall during the term of his
1040 office or thereafter, be required to defend any action for damages
1041 in any of the courts of this state where it is shown that said
1042 damage followed or resulted from any of the official acts of said
1043 board in the performance of its powers, duties or authority as set
1044 forth in this chapter. Any such action filed shall upon motion be
1045 dismissed, at the cost of the plaintiff, with prejudice.

1046 **SECTION 28.** Section 73-9-53, Mississippi Code of 1972, is
1047 reenacted as follows:

1048 73-9-53. Legally licensed pharmacists of this state are
1049 hereby authorized to fill prescriptions of legally licensed and
1050 registered dentists of this state for any drugs to be used in the
1051 practice of dentistry.

1052 **SECTION 29.** Section 73-9-55, Mississippi Code of 1972, is
1053 reenacted as follows:

1054 73-9-55. A written work authorization shall accompany all
1055 dental laboratory work sent by a licensed dentist to a commercial
1056 dental laboratory or private dental laboratory technician.

1057 The original of said written authorization shall be kept on
1058 file by a commercial dental laboratory or a private dental
1059 laboratory technician for a period of time required by the State
1060 Board of Dental Examiners, not to exceed two (2) years from the
1061 date it was received, and one (1) carbon copy of this written work
1062 authorization shall be kept on file by the licensed dentist
1063 executing this written work authorization for a like period not to
1064 exceed two (2) years from the date it was issued.

1065 This said written work authorization shall include the
1066 following information:

1067 (1) Date signed.

1068 (2) The name and address of the commercial dental laboratory
1069 or private dental laboratory technician.



1070 (3) The name or identification number of the patient for
1071 whom the act or service is ordered.

1072 (4) The licensed dentist's name, address and license number.

1073 (5) The signature of the licensed dentist.

1074 (6) The description of the kind and type of appliance,
1075 process, fabrication, service or material ordered.

1076 Any dental laboratory having received a work authorization
1077 from a licensed dentist for any appliance, process, fabrication,
1078 service or material, who shall thereafter secure the services of
1079 another dental laboratory for the performance of any said work or
1080 services, shall furnish to such laboratory a written work order
1081 therefor, and both laboratories shall keep on file a record
1082 thereof for a like period not to exceed two (2) years from the
1083 date received.

1084 In the enforcement of this section and the foregoing rules
1085 and regulations promulgated pursuant thereto, the members of the
1086 Board of Dental Examiners, their agents, investigators and
1087 employees shall have the right to inspect the records of any
1088 dental office or any dental laboratory during regular office
1089 hours.

1090 **SECTION 30.** Section 73-9-57, Mississippi Code of 1972, is
1091 reenacted as follows:

1092 73-9-57. If any person for any reason whatsoever, shall
1093 practice, attempt, or offer to practice dentistry or dental
1094 hygiene illegally within the meaning of this chapter, he or she
1095 shall be deemed guilty of a misdemeanor, and upon conviction shall
1096 be fined not less than Five Hundred Dollars (\$500.00) nor more
1097 than One Thousand Dollars (\$1,000.00) or be imprisoned in the
1098 county jail not less than two (2) months nor more than six (6)
1099 months.

1100 **SECTION 31.** Section 73-9-59, Mississippi Code of 1972, is
1101 reenacted as follows:



1102 73-9-59. It shall be the duty of the several prosecuting
1103 officers of this state on notice from a member of the board or
1104 other persons having knowledge of violations of this chapter to
1105 institute prosecutions in the same manner as for other
1106 misdemeanors.

1107 **SECTION 32.** Section 73-9-61, Mississippi Code of 1972, is
1108 reenacted as follows:

1109 73-9-61. (1) Upon satisfactory proof, and in accordance
1110 with statutory provisions elsewhere set out for such hearings and
1111 protecting the rights of accused as well as the public, the State
1112 Board of Dental Examiners may deny the issuance or renewal of a
1113 license or may revoke or suspend the license of any licensed
1114 dentist or dental hygienist practicing in the State of
1115 Mississippi, or take any other action in relation to the license
1116 as the board may deem proper under the circumstances, for any of
1117 the following reasons:

1118 (a) Misrepresentation in obtaining a license, or
1119 attempting to obtain, obtaining, attempting to renew or renewing a
1120 license or professional credential by making any material
1121 misrepresentation, including the signing in his professional
1122 capacity any certificate that is known to be false at the time he
1123 makes or signs such certificate.

1124 (b) Willful violation of any of the rules or
1125 regulations duly promulgated by the board, or of any of the rules
1126 or regulations duly promulgated by the appropriate dental
1127 licensure agency of another state or jurisdiction.

1128 (c) Being impaired in the ability to practice dentistry
1129 or dental hygiene with reasonable skill and safety to patients by
1130 reason of illness or use of alcohol, drugs, narcotics, chemicals,
1131 or any other type of material or as a result of any mental or
1132 physical condition.



1133 (d) Administering, dispensing or prescribing any
1134 prescriptive medication or drug outside the course of legitimate
1135 professional dental practice.

1136 (e) Being convicted or found guilty of or entering a
1137 plea of nolo contendere to, regardless of adjudication, a
1138 violation of any federal or state law regulating the possession,
1139 distribution or use of any narcotic drug or any drug considered a
1140 controlled substance under state or federal law, a certified copy
1141 of the conviction order or judgment rendered by the trial court
1142 being prima facie evidence thereof, notwithstanding the pendency
1143 of any appeal.

1144 (f) Practicing incompetently or negligently, regardless
1145 of whether there is actual harm to the patient.

1146 (g) Being convicted or found guilty of or entering a
1147 plea of nolo contendere to, regardless of adjudication, a crime in
1148 any jurisdiction which relates to the practice of dentistry or
1149 dental hygiene, a certified copy of the conviction order or
1150 judgment rendered by the trial court being prima facie evidence
1151 thereof, notwithstanding the pendency of any appeal.

1152 (h) Being convicted or found guilty of or entering a
1153 plea of nolo contendere to, regardless of adjudication, a felony
1154 in any jurisdiction, a certified copy of the conviction order or
1155 judgment rendered by the trial court being prima facie evidence
1156 thereof, notwithstanding the pendency of any appeal.

1157 (i) Delegating professional responsibilities to a
1158 person who is not qualified by training, experience or licensure
1159 to perform them.

1160 (j) The refusal of a licensing authority of another
1161 state or jurisdiction to issue or renew a license, permit or
1162 certificate to practice dentistry or dental hygiene in that
1163 jurisdiction or the revocation, suspension or other restriction
1164 imposed on a license, permit or certificate issued by such
1165 licensing authority which prevents or restricts practice in that



1166 jurisdiction, a certified copy of the disciplinary order or action
1167 taken by the other state or jurisdiction being prima facie
1168 evidence thereof, notwithstanding the pendency of any appeal.

1169 (k) Surrender of a license or authorization to practice
1170 dentistry or dental hygiene in another state or jurisdiction when
1171 the board has reasonable cause to believe that the surrender is
1172 made to avoid or in anticipation of a disciplinary action.

1173 (l) Any unprofessional conduct to be determined by the
1174 board on a case-by-case basis, which shall include but not be
1175 restricted to the following:

1176 (i) Committing any crime involving moral
1177 turpitude.

1178 (ii) Practicing deceit or other fraud upon the
1179 public.

1180 (iii) Practicing dentistry or dental hygiene under
1181 a false or assumed name.

1182 (iv) Advertising that is false, deceptive or
1183 misleading.

1184 (v) Announcing a specialized practice shall be
1185 considered advertising that tends to deceive or mislead the public
1186 unless the dentist announcing as a specialist conforms to other
1187 statutory provisions and the duly promulgated rules or regulations
1188 of the board pertaining to practice of dentistry in the State of
1189 Mississippi.

1190 (m) Failure to provide and maintain reasonable sanitary
1191 facilities and conditions or failure to follow board rules
1192 regarding infection control.

1193 (n) Committing any act which would constitute sexual
1194 misconduct upon a patient or upon ancillary staff. For purposes
1195 of this subsection, the term sexual misconduct means:

1196 (i) Use of the licensee-patient relationship to
1197 engage or attempt to engage the patient in sexual activity; or



1198 (ii) Conduct of a licensee that is intended to
1199 intimidate, coerce, influence or trick any person employed by or
1200 for the licensee in a dental practice or educational setting for
1201 the purpose of engaging in sexual activity or activity intended
1202 for the sexual gratification of the licensee.

1203 (o) Violation of a lawful order of the board previously
1204 entered in a disciplinary or licensure hearing; failure to
1205 cooperate with any lawful request or investigation by the board;
1206 or failure to comply with a lawfully issued subpoena of the board.

1207 (p) Willful, obstinate and continuing refusal to
1208 cooperate with the board in observing its rules and regulations in
1209 promptly paying all legal license or other fees required by law.

1210 (q) Practicing dentistry or dental hygiene while such
1211 person's license is suspended.

1212 (2) In lieu of revocation of a license as provided for
1213 above, the board may suspend the license of the offending dentist
1214 or dental hygienist, suspend the sedation permit of the offending
1215 dentist, or take any other action in relation to his license as
1216 the board may deem proper under the circumstances.

1217 (3) When a license to practice dentistry or dental hygiene
1218 is revoked or suspended by the board, the board may, in its
1219 discretion, stay such revocation or suspension and simultaneously
1220 place the licensee on probation upon the condition that such
1221 licensee shall not violate the laws of the State of Mississippi
1222 pertaining to the practice of dentistry or dental hygiene and
1223 shall not violate the rules and regulations of the board and shall
1224 not violate any terms in relation to his license as may be set by
1225 the board.

1226 (4) In a proceeding conducted under this section by the
1227 board for the denial, revocation or suspension of a license to
1228 practice dentistry or dental hygiene, the board shall have the
1229 power and authority for the grounds stated for such denial,
1230 revocation or suspension, and in addition thereto or in lieu of



1231 such denial, revocation or suspension may assess and levy upon any
1232 person licensed to practice dentistry or dental hygiene in the
1233 State of Mississippi, a monetary penalty, as follows:

1234 (a) For the first violation of any of subparagraph (a),
1235 (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection
1236 (1) of this section, a monetary penalty of not less than Fifty
1237 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

1238 (b) For the second violation of any of subparagraph
1239 (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of
1240 subsection (1) of this section, a monetary penalty of not less
1241 than One Hundred Dollars (\$100.00) nor more than One Thousand
1242 Dollars (\$1,000.00).

1243 (c) For the third and any subsequent violation of any
1244 of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o)
1245 or (q) of subsection (1) of this section, a monetary penalty of
1246 not less than Five Hundred Dollars (\$500.00) and not more than
1247 Five Thousand Dollars (\$5,000.00).

1248 (d) For any violation of any of subparagraphs (a)
1249 through (q) of subsection (1) of this section, those reasonable
1250 costs that are expended by the board in the investigation and
1251 conduct of a proceeding for licensure revocation or suspension,
1252 including but not limited to the cost of process service, court
1253 reporters, expert witnesses and investigators.

1254 (5) The power and authority of the board to assess and levy
1255 such monetary penalties hereunder shall not be affected or
1256 diminished by any other proceeding, civil or criminal, concerning
1257 the same violation or violations except as provided in this
1258 section.

1259 (6) A licensee shall have the right of appeal from the
1260 assessment and levy of a monetary penalty as provided in this
1261 section under the same conditions as a right of appeal is provided
1262 elsewhere for appeals from an adverse ruling, order or decision of
1263 the board.



1264 (7) Any monetary penalty assessed and levied under this
1265 section shall not take effect until after the time for appeal
1266 shall have expired. In the event of an appeal, such appeal shall
1267 act as a supersedeas.

1268 (8) A monetary penalty assessed and levied under this
1269 section shall be paid to the board by the licensee upon the
1270 expiration of the period allowed for appeal of such penalties
1271 under this section or may be paid sooner if the licensee elects.
1272 With the exception of subsection (4)(d) of this section, monetary
1273 penalties collected by the board under this section shall be
1274 deposited to the credit of the General Fund of the State Treasury.
1275 Any monies collected by the board under subsection (4)(d) of this
1276 section shall be deposited into the special fund operating account
1277 of the board.

1278 (9) When payment of a monetary penalty assessed and levied
1279 by the board against a licensee in accordance with this section is
1280 not paid by the licensee when due under this section, the board
1281 shall have power to institute and maintain proceedings in its name
1282 for enforcement of payment in the chancery court of the county and
1283 judicial district of residence of the licensee, and if the
1284 licensee be a nonresident of the State of Mississippi, such
1285 proceedings shall be in the Chancery Court of the First Judicial
1286 District of Hinds County, Mississippi.

1287 (10) In addition to the reasons specified in subsection (1)
1288 of this section, the board shall be authorized to suspend the
1289 license of any licensee for being out of compliance with an order
1290 for support, as defined in Section 93-11-153. The procedure for
1291 suspension of a license for being out of compliance with an order
1292 for support, and the procedure for the reissuance or reinstatement
1293 of a license suspended for that purpose, and the payment of any
1294 fees for the reissuance or reinstatement of a license suspended
1295 for that purpose, shall be governed by Section 93-11-157 or
1296 93-11-163, as the case may be. If there is any conflict between



1297 any provision of Section 93-11-157 or 93-11-163 and any provision
1298 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
1299 as the case may be, shall control.

1300 **SECTION 33.** Section 73-9-63, Mississippi Code of 1972, is
1301 reenacted as follows:

1302 73-9-63. A complaint may be filed with the secretary or
1303 executive director of the board, by any person charging a licensed
1304 dentist or dental hygienist with the commission of any of the
1305 offenses enumerated in the preceding section. Such complaint
1306 shall be in writing and signed by the accuser, or accusers. If
1307 upon review of the complaint, the board determines that there is
1308 not substantial justification to believe that the accused dentist
1309 or dental hygienist has committed any of the offenses enumerated
1310 in the preceding section, it may dismiss the complaint. In the
1311 event of a dismissal, the person filing the complaint and the
1312 accused dentist or dental hygienist shall be given written notice
1313 of the board's determination. If the board determines there is
1314 reasonable cause to believe the accused has committed the
1315 offenses, and a hearing should be held to determine the validity
1316 of the complaint, the executive director of the board shall set a
1317 day for a hearing, and shall transmit to the accused a true copy
1318 of all papers filed with him, relating to such complaint, and
1319 shall notify the accused that on the day fixed for hearing he may
1320 appear and show cause if any why his or her license to practice
1321 dentistry or dental hygiene in the state should not be revoked or
1322 have other disciplinary action taken against it. The board may,
1323 by regulation, establish an investigative panel consisting of at
1324 least two (2) people, one (1) of whom shall be a board member, to
1325 review complaints to determine the existence of probable cause and
1326 whether such complaints should proceed to formal hearing.

1327 Nothing in this section shall prevent the board from
1328 determining that it should investigate a licensee without a signed
1329 complaint provided that a prior determination is made that



1330 probable cause exists that a violation of this chapter may have
1331 occurred.

1332 For the purpose of such hearings or investigation of
1333 complaints, the board is empowered to require the attendance of
1334 witnesses, reimburse witnesses for necessary expenses and mileage
1335 incurred, subpoena documents and records, employ and compensate
1336 expert witnesses, administer oaths, and hear testimony, either
1337 oral or documentary, for and against the accused. Hearings shall
1338 be conducted by a majority of the members of the board. A record
1339 of the hearing shall be made which shall consist of all testimony
1340 received and all documents and other material introduced. If
1341 after such hearing the board shall be satisfied that the accused
1342 has been guilty of the offense charged in the accusation, it shall
1343 thereupon, without further notice, order such disciplinary action
1344 as it deems proper.

1345 **SECTION 34.** Section 73-9-65, Mississippi Code of 1972, is
1346 reenacted as follows:

1347 73-9-65. No action to revoke or suspend a license shall be
1348 taken until the accused has been furnished a statement of the
1349 charges against him and a notice of the time and place of hearing
1350 thereof. The accused may be present at the hearing in person, by
1351 counsel, or both. When a license is revoked or suspended the
1352 secretary shall certify the revocation or suspension to the clerk
1353 of the county or counties with whom the accused shall have filed
1354 his license, or certified copy thereof. The board may, for good
1355 cause shown, reinstate any license so revoked or suspended; and in
1356 case of reinstatement of the license, the secretary shall certify
1357 such reinstatement to said clerk. The procedure for the
1358 reinstatement of a license that is suspended for being out of
1359 compliance with an order for support, as defined in Section
1360 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as
1361 the case may be. The right to appeal from the action of the board
1362 in revoking or suspending the license of any dentist or dental



1363 hygienist is hereby granted. Such appeal shall be to the chancery
1364 court of the county in which such dentist is practicing, and must
1365 be taken within thirty (30) days after notice of the action of the
1366 board in revoking or suspending such license. The appeal is
1367 perfected upon filing notice of appeal, together with bond in the
1368 sum of One Hundred Dollars (\$100.00), with two (2) sureties,
1369 conditioned that if the action of the board in revoking or
1370 suspending the license be affirmed by the chancery court the
1371 dentist or dental hygienist will pay the costs of the appeal and
1372 the action in the chancery court. Such bonds shall be approved by
1373 the president of the board. In lieu of the bond, the dentist or
1374 dental hygienist may deposit One Hundred Dollars (\$100.00) with
1375 the clerk of the chancery court. If there is an appeal, such
1376 appeal may, in the discretion of and on motion to the chancery
1377 court, act as a supersedeas. The chancery court shall dispose of
1378 the appeal and enter its decision promptly. The hearing on the
1379 appeal may, in the discretion of the chancellor, be tried in
1380 vacation. Appeals may be had to the Supreme Court of the State of
1381 Mississippi as provided by law from any final action of the
1382 chancery court. No such person shall be allowed to practice
1383 dentistry or dental hygiene or deliver health care services in
1384 violation of any action of the chancery court revoking or
1385 suspending his or her license while any such appeal to the Supreme
1386 Court is pending.

1387 Actions taken by the board in suspending a license when
1388 required by Section 93-11-157 or 93-11-163 are not actions from
1389 which an appeal may be taken under this section. Any appeal of a
1390 license suspension that is required by Section 93-11-157 or
1391 93-11-163 shall be taken in accordance with the appeal procedure
1392 specified in Section 93-11-157 or 93-11-163, as the case may be,
1393 rather than the procedure specified in this section.

1394 **SECTION 35.** Section 73-9-67, Mississippi Code of 1972, is
1395 amended as follows:



1396 73-9-67. Sections 73-9-1 through 73-9-65, Mississippi Code
1397 of 1972, which create the Mississippi State Board of Dental
1398 Examiners and prescribe its duties and powers, shall stand
1399 repealed on July 1, 2003.

1400 **SECTION 36.** This act shall take effect and be in force from
1401 and after July 1, 2002.

