

By: Representative Moody

To: Public Health and  
Welfare

## HOUSE BILL NO. 572

1 AN ACT TO REENACT SECTIONS 73-9-1 THROUGH 73-9-29 AND 73-9-35  
2 THROUGH 73-9-65, MISSISSIPPI CODE OF 1972, WHICH CREATE THE  
3 MISSISSIPPI BOARD OF DENTAL EXAMINERS AND PRESCRIBE ITS POWERS AND  
4 DUTIES; TO AMEND REENACTED SECTION 73-9-3, MISSISSIPPI CODE OF  
5 1972, TO REVISE CERTAIN DEFINITIONS UNDER THE DENTAL PRACTICE ACT;  
6 TO AMEND REENACTED SECTION 73-9-7, MISSISSIPPI CODE OF 1972, TO  
7 REVISE THE TERMS OF OFFICE FOR MEMBERS OF THE BOARD AND TO ENSURE  
8 APPOINTMENTS ARE NOT IN VIOLATION OF CURRENT ETHICS LAWS AND  
9 REGULATIONS; TO AMEND REENACTED SECTION 73-9-9, MISSISSIPPI CODE  
10 OF 1972, TO PROVIDE THAT A BOARD MEMBER WHO MISSES TWO CONSECUTIVE  
11 MEETINGS WITHOUT JUST CAUSE IS SUBJECT TO REMOVAL; TO AMEND  
12 REENACTED SECTION 73-9-11, MISSISSIPPI CODE OF 1972, TO CLARIFY  
13 THE APPOINTMENT PROCESS FOR BOARD MEMBERS; TO AMEND REENACTED  
14 SECTION 73-9-13, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A VICE  
15 PRESIDENT AND AN EXECUTIVE DIRECTOR, TO REQUIRE THAT ONLY DENTIST  
16 MEMBERS SERVE AS EITHER PRESIDENT OR VICE PRESIDENT, TO TRANSFER  
17 CERTAIN DUTIES TO THE EXECUTIVE DIRECTOR, TO DELETE LANGUAGE  
18 COVERED BY THE PUBLIC ACCESS TO PUBLIC RECORDS LAW, TO PROVIDE FOR  
19 REGISTRATION OF ALL LICENSES AND PERMITS ISSUED BY THE BOARD; TO  
20 AMEND REENACTED SECTION 73-9-15, MISSISSIPPI CODE OF 1972, TO  
21 CLARIFY THE CONFIDENTIALITY OF BOARD PERSONNEL MATTERS; TO AMEND  
22 REENACTED SECTION 73-9-19, MISSISSIPPI CODE OF 1972, TO PROVIDE  
23 FOR MAINTAINING A LIST OF ALL LICENSES AND PERMITS ISSUED BY THE  
24 BOARD, TO REQUIRE LICENSEES TO PROMPTLY NOTIFY THE BOARD OF  
25 ADDRESS CHANGES OR BE ASSESSED AN ADMINISTRATIVE PENALTY, TO  
26 PROVIDE FOR A LICENSE/PERMIT RENEWAL PERIOD AS ESTABLISHED BY THE  
27 BOARD THROUGH RULE OR REGULATION, TO DELETE THE REQUIREMENT THAT  
28 LICENSES BE FILED IN THE COUNTY OF RESIDENCE; TO AMEND REENACTED  
29 SECTION 73-9-23, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
30 QUALIFICATIONS FOR THE ACCREDITATION OF DENTAL AND DENTAL HYGIENE  
31 SCHOOLS, TO REQUIRE THAT A PORTION OF THE LICENSURE EXAMINATIONS  
32 BE CONDUCTED ON LIVE HUMAN SUBJECTS IF DEEMED NECESSARY BY THE  
33 BOARD; TO AMEND REENACTED SECTION 73-9-24, MISSISSIPPI CODE OF  
34 1972, TO CLARIFY THE QUALIFICATIONS FOR THE ACCREDITATION OF  
35 DENTAL AND DENTAL HYGIENE SCHOOLS, AND TO PROVIDE FOR ACQUISITION  
36 OF INFORMATION FROM THE HEALTHCARE INTEGRITY AND PROTECTION DATA  
37 BANK; TO AMEND REENACTED SECTION 73-9-25, MISSISSIPPI CODE OF  
38 1972, TO DELETE CERTAIN LANGUAGE CONCERNING THE SUBJECTS FOR  
39 WRITTEN EXAMINATIONS; TO AMEND REENACTED SECTION 73-9-27,  
40 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SIGNATURES OF ALL BOARD  
41 MEMBERS BE AFFIXED TO LICENSES BY CREDENTIALS AND EXAMINATION, AND  
42 TO FURTHER CLARIFY THE DUTIES OF THE EXECUTIVE DIRECTOR; TO AMEND  
43 REENACTED SECTION 73-9-28, MISSISSIPPI CODE OF 1972, TO CLARIFY  
44 THE DUTIES OF THE SECRETARY AND EXECUTIVE DIRECTOR; TO AMEND  
45 REENACTED SECTION 73-9-29, MISSISSIPPI CODE OF 1972, TO PROVIDE  
46 FOR A SPECIALTY LICENSE FEE; TO REPEAL SECTION 73-9-33,  
47 MISSISSIPPI CODE OF 1972, WHICH REQUIRES A LICENSEE TO RECORD HIS  
48 OR HER LICENSE WITH THE CIRCUIT CLERK OF HIS OR HER COUNTY OF  
49 RESIDENCE; TO AMEND REENACTED SECTION 73-9-35, MISSISSIPPI CODE OF  
50 1972, TO REMOVE THE REQUIREMENT THAT A CERTIFICATE OF RECORDATION  
51 BE DISPLAYED; TO AMEND REENACTED SECTION 73-9-41, MISSISSIPPI CODE  
52 OF 1972, TO PROVIDE FOR THE UNLICENSED PRACTICE AFTER A LICENSE



53 HAS BEEN VOIDED FOR A FAILURE TO REREGISTER, TO PROVIDE THAT THIS  
54 SECTION NOT ONLY PERTAINS TO INDIVIDUALS WHO PREVIOUSLY HELD  
55 LICENSES BUT ALSO TO INDIVIDUALS WHO HAVE NEVER HELD LICENSES, TO  
56 PROVIDE FOR THE DEPOSIT OF BOTH COST ASSESSMENTS AND FINES TO THE  
57 BOARD'S SPECIAL FUND; TO AMEND REENACTED SECTION 73-9-43,  
58 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR CERTAIN INCREASES IN THE  
59 STATUTORY MAXIMUM FEE ASSESSMENTS, TO DELETE THE EXEMPTION FROM  
60 THE PAYMENT OF RENEWAL FEES FOR DENTISTS OVER THE AGE OF 70, TO  
61 PROVIDE FOR A TWO-MONTH PENALTY PHASE AND CLARIFY THE LANGUAGE  
62 THEREFOR TO APPLY TO ALL LICENSES AND PERMITS, TO DELETE CERTAIN  
63 PROVISIONS COVERED BY OTHER STATUTES, TO PROVIDE FOR THE DEPOSIT  
64 OF BOTH COST ASSESSMENTS AND FINES TO THE BOARD'S SPECIAL FUND, TO  
65 PROVIDE FOR A DAILY PER DIEM FOR BOARD MEMBERS WHO ADMINISTER  
66 INITIAL AND RETAKE LICENSURE EXAMINATIONS; TO AMEND REENACTED  
67 SECTION 73-9-45, MISSISSIPPI CODE OF 1972, TO DELETE THE  
68 REQUIREMENT THAT EACH DENTIST AND DENTAL HYGIENIST MUST  
69 INVESTIGATE COMPLAINTS; TO AMEND REENACTED SECTION 73-9-47,  
70 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DUTIES OF THE  
71 EXECUTIVE DIRECTOR; TO AMEND REENACTED SECTION 73-9-49,  
72 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DUTIES OF THE  
73 EXECUTIVE DIRECTOR, AND TO DELETE THE REQUIREMENT THAT ANNUAL  
74 REPORTS BE FILED WITH THE GOVERNOR; TO AMEND REENACTED SECTION  
75 73-9-57, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTIES FOR  
76 PRACTICING ILLEGALLY; TO AMEND REENACTED SECTION 73-9-61,  
77 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DEPOSIT OF BOTH COST  
78 ASSESSMENTS AND FINES TO THE BOARD'S SPECIAL FUND, AND TO PROVIDE  
79 FOR DISCIPLINARY ACTION AGAINST ALL LICENSES AND PERMITS ISSUED BY  
80 THE BOARD; TO AMEND REENACTED SECTION 73-9-63, MISSISSIPPI CODE OF  
81 1972, TO CLARIFY THE PROCEDURES FOR FILING NOTICES OF COMPLAINTS,  
82 AND TO PROVIDE FOR NOTICES OF COMPLAINTS FOR ALL LICENSES AND  
83 PERMITS ISSUED BY THE BOARD; TO AMEND REENACTED SECTION 73-9-65,  
84 MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT  
85 SUSPENSIONS, REVOCATIONS AND REINSTATEMENTS BE FILED WITH THE  
86 CIRCUIT CLERK, TO PROVIDE FOR APPEAL FROM ALL TYPES OF  
87 DISCIPLINARY ACTIONS, TO PROVIDE AN APPEAL VENUE FOR DISCIPLINED  
88 LICENSEES WHO RESIDE OUTSIDE THE STATE OF MISSISSIPPI, TO PROVIDE  
89 AN APPEAL VENUE FOR HOLDERS OF ALL LICENSES AND PERMITS ISSUED BY  
90 THE BOARD; TO REPEAL SECTION 73-9-67, MISSISSIPPI CODE OF 1972,  
91 WHICH IS THE AUTOMATIC REPEALER ON THOSE STATUTES AUTHORIZING THE  
92 BOARD OF DENTAL EXAMINERS AND ITS DUTIES AND POWERS; TO AMEND  
93 SECTION 73-9-107, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE  
94 CONFIDENTIALITY OF ALL RECORDS IN THE POSSESSION OF THE BOARD AND  
95 EXAMINING COMMITTEE UNLESS SO ORDERED BY THE COURT, AND TO PROVIDE  
96 FOR ANONYMITY OF THOSE INDIVIDUALS FILING REPORTS WITH THE BOARD  
97 WHO HAVE REQUESTED TO REMAIN ANONYMOUS; TO AMEND SECTION 73-9-113,  
98 MISSISSIPPI CODE OF 1972, TO ALLOW FOR THE RECOVERY OF COSTS AND  
99 IMPOSITION OF PENALTIES AS PROVIDED FOR IN SECTION 73-9-61,  
100 MISSISSIPPI CODE OF 1972; AND FOR RELATED PURPOSES.

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

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

104 73-9-1. Every person who desires to practice dentistry or  
105 dental hygiene in this state must obtain a license to do so as  
106 hereinafter provided; but this section shall not apply to dentists  
107 or dental hygienists now holding permanent licenses to practice  
108 provided the same have been recorded as required by law.



109           **SECTION 2.** Section 73-9-3, Mississippi Code of 1972, is  
110 reenacted and amended as follows:

111           73-9-3. "Dentistry" is defined as the evaluation, diagnosis,  
112 prevention and/or treatment (nonsurgical, surgical or related  
113 procedures) of diseases, disorders and/or conditions of the oral  
114 cavity, maxillofacial area and/or the adjacent and associated  
115 structures and their impact on the human body; provided by a  
116 dentist, within the scope of his or her education, training and  
117 experience, in accordance with the ethics of the profession and  
118 applicable law, provided that nothing in this section shall be so  
119 construed as to prevent:

120           (a) The practice of his or her profession by a  
121 regularly licensed and registered physician under the laws of this  
122 state unless he or she practices dentistry as a specialty; or

123           (b) The performance of mechanical work upon inanimate  
124 objects by persons working in dental offices under their  
125 supervision; or

126           (c) The operation of a dental laboratory and taking  
127 work by written work authorization from regularly licensed and  
128 registered dentists as provided for elsewhere in this chapter; or

129           (d) Dentists from outside the state from giving  
130 educational clinics or demonstrations before a dental society,  
131 convention or association; or

132           (e) Licensed dentists from outside the state from being  
133 called into Mississippi by licensed dentists of this state for  
134 consultative or operative purposes when the consultative or  
135 operative purposes have been authorized or approved by the Board  
136 of Dental Examiners for specified periods of time or as provided  
137 for by rules and regulations set forth by the board; or

138           (f) Applicants for a license to practice dentistry or  
139 dental hygiene in this state from working during an examination by  
140 and under the supervision and direction of the Board of Dental  
141 Examiners; or



142           (g) The practice of dentistry or of dental hygiene by  
143 students under the supervision of faculty in any dental school,  
144 college, or dental department of any school, college or  
145 university, or school of dental hygiene recognized by the  
146 board \* \* \*; or

147           (h) Dental or dental hygiene students enrolled in  
148 accredited dental or dental hygiene schools from participating in  
149 off-site training recognized and approved by the board, but those  
150 activities shall not be carried on for profit; or

151           (i) A regularly licensed and registered dentist from  
152 the delegation of procedures to a regularly licensed and  
153 registered dental hygienist or other competent dental auxiliary  
154 personnel while acting under the direct supervision and full  
155 responsibility of the dentist except as follows: Those procedures  
156 that require the professional judgment and skill of a dentist such  
157 as diagnosis, treatment planning, surgical procedures involving  
158 hard or soft tissues, or any intra-oral procedure of an  
159 irreversible nature that could result in injury to the  
160 patient. \* \* \* However, the dentist may delegate the removal of  
161 calcareous deposits only to a regularly licensed and registered  
162 dental hygienist as regulated by the State Board of Dental  
163 Examiners.

164           All dentists and dental hygienists serving as faculty, as  
165 provided for in paragraphs (g) and (h) of this section, shall be  
166 required to be licensed by the Mississippi State Board of Dental  
167 Examiners.

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

170           73-9-5. (1) For the purpose of this chapter, a dental  
171 hygienist shall be an individual who has completed an accredited  
172 dental hygiene education program, passed the national dental  
173 hygiene board and is licensed by the State Board of Dental  
174 Examiners to provide, as an auxiliary to the dentist, preventive



175 care services including, but not limited to, scaling and  
176 polishing. In fulfilling these services, dental hygienists  
177 provide treatment that helps to prevent oral disease such as  
178 dental caries and periodontal disease and for educating patients  
179 in prevention of these and other dental problems.

180 (2) The work of dental hygienists and dental assistants  
181 while working in the office of a regularly licensed and registered  
182 dentist shall at all times be under the direct supervision of the  
183 dentist. Dental hygienists in the employ of the State Board of  
184 Health or public school boards shall be limited to only performing  
185 oral hygiene instruction and screening when under the general  
186 supervision and direction of regularly licensed and registered  
187 dentists. Dental hygienists recognized by the board of dental  
188 examiners when making public demonstrations of dental hygiene for  
189 educational purposes shall be under the general supervision and  
190 direction of regularly licensed and registered dentists.

191 (3) The Board of Dental Examiners may prohibit any dental  
192 hygienist or other auxiliary personnel from rendering service that  
193 it feels is not in the best interest of the public welfare.

194 **SECTION 4.** Section 73-9-7, Mississippi Code of 1972, is  
195 reenacted and amended as follows:

196 73-9-7. (1) The duties of the Mississippi State Board of  
197 Dental Examiners, or "the board," shall be to carry out the  
198 purposes and provisions of the laws pertaining to the practice of  
199 dentistry and dental hygiene. The Mississippi State Board of  
200 Dental Examiners is continued and reconstructed as follows: The  
201 board shall consist of seven (7) \* \* \* licensed and actively  
202 practicing dentists and one (1) licensed and actively practicing  
203 dental hygienist, each a graduate of an accredited college of  
204 dentistry or dental hygiene, as appropriate, and practicing within  
205 the State of Mississippi for a period of five (5) or more years  
206 next preceding his or her appointment. No dentist or dental



207 hygienist shall be eligible for appointment who can be construed  
208 to be in violation of current state ethics laws and regulations.

209 (2) The members of the board appointed and serving before  
210 July 1, 2002, shall complete their current four-year appointments.  
211 Upon completion of those appointments, the term of each of the  
212 successor dentist and dental hygienist appointees provided for in  
213 this section shall be for a period of six (6) years and shall  
214 terminate on and after June 30 of the sixth year.

215 (3) The Governor shall appoint one (1) dentist member of the  
216 board from the state at large. Upon expiration of the term of  
217 office of any of the six (6) members of the board who are  
218 appointed from districts, the Governor shall appoint his successor  
219 from a list of names to be submitted as set out in this  
220 subsection. All appointments to the board shall be made with the  
221 advice and consent of the Senate.

222 \* \* \* The board shall poll all licensed dentists \* \* \* in  
223 the state by dental district as follows:

224 Dental District One: Alcorn, Benton, Calhoun, Chickasaw,  
225 Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall,  
226 Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union,  
227 Webster;

228 Dental District Two: Bolivar, Carroll, Coahoma, DeSoto,  
229 Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery,  
230 Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica,  
231 Washington, Yalobusha, Yazoo;

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

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

236 Dental District Five: George, Greene, Hancock, Harrison,  
237 Jackson, Pearl River, Stone;



238 Dental District Six: Adams, Amite, Claiborne, Copiah,  
239 Franklin, Jefferson Davis, Jefferson, Lawrence, Lincoln, Marion,  
240 Pike, Simpson, Walthall, Wilkinson;  
241 and request the submission from each such dental district of three  
242 (3) nominations for appointment as members of the board from the  
243 six (6) districts. Thirty (30) days after submitting that  
244 request, the board shall list all nominations by district  
245 according to the number of votes each received. The top three (3)  
246 names from each district shall then be considered as a list of  
247 names to be submitted to the Governor as referred to above each  
248 time a vacancy occurs in one (1) of the six (6) positions  
249 appointed from districts or whenever the Governor requests that  
250 submission. During the course of each calendar year, the board  
251 shall take like polls of all licensed dentists practicing in each  
252 dental district, and shall prepare new lists therefrom to be  
253 submitted to the Governor, which shall be used in the appointment  
254 of the six (6) members appointed from districts.

255 It is the purpose of this section that no more than one (1)  
256 appointee of the six (6) members appointed from districts shall  
257 serve from any district at any one (1) time \* \* \*. The names on  
258 the lists shall be given priority in accordance with the votes for  
259 each nominee. In case of a tie, the persons receiving tie votes  
260 shall have their names placed on the list even though it results  
261 in more than three (3) names on the list from that district.

262 (4) The one (1) dental hygienist member shall be appointed  
263 by the Governor from the state at large from a list of six (6)  
264 dental hygienists, each of whom being the dental hygienist  
265 receiving the highest number of votes in his or her individual  
266 district from a poll conducted and compiled by the board. The  
267 poll shall consist of a blank ballot with three (3) spaces for  
268 nomination provided to all licensed dental hygienists in the  
269 state. During the course of each calendar year, the board shall  
270 take like polls of all licensed dental hygienists practicing in



271 the state, and shall prepare a new list of six (6) dental  
272 hygienists, the list to consist of the dental hygienists receiving  
273 the highest number of votes in each district, to be submitted to  
274 the Governor, which shall be used in the appointment of the dental  
275 hygienist member from the state at large. In case of a tie, the  
276 persons receiving tie votes shall have their names placed on the  
277 list even though it results in more than six (6) names on the  
278 list.

279 The board shall poll all licensed dental hygienists in the  
280 state by dental district as that enumerated in subsection (3) of  
281 this section.

282 (5) No dentist or dental hygienist member shall be permitted  
283 to serve consecutive terms, but may be nominated for reappointment  
284 after the expiration of six (6) years from the conclusion of his  
285 or her term. Any vacancy in the board membership shall be filled  
286 by the Governor within sixty (60) days by appointment from the  
287 list of nominees submitted for the existing term of office. Any  
288 appointment made to fill a vacancy or to replace an incumbent  
289 holding over shall terminate in accordance with the designation of  
290 the particular term and until his or her successor is duly  
291 appointed and qualified.

292 (6) A vote for an individual dentist or dental hygienist in  
293 all polls may be counted only once for each ballot no matter how  
294 many times the name is listed on the ballot.

295 (7) The Secretary of State shall, at his discretion, at any  
296 time there is sufficient cause, investigate the method and  
297 procedure of taking those polls and establishing those lists, and  
298 the board shall make available to him all records involved  
299 therein; and if the Secretary of State should find cause therefor  
300 he may, upon specifying the cause, declare the list invalid,  
301 whereupon the board shall follow the procedure set out above to  
302 establish a new list. If a vacancy exists and no list is  
303 available, the Board of Dental Examiners is to follow the





304 above-described procedure in establishing a new list for the  
305 appropriate board appointment.

306 **SECTION 5.** Section 73-9-9, Mississippi Code of 1972, is  
307 reenacted and amended as follows:

308 73-9-9. The Governor may remove any member of the board on  
309 proof of inefficiency, incompetency, immorality, unprofessional  
310 conduct, or continued absence from the state, for failure to  
311 perform duties, or for other sufficient cause. Any member who  
312 does not attend two (2) consecutive meetings of the board, without  
313 just cause, shall be subject to removal by the Governor. The  
314 president of the board shall notify the Governor in writing when  
315 any such member has failed to attend two (2) consecutive regular  
316 meetings. No removal shall be made without first giving the  
317 accused an opportunity to be heard in refutation of the charges  
318 made against him or her, and he or she shall be entitled to  
319 receive a copy of the charges at the time of filing.

320 **SECTION 6.** Section 73-9-11, Mississippi Code of 1972, is  
321 reenacted and amended as follows:

322 73-9-11. Each person appointed as a member of the board  
323 shall qualify by taking the oath prescribed by the constitution  
324 for the state officers, and shall file certificate thereof in the  
325 Office of the Secretary of State within fifteen (15) days after  
326 execution of such certificate. A majority of the board shall at  
327 all times constitute a quorum for the transaction of business.

328 **SECTION 7.** Section 73-9-13, Mississippi Code of 1972, is  
329 reenacted and amended as follows:

330 73-9-13. The State Board of Dental Examiners shall each year  
331 elect from their number a president, vice president and \* \* \*  
332 secretary-treasurer to serve for the coming year and until their  
333 successors are qualified. Only dentist members of the board may  
334 hold the offices of president and vice president. The board shall  
335 have a seal with appropriate wording to be kept at the offices of  
336 the board. The secretary and the executive director of the board



337 shall be required to make bond in such sum and with such surety as  
338 the board may determine. It shall be the duty of the executive  
339 director to keep a complete record of the acts and proceedings of  
340 the board and to preserve all papers, documents and correspondence  
341 received by the board relating to its duties and office. \* \* \*

342 The board shall have the following powers and duties:

343 (a) To carry out the purposes and provisions of the  
344 state laws pertaining to dentistry and dental hygiene, and the  
345 practice thereof and matters related thereto, particularly  
346 Sections 73-9-1 through 73-9-117, together with all amendments and  
347 additions thereto.

348 (b) To regulate the practice of dentistry and dental  
349 hygiene and to promulgate reasonable regulations as are necessary  
350 or convenient for the protection of the public.

351 (c) To make rules and regulations by which clinical  
352 facilities within institutions, schools, colleges, universities  
353 and other agencies may be recognized and approved for the practice  
354 of dentistry or of dental hygiene by unlicensed persons therein,  
355 as a precondition to their being excepted from the dental practice  
356 act and authorized in accordance with Section 73-9-3(g) and (h).

357 (d) To provide for the enforcement of and to enforce  
358 the laws of the State of Mississippi and the rules and regulations  
359 of the State Board of Dental Examiners.

360 (e) To compile at least once each calendar year and to  
361 maintain an adequate list of prospective dentist and dental  
362 hygienist appointees for approval by the Governor as provided for  
363 elsewhere by law \* \* \*.

364 (f) To issue licenses and permits to applicants when  
365 found to be qualified.

366 (g) To provide for \* \* \* reregistration of all licenses  
367 and permits duly issued by the board.

368 (h) To maintain an up-to-date list of all licensees and  
369 permit holders in the state, together with their addresses.



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

372 (j) To issue licenses or duplicates and \* \* \*  
373 reregistration/renewal certificates, and to collect and account  
374 for fees for same.

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

378 (l) To provide by appropriate rules and regulations,  
379 within the provisions of the state laws, for revoking or  
380 suspending \* \* \* licenses and permits and a system of fines for  
381 lesser penalties.

382 (m) To prosecute, investigate or initiate prosecution  
383 for violations of the laws of the state pertaining to practice of  
384 dentistry or dental hygiene, or matters affecting the rights and  
385 duties, or related thereto.

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

390 (o) To adopt rules and regulations providing for the  
391 reasonable regulation of advertising by dentists and dental  
392 hygienists.

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

395 (q) To employ, in its discretion, technical and  
396 professional personnel to conduct dental office sedation site  
397 visits, administer and monitor state board examinations and carry  
398 out the powers and duties of the board.

399 **SECTION 8.** Section 73-9-15, Mississippi Code of 1972, is  
400 reenacted and amended as follows:

401 73-9-15. All board action on rules, regulations and policy  
402 matters, such as required to be by vote, shall be by roll call or



403 mail ballot in which the vote of each member shall be recorded  
404 whether for, against or otherwise. The dental hygienist member of  
405 the board shall only vote on rules, regulations, policy and  
406 administrative matters relating to the licensing, qualifications  
407 and practice of dental hygiene. The results of the vote shall be  
408 a public record except that information pertaining to \* \* \*  
409 investigations or examinations shall be confidential unless waived  
410 by the persons investigated or examined.

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

413 73-9-17. The board is authorized to prescribe and enforce  
414 regulations and to perform those acts compatible with and  
415 authorized by, either directly or by implication, the laws of the  
416 state for the purpose of implementing the provisions of this  
417 chapter.

418 **SECTION 10.** Section 73-9-19, Mississippi Code of 1972, is  
419 reenacted and amended as follows:

420 73-9-19. The State Board of Dental Examiners shall maintain  
421 a compiled list of the names and post office addresses of all  
422 licensees registered with the board, arranged alphabetically by  
423 name and also by the municipalities where their offices are  
424 situated. Every licensee shall notify the board within thirty  
425 (30) days of any change in address of his or her office or  
426 residence. Failure to keep the board apprised of any change of  
427 address may result in an administrative penalty to the licensee,  
428 the amount of which shall not exceed the amount stipulated in  
429 Section 73-9-43. Every licensee shall prominently display his or  
430 her current registration, either the original or a notarized copy,  
431 in his or her place(s) of business. As used in this section, the  
432 word "licensee" shall include all dental and dental hygiene  
433 license holders, as well as all holders of permits duly issued by  
434 the board.



435 Every licensee shall, in accordance with the laws and rules  
436 and regulations of the board, together with appropriate required  
437 information and renewal fee, apply \* \* \* for renewal for such  
438 period as set by the board, and the board shall issue the  
439 registration certificate to any licensee in good standing with the  
440 board. The board shall have the specific authority to adopt such  
441 rules and regulations setting the dates and deadlines for  
442 license/permit renewal and establishing the penalty for failure to  
443 renew same.

444 Any licensee performing acts within the scope of this chapter  
445 without legally having in his or her custody a valid active  
446 registration certificate or duly issued duplicate therefor in  
447 accordance with provisions elsewhere set out may be found guilty  
448 and punished or prosecuted therefor in accordance with law;  
449 however, the filing of the application, the payment of the fee,  
450 and the issuance of the certificate therefor, shall not entitle  
451 the holder thereof to lawfully practice \* \* \* within the State of  
452 Mississippi unless he or she has in fact been previously  
453 licensed \* \* \* by the State Board of Dental Examiners as provided  
454 by this chapter, \* \* \* and unless the license/permit is in full  
455 force and effect; in addition, in any prosecution for the  
456 unlicensed practice, the receipt showing payment of the renewal  
457 fee required by this chapter shall not be treated as evidence that  
458 the holder thereof is lawfully entitled to practice according to  
459 his or her license/permit.

460 Any licensee who is registered but not actively practicing in  
461 the State of Mississippi at the time of making application for  
462 renewal, shall be registered on the "inactive" list and shall not  
463 be authorized to practice his or her profession in this state.  
464 The "inactive" list shall be maintained by the board and shall set  
465 out the names and post office addresses of all licensees  
466 registered but not actively practicing in this state, arranged  
467 alphabetically by name and also by the municipalities and states



468 of their last known professional or residential address. However,  
469 licensed dentists or dental hygienists actively practicing \* \* \*  
470 at a veterans hospital, federal government facility or residency  
471 graduate school program at the time of renewal shall not be  
472 registered on the inactive list.

473 Only the licensees registered on the appropriate list as  
474 actively practicing in the State of Mississippi shall be  
475 authorized to practice their profession. For the purpose of this  
476 section, any licensed dentist or dental hygienist who has actively  
477 practiced his or her profession for at least three (3) months of  
478 the immediately preceding license renewal period shall be  
479 considered in active practice.

480 No licensee shall be registered on the "inactive" list until  
481 the licensee has been furnished a statement of intent to take that  
482 action by the board. The board shall notify the licensee by mail  
483 that on the day fixed for hearing he or she may appear and show  
484 cause, if any, why his or her license/permit to practice dentistry  
485 or dental hygiene should remain active. The licensee may be  
486 present at the hearing in person, by counsel, or both. For the  
487 purpose of the hearing the board may require the attendance of  
488 witnesses, administer oaths and hear testimony, either oral or  
489 documentary, for and against the licensee, and if after the  
490 hearing, the board is satisfied that the licensee should be  
491 registered on the inactive list, it shall thereupon without  
492 further notice take that action.

493 Any licensed dentist or dental hygienist registered on the  
494 "inactive" list shall not be eligible for registration on the  
495 active list until either of the following conditions have been  
496 satisfied:

497 (a) Written application shall be submitted to the \* \* \*  
498 State Board of Dental Examiners stating the reasons for the  
499 inactivity and setting forth such other information as the board  
500 may require on an individual basis; or



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

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

508           73-9-21. Such stationery, blank books and forms as may be  
509 needed by the board in the discharge of its duties shall be  
510 furnished to it in the manner as like supplies are furnished other  
511 state departments.

512           **SECTION 12.** Section 73-9-23, Mississippi Code of 1972, is  
513 reenacted and amended as follows:

514           73-9-23. (1) No person who desires to practice dentistry or  
515 dental hygiene in the State of Mississippi shall be licensed until  
516 that person has passed an examination by the board. Applicants  
517 for examination shall apply in writing to the \* \* \* board for an  
518 examination at least thirty (30) days before the examination and  
519 shall upon application pay a nonrefundable fee as elsewhere  
520 provided in this chapter.

521           (2) An applicant for licensure by examination as a dentist  
522 who is a graduate of a dental school accredited by the Commission  
523 on Dental Accreditation \* \* \* of the American Dental Association  
524 (ADA), or its successor commission, shall:

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

528           (b) Exhibit with the application a diploma or  
529 certificate of graduation from the ADA accredited dental school;  
530 and

531           (c) Have successfully completed Parts I and II of the  
532 National Board \* \* \* Examinations of the Joint Commission on  
533 National Dental Examinations, or its successor commission, unless



534 the applicant graduated from an accredited dental school before  
535 1960.

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

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

541 (b) Be proficient in oral and written communications in  
542 the English language;

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

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

549 (e) \* \* \* Present documentation of having completed at  
550 least two (2) or more years of full-time post-doctoral general  
551 dental education in a dental school accredited by the Commission  
552 on Dental Accreditation \* \* \* of the American Dental Association,  
553 or its successor commission, and has been certified by the dean of  
554 the accredited dental school as having achieved the same level of  
555 didactic and clinical competence as expected of a graduate of the  
556 school; and

557 (f) Have successfully completed Parts I and II of the  
558 National Board Examinations of the Joint Commission on National  
559 Dental Examinations, or its successor commission, unless the  
560 applicant graduated from an approved dental school before 1960.

561 (4) An applicant for licensure by examination as a dental  
562 hygienist who is a graduate of a dental hygiene school accredited  
563 by the Commission on Dental Accreditation \* \* \* of the American  
564 Dental Association (ADA), or its successor commission, shall:





565 (a) Be of good moral character, be possessed of a high  
566 school education and have attained the age of eighteen (18)  
567 years; \* \* \*

568 (b) Exhibit with the application a diploma or  
569 certificate of graduation from the ADA accredited dental hygiene  
570 school; and

571 (c) Have successfully completed the National Board  
572 Dental Hygiene Examinations of the Joint Commission on National  
573 Dental Examinations, or its successor commission.

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

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

579 (b) Be proficient in oral and written communications in  
580 the English language;

581 (c) Have completed not less than two (2) academic years  
582 of postsecondary study and graduated from a foreign dental hygiene  
583 school that is recognized by the licensure authorities in that  
584 country;

585 (d) Have been licensed as a dental hygienist or  
586 admitted to the practice of dental hygiene in the foreign country  
587 in which the applicant received foreign dental hygiene school  
588 training;

589 (e) \* \* \* Present documentation of having completed at  
590 least one or more years of full-time post-graduate clinical  
591 education in a dental hygiene school accredited by the Commission  
592 on Dental Accreditation \* \* \* of the American Dental Association,  
593 or its successor commission, and has been certified by the dean of  
594 the accredited dental hygiene school as having achieved the same  
595 level of didactic and clinical competence as expected of a  
596 graduate of the school; and



597           (f) Have successfully completed the National Board  
598 Dental Hygiene Examinations of the Joint Commission on National  
599 Dental Examinations, or its successor commission.

600           (6) Applications shall be made in the form and content as  
601 required in this section and as shall be prescribed by the board,  
602 and each applicant shall submit upon request such proof as the  
603 board may require as to age, character and qualifications.  
604 Applications must be signed by two (2) citizens of the state of  
605 which the applicant is a resident, attesting under oath that the  
606 applicant is of good moral character. All applicants for  
607 licensure shall submit an endorsement from all states in which he  
608 or she is currently licensed or has ever been licensed to practice  
609 dentistry or dental hygiene. The board may disallow the licensure  
610 examination to any applicant who has been found guilty of any of  
611 the grounds for disciplinary action as enumerated in Section  
612 73-9-61.

613           (7) Examination shall be as elsewhere provided in this  
614 chapter and the board may by its rules and regulations prescribe  
615 reasonable professional standards for oral, written, clinical and  
616 other examinations given to applicants, and, if deemed necessary  
617 by the board, include a requirement that licensure examinations of  
618 applicants be conducted utilizing live human subjects. Each  
619 applicant shall appear before the board and be examined to  
620 determine his or her learning and skill in dentistry or dental  
621 hygiene. If found by the members of the board conducting the  
622 examination to possess sufficient learning and skill therein and  
623 to be of good moral character, the board shall, as early as  
624 practicable, grant to the person a license to practice dentistry  
625 or dental hygiene, as the case may be, which shall be signed by  
626 each member of the board who attended the examination and approved  
627 the issuance of a license.

628           (8) The Board of Dental Examiners may, at its own  
629 discretion, accept certification of a licensure applicant, either



630 dentist or dental hygienist, by the National Board Examinations of  
631 the Joint Commission on National Dental Examinations, or its  
632 successor commission, in lieu of the written examination.

633 However, in all such instances the board shall retain the right to  
634 administer such further written and practical examinations and  
635 demonstrations as it deems necessary.

636 (9) Each application or filing made under this section shall  
637 include the social security number(s) of the applicant in  
638 accordance with Section 93-11-64.

639 **SECTION 13.** Section 73-9-24, Mississippi Code of 1972, is  
640 reenacted and amended as follows:

641 73-9-24. (1) In addition to the method for obtaining a  
642 license to practice dentistry or dental hygiene by way of  
643 examination as provided by Section 73-9-23, the board, in its sole  
644 discretion, may grant a license to a candidate who meets the  
645 following criteria:

646 (a) Submit proof of graduation from a dental school or  
647 school of dental hygiene accredited by the Commission on Dental  
648 Accreditation \* \* \* of the American Dental Association (ADA), or  
649 its successor commission.

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

653 (c) Currently hold a valid, unrestricted and unexpired  
654 license in a state whose standards for licensure are determined by  
655 the board as equivalent to Mississippi's standards, and which  
656 state grants reciprocity or licensure by credentials to licensees  
657 of the State of Mississippi;

658 (d) Provides an endorsement from all states in which he  
659 or she is currently licensed or has ever been licensed to practice  
660 dentistry or dental hygiene;



- 661           (e) Has not been the subject of pending or final  
662 disciplinary action in any state in which the applicant has been  
663 licensed;
- 664           (f) Is not the subject of a pending investigation in  
665 any other state or jurisdiction;
- 666           (g) Has not failed at any time within the past five (5)  
667 years, a licensure examination administered by another state or  
668 jurisdiction;
- 669           (h) Has not failed at any time, a licensure examination  
670 administered by the Mississippi State Board of Dental Examiners;
- 671           (i) Provides a written statement agreeing to appear for  
672 interviews at the request of the board;
- 673           (j) Has successfully completed all parts of the  
674 National Board Examinations of the Joint Commission on National  
675 Dental Examinations, or its successor commission, unless the  
676 applicant graduated from an accredited dental or dental hygiene  
677 school before 1960;
- 678           (k) Successfully passes a written jurisprudence  
679 examination;
- 680           (l) Provides payment of a nonrefundable application fee  
681 as provided in Section 73-9-43; and
- 682           (m) In addition, the State Board of Dental Examiners  
683 may consider the following in accepting, rejecting or denying an  
684 application for licensure by credentialing:
- 685                   (i) Information from the National Practitioner  
686 Data Bank, the Healthcare Integrity and Protection Data Bank  
687 and/or the American Association of Dental Examiners Clearinghouse  
688 for Disciplinary Information.
- 689                   (ii) Questioning under oath.
- 690                   (iii) Results of peer review reports from  
691 constituent societies and/or federal dental services.
- 692                   (iv) Substance abuse testing or treatment.



693 (v) Background checks for criminal or fraudulent  
694 activities.

695 (vi) Participation in continuing education.

696 (vii) A current certificate in cardiopulmonary  
697 resuscitation.

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

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

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

704 (xi) Proof of professional liability coverage and  
705 that the coverage has not been refused, declined, canceled,  
706 nonrenewed or modified.

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

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

715 (3) Any applicant failing to meet the criteria in subsection  
716 (1) of this section shall not be eligible for a license based on  
717 credentials. Upon meeting the criteria in subsection (1) of this  
718 section, the Mississippi State Board of Dental Examiners may, in  
719 its discretion, issue to the applicant a license to practice  
720 dentistry, or dental hygiene, unless grounds for denial of  
721 licensure exist as enumerated in Section 73-9-61. Evidence of  
722 falsification in the application for licensure through  
723 credentialing will result in revocation of the license.

724 (4) Any applicant applying for a specialty license by  
725 credentials must stay within his or her board recognized specialty



726 and must practice only that specialty within the State of  
727 Mississippi. A specialty license holder must hold a general  
728 dentistry license before obtaining a specialty license.

729 **SECTION 14.** Section 73-9-25, Mississippi Code of 1972, is  
730 reenacted and amended as follows:

731 73-9-25. The regular meeting of the State Board of Dental  
732 Examiners shall be held at least annually at such place, date and  
733 time as the board may determine in its discretion, for the purpose  
734 of examining applicants for a license to practice dentistry and  
735 dental hygiene, and continue in session until all applicants \* \* \*  
736 have been examined and their examinations have been approved or  
737 disapproved. The board may meet more often if necessary, in the  
738 discretion of the board, at such times and places as it may deem  
739 proper for the examination of applicants who may wish to practice  
740 dentistry or dental hygiene in this state, to administer makeup  
741 examinations, or for the purpose of enforcing the dental laws of  
742 the state.

743 \* \* \* Examinations for a license to practice dentistry or  
744 dental hygiene shall cover the subjects taught in the recognized  
745 schools of dentistry or dental hygiene together with such other  
746 subjects and practical demonstrations as the board may require.

747 The state shall furnish the necessary equipment for the  
748 required practical examinations for dentists and dental  
749 hygienists, and properly house and care for same.

750 **SECTION 15.** Section 73-9-27, Mississippi Code of 1972, is  
751 reenacted and amended as follows:

752 73-9-27. Each license issued by the board shall bear a  
753 serial number, the full name and residence of licensee, the date  
754 of issuance, the seal of the board, and shall be attested by the  
755 signatures of all the board members. Certified copies of the  
756 license may be issued by the president, secretary or executive  
757 director under their signature and seal, for which the secretary



758 or executive director shall collect a fee as elsewhere provided in  
759 this chapter.

760 **SECTION 16.** Section 73-9-28, Mississippi Code of 1972, is  
761 reenacted and amended as follows:

762 73-9-28. The Mississippi State Board of Dental Examiners  
763 is \* \* \* vested with the authority to promulgate rules and  
764 regulations allowing special categories of licenses, certificates,  
765 specialty certificates and permits under which institutional,  
766 teaching and provisional privileges may be granted on an  
767 individual basis, pursuant to such rules and regulations  
768 prescribing the qualifications, conditions and limitations of such  
769 privileges as may be established by the board. Those  
770 qualifications, conditions and limitations shall pertain to  
771 applicants who require but are eligible for less than complete  
772 resident licensure as provided for in the dental practice act.

773 Application for a special category of license, certificate,  
774 specialty certificate or permit, and the renewal thereof, shall be  
775 made to the \* \* \* board in writing in accordance with such rules  
776 and regulations as the board may adopt. The secretary or  
777 executive director shall collect a fee therefor as provided in  
778 Section 73-9-43.

779 **SECTION 17.** Section 73-9-29, Mississippi Code of 1972, is  
780 reenacted and amended as follows:

781 73-9-29. Any dentist of this state licensed by the  
782 Mississippi State Board of Dental Examiners, who has complied with  
783 the requirements specified by the Council on Dental Education of  
784 the American Dental Association, or its successor council or  
785 commission, in a specialty branch of dentistry or who has  
786 otherwise met the requirements of the rules and regulations  
787 promulgated by the board may apply for a certificate as a  
788 specialist. The application shall be accompanied by the payment  
789 of a fee not to exceed the fee provided for in Section 73-9-43 and  
790 the application must be on file for at least sixty (60) days



791 before the regular meeting of the board, and if the application is  
792 accepted the applicant may be notified to appear for examination  
793 before the board and a committee of that particular specialty, if  
794 available, appointed by the board. Examinations may be oral,  
795 written, or both, and the applicant may be required to demonstrate  
796 his or her knowledge and proficiency in the specialty in which he  
797 or she desires to be certified. The board is authorized to  
798 certify specialists in all specialty areas approved by the  
799 American Dental Association.

800 Any dentist not licensed by the Mississippi State Board of  
801 Dental Examiners but who is eligible to take the Mississippi State  
802 Board examination, and is further eligible for specialty  
803 examination, may take both examinations at the discretion of the  
804 board.

805 No licensed dentist shall hold himself or herself out to the  
806 public as a specialist, or publicly announce as being specially  
807 qualified in any particular branch of dentistry, or publicly  
808 announce as giving special attention to any branch of dentistry,  
809 until he or she has been issued a certificate by the board  
810 authorizing him or her to do so. Failure to comply shall be cause  
811 for his or her dental license to be revoked or suspended.

812 Only the following shall be eligible to announce as  
813 specialists:

814 (a) A diplomate of a specialty board approved by the  
815 American Dental Association;

816 (b) A dentist who has complied with requirements as  
817 specified by the Council on Dental Education of the American  
818 Dental Association, or its successor council or commission, for  
819 graduate training in the specialty sought to be announced, the  
820 training to meet the educational or training requirement for  
821 diplomate status;

822 (c) A dentist who has announced a specialized practice  
823 in one (1) of the special areas of dental practice within the





824 State of Mississippi for at least five (5) years before January 1,  
825 1970, and who meets the requirements elsewhere in this section may  
826 be granted a specialist certificate upon application and payment  
827 only of an initial specialty registration fee.

828 A dentist specialist's certificate shall be revoked or voided  
829 upon the revocation or voiding of the holder's license to practice  
830 dentistry in Mississippi.

831 **SECTION 18.** Section 73-9-33, Mississippi Code of 1972, which  
832 required the resignation of licenses in the office of the circuit  
833 clerk of the residence of the licensee, is repealed.

834 **SECTION 19.** Section 73-9-35, Mississippi Code of 1972, is  
835 reenacted and amended as follows:

836 73-9-35. The holder of either of the licenses provided for,  
837 shall at all times, upon request, exhibit same \* \* \* to any member  
838 of the Board of Dental Examiners, or his authorized agent or to  
839 any officer of the law.

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

842 73-9-37. If a license to practice dentistry or dental  
843 hygiene be issued and be lost or destroyed, the board may issue  
844 another in lieu thereof, upon satisfactory proof of such loss or  
845 destruction.

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

848 73-9-39. It shall be unlawful for any person or persons to  
849 practice or offer to practice dentistry under, or use the name of  
850 any company, association or corporation or business name or any  
851 name except his or their own in a manner which is in violation of  
852 Section 73-9-61, or to operate, manage or be employed in any room,  
853 rooms or office where dental work is done or contracted for, and  
854 that is operated under the name of any company, association, trade  
855 name or corporation in a manner which is in violation of Section  
856 73-9-61.



857           **SECTION 22.** Section 73-9-41, Mississippi Code of 1972, is  
858 reenacted and amended as follows:

859           73-9-41. (1) No person shall practice, attempt to practice  
860 or offer to practice dentistry or dental hygiene within the state  
861 without first having been authorized and issued a license by the  
862 board; nor shall any person practice, attempt to practice, or  
863 offer to practice dentistry or dental hygiene within the state  
864 during any period of suspension of his or her license by the board  
865 or after revocation or being voided for failure to reregister by  
866 the board of any license previously issued to the offending  
867 person.

868           (2) A person who has never been issued a license to practice  
869 dentistry or dental hygiene or whose license has been suspended,  
870 voided or revoked by action of the board, shall not perform any  
871 act that would constitute the practice of dentistry or dental  
872 hygiene as defined in Sections 73-9-3 and 73-9-5, including, but  
873 not limited to, the following:

874           (a) Making impressions or casts of the human mouth or  
875 teeth;

876           (b) Constructing or supplying dentures without the work  
877 authorization or prescription of a person licensed under the laws  
878 of this state to practice dentistry; and

879           (c) Constructing or supplying dentures from impressions  
880 or casts without the work authorization or prescription of a  
881 person licensed under the laws of this state to practice  
882 dentistry.

883           (3) The fact that any person engages in or performs or  
884 offers to engage in or performs any of the practices, acts or  
885 operations set forth in Section 73-9-3 or Section 73-9-5 is prima  
886 facie evidence that the person is engaged in the practice of  
887 dentistry or dental hygiene.

888           (4) In addition to any other civil remedy or criminal  
889 penalty provided for by law, the executive director or the



890 secretary of the board may issue a summons to appear before the  
891 board to any person or persons who the executive director or any  
892 member of the board has probable cause to believe has violated  
893 this section by practicing, attempting to practice, or offering to  
894 practice dentistry or dental hygiene without a current, valid  
895 license or permit and any necessary witnesses. The summons issued  
896 by the board shall command each person to whom it is directed to  
897 attend and give testimony at a time and place \* \* \* specified in  
898 the summons. The summons shall be served upon the individual  
899 personally or by any type of mailing requiring a return receipt  
900 and shall include a statement of the charges and an explanation of  
901 the manner in which the unlicensed person shall be required to  
902 respond to the board.

903 (5) In proceedings conducted pursuant to subsection (4) of  
904 this section, the board may levy for each and every violation a  
905 civil penalty upon any unlicensed person who after a hearing is  
906 found to have practiced dentistry or dental hygiene without the  
907 benefit of a current, valid license having been issued by the  
908 board under the provisions of this chapter, as follows:

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

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

913 (c) For the third and any subsequent violations, a  
914 monetary penalty of not more than Five Thousand Dollars  
915 (\$5,000.00).

916 (d) For any violation, the board may assess those  
917 reasonable costs that are expended by the board in the  
918 investigation and conduct of the hearing as provided in subsection  
919 (4) of this section, including, but not limited to, the cost of  
920 process service, court reporters, expert witnesses and other  
921 witness expenses paid by the board, and investigators. Appeals  
922 from the board's decision may be taken as provided in Section



923 73-9-65. Any monetary penalty or assessment levied under this  
924 section shall be paid to the board by the illegal practitioner  
925 upon the expiration of the period allowed for appealing those  
926 penalties or may be paid sooner if the illegal practitioner  
927 elects. Monetary penalties and cost assessments collected by the  
928 board under this section shall be deposited \* \* \* into the special  
929 fund of the board.

930 (6) No person practicing dentistry or dental hygiene without  
931 a current valid license \* \* \* shall have the right to receive any  
932 compensation for services so rendered. In addition to any other  
933 penalties imposed under this section, any person who practices  
934 dentistry or dental hygiene without a license shall return any  
935 fees collected for practicing dentistry or dental hygiene and  
936 shall be liable for any damages resulting from negligent conduct.  
937 The board or any patient shall have the right to enforce the  
938 obligation provided in this section.

939 **SECTION 23.** Section 73-9-43, Mississippi Code of 1972, is  
940 reenacted and amended as follows:

941 73-9-43. (1) The secretary or executive director shall  
942 collect in advance all fees provided for in this chapter as  
943 established by the board, not to exceed:

944	Application for dental license.....	\$ 600.00
945	Application for dental license through	
946	credentials.....	2,500.00
947	Application for dental specialty license.....	400.00
948	Application for dental institutional,	
949	teaching or provisional license.....	600.00
950	Application for dental hygiene license.....	400.00
951	Application for dental hygiene license through	
952	credentials.....	750.00
953	Application for dental hygiene institutional,	
954	teaching or provisional license.....	400.00
955	Application for general anesthesia permit.....	400.00



956	Application for I.V. sedation permit.....	400.00
957	Application for radiology permit.....	100.00
958	* * * Dental license renewal.....	300.00
959	* * * Dental specialty license renewal.....	<u>200.00</u>
960	* * * Dental institutional, teaching or	
961	provisional license renewal.....	300.00
962	* * * Dental hygiene license renewal.....	150.00
963	* * * Dental hygiene institutional, teaching or	
964	provisional license renewal.....	150.00
965	* * * General anesthesia permit renewal.....	<u>200.00</u>
966	* * * I.V. sedation permit renewal.....	<u>200.00</u>
967	* * * Radiology permit renewal.....	75.00
968	Penalty for delinquent renewal of dental licenses;	
969	dental specialty licenses; and dental institutional,	
970	teaching and provisional licenses:	
971	First month (plus * * * renewal fee).....	100.00
972	Second month (plus * * * renewal fee).....	150.00
973	* * *	
974	Penalty for delinquent renewal of dental hygiene	
975	licenses and dental hygiene institutional, teaching	
976	and provisional licenses:	
977	First month (plus * * * renewal fee).....	50.00
978	Second month (plus * * * renewal fee).....	75.00
979	* * *	
980	Penalty for delinquent renewal of radiology permits:	
981	First month (plus * * * renewal fee).....	45.00
982	Second month (plus * * * renewal fee).....	65.00
983	* * *	
984	Penalty for nonnotification of change of address.....	50.00
985	Penalty for duplicate renewal forms and	
986	certification cards.....	50.00
987	Duplicate or replacement license or permit.....	40.00
988	Certification of licensure status.....	40.00



989	Certified copy of license or permit.....	40.00
990	Handling fee for nonsufficient funds check.....	50.00
991	Requests for database information.....	300.00
992	Radiology examinations administered in board's	
993	office.....	100.00
994	Dental and dental hygiene licensure examination	
995	manuals.....	50.00
996	Dental and dental hygiene licensure by	
997	credentials packets.....	50.00
998	Laws and/or regulations.....	50.00
999	Disciplinary action orders.....	25.00
1000	Newsletters.....	20.00

1001 \* \* \*

1002       (2) The board may enact and enforce for delinquency in  
1003 payment for any fees set out in this section a penalty in addition  
1004 to the fee of an amount up to but not in excess of the fee. An  
1005 additional fee of an amount equal to the first penalty may be  
1006 assessed for each thirty (30) days, or part thereof, of  
1007 delinquency. If any license or permit holder is delinquent in  
1008 payment of renewal fees exceeding sixty (60) days from the initial  
1009 renewal deadline as set by the board, the person shall be presumed  
1010 to be no longer practicing, shall be stricken from the rolls and  
1011 shall be deemed an illegal practitioner, subject to the penalties  
1012 as enumerated in Section 73-9-41. In order to practice his or her  
1013 profession in this state thereafter, the person may, at the  
1014 discretion of the board, be considered as a new applicant and  
1015 subject to examination and other licensing requirements as an  
1016 original applicant.

1017       (3) The secretary or executive director shall faithfully  
1018 account for all monies received by the board. All fees and any  
1019 other monies received by the board \* \* \* shall be deposited in a  
1020 special fund that is created in the State Treasury and shall be  
1021 used for the implementation and administration of this chapter



1022 when appropriated by the Legislature for that purpose. \* \* \* Any  
1023 interest earned on this special fund shall be credited by the  
1024 State Treasurer to the fund and shall not be paid into the State  
1025 General Fund. Any unexpended monies remaining in the special fund  
1026 at the end of a fiscal year shall not lapse into the State General  
1027 Fund.

1028 \* \* \*

1029 (4) For conducting the initial and retake examinations of  
1030 applicants for licensure the secretary shall receive no more than  
1031 Nine Hundred Dollars (\$900.00) per day for each examination, and  
1032 no other member shall receive more than Seven Hundred Dollars  
1033 (\$700.00) per day for each examination. The receipt of that  
1034 compensation shall not entitle members of the board to receive or  
1035 be eligible for any state employee group insurance, retirement or  
1036 other fringe benefits. \* \* \* Any fees or income other than the  
1037 maximum allowable for examining applicants for licensure as set  
1038 out above shall be accounted for and may be used as needed in  
1039 carrying out the provisions of this chapter.

1040 (5) \* \* \* A portion of the fee charged for license renewal  
1041 of dentists and dental hygienists \* \* \* may be used to support a  
1042 program to aid impaired dentists and/or dental hygienists. The  
1043 payment of per diem and expense for attending \* \* \* board meetings  
1044 shall be in addition to the compensation permitted above for  
1045 examining applicants for licensure, and the per diem shall not  
1046 exceed the amount provided in Section 25-3-69.

1047 **SECTION 24.** Section 73-9-45, Mississippi Code of 1972, is  
1048 reenacted and amended as follows:

1049 73-9-45. Each member of the board and each licensed and  
1050 practicing dentist and dental hygienist is constituted an agent  
1051 who may investigate all complaints and all alleged cases of  
1052 noncompliance with, or violation of the provisions of this chapter  
1053 and may bring all those matters to the notice of the proper



1054 prosecuting officers, where it appears probable that an offense  
1055 has been committed.

1056 **SECTION 25.** Section 73-9-47, Mississippi Code of 1972, is  
1057 reenacted and amended as follows:

1058 73-9-47. The board shall, as far as practicable, provide by  
1059 rule for the conduct of its business by mail, but all examinations  
1060 shall be conducted in person by the board, or by a quorum thereof  
1061 as provided herein.

1062 Any official action or vote taken by mail shall be preserved  
1063 by the secretary or executive director in the same manner as the  
1064 minutes of regular meetings.

1065 **SECTION 26.** Section 73-9-49, Mississippi Code of 1972, is  
1066 reenacted and amended as follows:

1067 73-9-49. The secretary or executive director of the board  
1068 shall, at its regular annual meeting, submit a report of its  
1069 receipts and disbursements for the preceding year, and a report of  
1070 its actions in general during the preceding year. \* \* \*

1071 **SECTION 27.** Section 73-9-51, Mississippi Code of 1972, is  
1072 reenacted as follows:

1073 73-9-51. No member of the board shall during the term of his  
1074 office or thereafter, be required to defend any action for damages  
1075 in any of the courts of this state where it is shown that said  
1076 damage followed or resulted from any of the official acts of said  
1077 board in the performance of its powers, duties or authority as set  
1078 forth in this chapter. Any such action filed shall upon motion be  
1079 dismissed, at the cost of the plaintiff, with prejudice.

1080 **SECTION 28.** Section 73-9-53, Mississippi Code of 1972, is  
1081 reenacted as follows:

1082 73-9-53. Legally licensed pharmacists of this state are  
1083 hereby authorized to fill prescriptions of legally licensed and  
1084 registered dentists of this state for any drugs to be used in the  
1085 practice of dentistry.





1086           **SECTION 29.** Section 73-9-55, Mississippi Code of 1972, is  
1087 reenacted as follows:

1088           73-9-55. A written work authorization shall accompany all  
1089 dental laboratory work sent by a licensed dentist to a commercial  
1090 dental laboratory or private dental laboratory technician.

1091           The original of said written authorization shall be kept on  
1092 file by a commercial dental laboratory or a private dental  
1093 laboratory technician for a period of time required by the State  
1094 Board of Dental Examiners, not to exceed two (2) years from the  
1095 date it was received, and one (1) carbon copy of this written work  
1096 authorization shall be kept on file by the licensed dentist  
1097 executing this written work authorization for a like period not to  
1098 exceed two (2) years from the date it was issued.

1099           This said written work authorization shall include the  
1100 following information:

1101           (1) Date signed.

1102           (2) The name and address of the commercial dental  
1103 laboratory or private dental laboratory technician.

1104           (3) The name or identification number of the patient  
1105 for whom the act or service is ordered.

1106           (4) The licensed dentist's name, address, and license  
1107 number.

1108           (5) The signature of the licensed dentist.

1109           (6) The description of the kind and type of appliance,  
1110 process, fabrication, service, or material ordered.

1111           Any dental laboratory having received a work authorization  
1112 from a licensed dentist for any appliance, process, fabrication,  
1113 service, or material, who shall thereafter secure the services of  
1114 another dental laboratory for the performance of any said work or  
1115 services, shall furnish to such laboratory a written work order  
1116 therefor, and both laboratories shall keep on file a record  
1117 thereof for a like period not to exceed two (2) years from the  
1118 date received.



1119 In the enforcement of this section and the foregoing rules  
1120 and regulations promulgated pursuant thereto, the members of the  
1121 Board of Dental Examiners, their agents, investigators, and  
1122 employees shall have the right to inspect the records of any  
1123 dental office or any dental laboratory during regular office  
1124 hours.

1125 **SECTION 30.** Section 73-9-57, Mississippi Code of 1972, is  
1126 reenacted and amended as follows:

1127 73-9-57. If any person for any reason whatsoever, shall  
1128 practice, attempt, or offer to practice dentistry or dental  
1129 hygiene illegally within the meaning of this chapter, he or she  
1130 shall be deemed guilty of a misdemeanor, and upon conviction shall  
1131 be fined not less than Two Thousand Dollars (\$2,000.00) nor more  
1132 than Five Thousand Dollars (\$5,000.00) or be imprisoned in the  
1133 county jail not less than two (2) months nor more than six (6)  
1134 months.

1135 **SECTION 31.** Section 73-9-59, Mississippi Code of 1972, is  
1136 reenacted as follows:

1137 73-9-59. It shall be the duty of the several prosecuting  
1138 officers of this state on notice from a member of the board or  
1139 other persons having knowledge of violations of this chapter to  
1140 institute prosecutions in the same manner as for other  
1141 misdemeanors.

1142 **SECTION 32.** Section 73-9-61, Mississippi Code of 1972, is  
1143 reenacted and amended as follows:

1144 73-9-61. (1) Upon satisfactory proof, and in accordance  
1145 with statutory provisions elsewhere set out for such hearings and  
1146 protecting the rights of the accused as well as the public, the  
1147 State Board of Dental Examiners may deny the issuance or renewal  
1148 of a license or may revoke or suspend the license of any licensed  
1149 dentist or dental hygienist practicing in the State of  
1150 Mississippi, or take any other action in relation to the license



1151 as the board may deem proper under the circumstances, for any of  
1152 the following reasons:

1153 (a) Misrepresentation in obtaining a license, or  
1154 attempting to obtain, obtaining, attempting to renew or renewing a  
1155 license or professional credential by making any material  
1156 misrepresentation, including the signing in his or her  
1157 professional capacity any certificate that is known to be false at  
1158 the time he or she makes or signs the certificate.

1159 (b) Willful violation of any of the rules or  
1160 regulations duly promulgated by the board, or of any of the rules  
1161 or regulations duly promulgated by the appropriate dental  
1162 licensure agency of another state or jurisdiction.

1163 (c) Being impaired in the ability to practice dentistry  
1164 or dental hygiene with reasonable skill and safety to patients by  
1165 reason of illness or use of alcohol, drugs, narcotics, chemicals,  
1166 or any other type of material or as a result of any mental or  
1167 physical condition.

1168 (d) Administering, dispensing or prescribing any  
1169 prescriptive medication or drug outside the course of legitimate  
1170 professional dental practice.

1171 (e) Being convicted or found guilty of or entering a  
1172 plea of nolo contendere to, regardless of adjudication, a  
1173 violation of any federal or state law regulating the possession,  
1174 distribution or use of any narcotic drug or any drug considered a  
1175 controlled substance under state or federal law, a certified copy  
1176 of the conviction order or judgment rendered by the trial court  
1177 being prima facie evidence thereof, notwithstanding the pendency  
1178 of any appeal.

1179 (f) Practicing incompetently or negligently, regardless  
1180 of whether there is actual harm to the patient.

1181 (g) Being convicted or found guilty of or entering a  
1182 plea of nolo contendere to, regardless of adjudication, a crime in  
1183 any jurisdiction that relates to the practice of dentistry or



1184 dental hygiene, a certified copy of the conviction order or  
1185 judgment rendered by the trial court being prima facie evidence  
1186 thereof, notwithstanding the pendency of any appeal.

1187 (h) Being convicted or found guilty of or entering a  
1188 plea of nolo contendere to, regardless of adjudication, a felony  
1189 in any jurisdiction, a certified copy of the conviction order or  
1190 judgment rendered by the trial court being prima facie evidence  
1191 thereof, notwithstanding the pendency of any appeal.

1192 (i) Delegating professional responsibilities to a  
1193 person who is not qualified by training, experience or licensure  
1194 to perform them.

1195 (j) The refusal of a licensing authority of another  
1196 state or jurisdiction to issue or renew a license, permit or  
1197 certificate to practice dentistry or dental hygiene in that  
1198 jurisdiction or the revocation, suspension or other restriction  
1199 imposed on a license, permit or certificate issued by the  
1200 licensing authority that prevents or restricts practice in that  
1201 jurisdiction, a certified copy of the disciplinary order or action  
1202 taken by the other state or jurisdiction being prima facie  
1203 evidence thereof, notwithstanding the pendency of any appeal.

1204 (k) Surrender of a license or authorization to practice  
1205 dentistry or dental hygiene in another state or jurisdiction when  
1206 the board has reasonable cause to believe that the surrender is  
1207 made to avoid or in anticipation of a disciplinary action.

1208 (l) Any unprofessional conduct to be determined by the  
1209 board on a case-by-case basis, which shall include but not be  
1210 restricted to the following:

1211 (i) Committing any crime involving moral  
1212 turpitude.

1213 (ii) Practicing deceit or other fraud upon the  
1214 public.

1215 (iii) Practicing dentistry or dental hygiene under  
1216 a false or assumed name.



1217 (iv) Advertising that is false, deceptive or  
1218 misleading.

1219 (v) Announcing a specialized practice shall be  
1220 considered advertising that tends to deceive or mislead the public  
1221 unless the dentist announcing as a specialist conforms to other  
1222 statutory provisions and the duly promulgated rules or regulations  
1223 of the board pertaining to practice of dentistry in the State of  
1224 Mississippi.

1225 (m) Failure to provide and maintain reasonable sanitary  
1226 facilities and conditions or failure to follow board rules  
1227 regarding infection control.

1228 (n) Committing any act which would constitute sexual  
1229 misconduct upon a patient or upon ancillary staff. For purposes  
1230 of this subsection, the term sexual misconduct means:

1231 (i) Use of the licensee-patient relationship to  
1232 engage or attempt to engage the patient in sexual activity; or

1233 (ii) Conduct of a licensee that is intended to  
1234 intimidate, coerce, influence or trick any person employed by or  
1235 for the licensee in a dental practice or educational setting for  
1236 the purpose of engaging in sexual activity or activity intended  
1237 for the sexual gratification of the licensee.

1238 (o) Violation of a lawful order of the board previously  
1239 entered in a disciplinary or licensure hearing; failure to  
1240 cooperate with any lawful request or investigation by the board;  
1241 or failure to comply with a lawfully issued subpoena of the board.

1242 (p) Willful, obstinate and continuing refusal to  
1243 cooperate with the board in observing its rules and regulations in  
1244 promptly paying all legal license or other fees required by law.

1245 (q) Practicing dentistry or dental hygiene while the  
1246 person's license is suspended.

1247 (2) In lieu of revocation of a license as provided for  
1248 above, the board may suspend the license of the offending dentist  
1249 or dental hygienist, suspend the sedation permit of the offending



1250 dentist, or take any other action in relation to his or her  
1251 license as the board may deem proper under the circumstances.

1252 (3) When a license to practice dentistry or dental hygiene  
1253 is revoked or suspended by the board, the board may, in its  
1254 discretion, stay the revocation or suspension and simultaneously  
1255 place the licensee on probation upon the condition that the  
1256 licensee shall not violate the laws of the State of Mississippi  
1257 pertaining to the practice of dentistry or dental hygiene and  
1258 shall not violate the rules and regulations of the board and shall  
1259 not violate any terms in relation to his or her license as may be  
1260 set by the board.

1261 (4) In a proceeding conducted under this section by the  
1262 board for the denial, revocation or suspension of a license to  
1263 practice dentistry or dental hygiene, the board shall have the  
1264 power and authority for the grounds stated for that denial,  
1265 revocation or suspension, and in addition thereto or in lieu of  
1266 that denial, revocation or suspension may assess and levy upon any  
1267 person licensed to practice dentistry or dental hygiene in the  
1268 State of Mississippi, a monetary penalty, as follows:

1269 (a) For the first violation of any of subparagraph (a),  
1270 (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection  
1271 (1) of this section, a monetary penalty of not less than Fifty  
1272 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

1273 (b) For the second violation of any of subparagraph  
1274 (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of  
1275 subsection (1) of this section, a monetary penalty of not less  
1276 than One Hundred Dollars (\$100.00) nor more than One Thousand  
1277 Dollars (\$1,000.00).

1278 (c) For the third and any subsequent violation of any  
1279 of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o)  
1280 or (q) of subsection (1) of this section, a monetary penalty of  
1281 not less than Five Hundred Dollars (\$500.00) and not more than  
1282 Five Thousand Dollars (\$5,000.00).



1283 (d) For any violation of any of subparagraphs (a)  
1284 through (q) of subsection (1) of this section, those reasonable  
1285 costs that are expended by the board in the investigation and  
1286 conduct of a proceeding for licensure revocation or suspension,  
1287 including, but not limited to, the cost of process service, court  
1288 reporters, expert witnesses and investigators.

1289 (5) The power and authority of the board to assess and  
1290 levy \* \* \* monetary penalties under this section shall not be  
1291 affected or diminished by any other proceeding, civil or criminal,  
1292 concerning the same violation or violations except as provided in  
1293 this section.

1294 (6) A licensee shall have the right of appeal from the  
1295 assessment and levy of a monetary penalty as provided in this  
1296 section under the same conditions as a right of appeal is provided  
1297 elsewhere for appeals from an adverse ruling, order or decision of  
1298 the board.

1299 (7) Any monetary penalty assessed and levied under this  
1300 section shall not take effect until after the time for appeal has  
1301 expired. In the event of an appeal, the appeal shall act as a  
1302 supersedeas.

1303 (8) A monetary penalty assessed and levied under this  
1304 section shall be paid to the board by the licensee upon the  
1305 expiration of the period allowed for appeal of those penalties  
1306 under this section or may be paid sooner if the licensee  
1307 elects. \* \* \* Any monies collected by the board under subsections  
1308 (4) (a) through (4) (d) of this section shall be deposited into the  
1309 special fund operating account of the board.

1310 (9) When payment of a monetary penalty assessed and levied  
1311 by the board against a licensee in accordance with this section is  
1312 not paid by the licensee when due under this section, the board  
1313 shall have power to institute and maintain proceedings in its name  
1314 for enforcement of payment in the chancery court of the county and  
1315 judicial district of residence of the licensee, and if the



1316 licensee is a nonresident of the State of Mississippi, the  
1317 proceedings shall be in the Chancery Court of the First Judicial  
1318 District of Hinds County, Mississippi.

1319 (10) In addition to the reasons specified in subsection (1)  
1320 of this section, the board shall be authorized to suspend the  
1321 license of any licensee for being out of compliance with an order  
1322 for support, as defined in Section 93-11-153. The procedure for  
1323 suspension of a license for being out of compliance with an order  
1324 for support, and the procedure for the reissuance or reinstatement  
1325 of a license suspended for that purpose, and the payment of any  
1326 fees for the reissuance or reinstatement of a license suspended  
1327 for that purpose, shall be governed by Section 93-11-157 or  
1328 93-11-163, as the case may be. If there is any conflict between  
1329 any provision of Section 93-11-157 or 93-11-163 and any provision  
1330 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
1331 as the case may be, shall control.

1332 (11) All grounds for disciplinary action, including  
1333 imposition of fines and assessment of costs as enumerated above,  
1334 shall also apply to any other license or permit issued by the  
1335 board under this chapter or regulations duly adopted by the board.

1336 **SECTION 33.** Section 73-9-63, Mississippi Code of 1972, is  
1337 reenacted and amended as follows:

1338 73-9-63. A complaint may be filed with the secretary or  
1339 executive director of the board, by any person charging a licensed  
1340 dentist or dental hygienist with the commission of any of the  
1341 offenses enumerated in \* \* \* Section 73-9-61. The complaint shall  
1342 be in writing and signed by the accuser, or accusers. If upon  
1343 review of the complaint, the board determines that there is not  
1344 substantial justification to believe that the accused dentist or  
1345 dental hygienist has committed any of the offenses enumerated in  
1346 the preceding section, it may dismiss the complaint. In the event  
1347 of a dismissal, the person filing the complaint and the accused  
1348 dentist or dental hygienist shall be given written notice of the





1349 board's determination. If the board determines there is  
1350 reasonable cause to believe the accused has committed the  
1351 offenses, and a hearing should be held to determine the validity  
1352 of the complaint, the executive director of the board shall set a  
1353 day for a hearing, and \* \* \* shall notify the accused that on the  
1354 day fixed for hearing he or she may appear and show cause, if any,  
1355 why his or her license to practice dentistry or dental hygiene in  
1356 the state should not be revoked or have other disciplinary action  
1357 taken against it. The notice shall be served upon the dentist or  
1358 dental hygienist either personally or by registered or certified  
1359 mail with return receipt requested. The board may, by regulation,  
1360 establish an investigative panel consisting of at least two (2)  
1361 people, one (1) of whom shall be a board member, to review  
1362 complaints to determine the existence of probable cause and  
1363 whether the complaints should proceed to formal hearing.

1364 Nothing in this section shall prevent the board from  
1365 determining that it should investigate a licensee without a signed  
1366 complaint provided that a prior determination is made that  
1367 probable cause exists that a violation of this chapter may have  
1368 occurred.

1369 For the purpose of the hearings or investigation of  
1370 complaints, the board is empowered to require the attendance of  
1371 witnesses, reimburse witnesses for necessary expenses and mileage  
1372 incurred, subpoena documents and records, employ and compensate  
1373 expert witnesses, administer oaths, and hear testimony, either  
1374 oral or documentary, for and against the accused. Hearings shall  
1375 be conducted by a majority of the members of the board. A record  
1376 of the hearing shall be made, which shall consist of all testimony  
1377 received and all documents and other material introduced. If  
1378 after the hearing the board is satisfied that the accused has been  
1379 guilty of the offense charged in the accusation, it shall  
1380 thereupon, without further notice, order such disciplinary action  
1381 as it deems proper. All procedural due process requirements as



1382 enumerated above also shall apply to any other license or permit  
1383 issued by the board under this chapter or regulations duly adopted  
1384 by the board.

1385         **SECTION 34.** Section 73-9-65, Mississippi Code of 1972, is  
1386 reenacted and amended as follows:

1387         73-9-65. No disciplinary action against a licensee shall be  
1388 taken until the accused has been furnished a statement of the  
1389 charges against him or her and a notice of the time and place of  
1390 hearing thereof. The accused may be present at the hearing in  
1391 person, by counsel, or both. \* \* \* The board may, for good cause  
1392 shown, reinstate any license \* \* \* revoked or suspended. The  
1393 procedure for the reinstatement of a license that is suspended for  
1394 being out of compliance with an order for support, as defined in  
1395 Section 93-11-153, shall be governed by Section 93-11-157 or  
1396 93-11-163, as the case may be. The right to appeal any  
1397 disciplinary actions of the board regarding the license of any  
1398 dentist or dental hygienist is \* \* \* granted. The appeal shall be  
1399 to the chancery court of the county in which the dentist or dental  
1400 hygienist resides, except where the dentist or dental hygienist  
1401 does not reside in the State of Mississippi, in which case the  
1402 appeal shall be to the Chancery Court of the First Judicial  
1403 District of Hinds County, Mississippi. The appeal must be taken  
1404 within thirty (30) days after notice of the action of the  
1405 board \* \* \*. The appeal is perfected upon filing a notice of  
1406 appeal, together with a bond in the sum of One Hundred Dollars  
1407 (\$100.00), with two (2) sureties, conditioned that if the action  
1408 of the board regarding the license is affirmed by the chancery  
1409 court the dentist or dental hygienist will pay the costs of the  
1410 appeal and the action in the chancery court. Those bonds shall be  
1411 approved by the president of the board. In lieu of the bond, the  
1412 dentist or dental hygienist may deposit One Hundred Dollars  
1413 (\$100.00) with the clerk of the chancery court. If there is an  
1414 appeal, the appeal may, in the discretion of and on motion to the



1415 chancery court, act as a supersedeas. The chancery court shall  
1416 dispose of the appeal and enter its decision promptly. The  
1417 hearing on the appeal may, in the discretion of the chancellor, be  
1418 tried in vacation. Appeals may be had to the Supreme Court of the  
1419 State of Mississippi as provided by law from any final action of  
1420 the chancery court. No such person shall be allowed to practice  
1421 dentistry or dental hygiene or deliver health care services in  
1422 violation of any action of the chancery court \* \* \* while any such  
1423 appeal to the Supreme Court is pending. All procedural appeal  
1424 requirements as enumerated above also shall apply to any other  
1425 license or permit issued by the board under this chapter or  
1426 regulations duly adopted by the board.

1427       Actions taken by the board in suspending a license when  
1428 required by Section 93-11-157 or 93-11-163 are not actions from  
1429 which an appeal may be taken under this section. Any appeal of a  
1430 license suspension that is required by Section 93-11-157 or  
1431 93-11-163 shall be taken in accordance with the appeal procedure  
1432 specified in Section 93-11-157 or 93-11-163, as the case may be,  
1433 rather than the procedure specified in this section.

1434       **SECTION 35.** Section 73-9-67, Mississippi Code of 1972, which  
1435 is the automatic repealer of Sections 73-9-1 through 73-9-117,  
1436 Mississippi Code of 1972, which create the Board of Dental  
1437 Examiners and describe its duties and powers, is repealed.

1438       **SECTION 36.** Section 73-9-107, Mississippi Code of 1972, is  
1439 amended as follows:

1440       73-9-107. (1) The examining committee assigned to examine a  
1441 dentist or dental hygienist pursuant to referral by the board  
1442 under Section 73-9-105 shall conduct an examination of the dentist  
1443 or dental hygienist for the purpose of determining his or her  
1444 fitness to practice dentistry or dental hygiene with reasonable  
1445 skill and safety to patients, either on a restricted or  
1446 unrestricted basis, and shall report its findings and  
1447 recommendations to the board. The committee shall order the



1448 dentist or dental hygienist to appear before the committee for  
1449 examination and give him or her ten (10) days' notice of the time  
1450 and place of the examination, together with a statement of the  
1451 cause for the examination. The notice shall be served upon the  
1452 dentist or dental hygienist either personally or by registered or  
1453 certified mail with return receipt requested.

1454 (2) If the examining committee, in its  
1455 discretion, \* \* \* deems an independent mental or physical  
1456 examination of the dentist or dental hygienist necessary to its  
1457 determination of the fitness of the dentist or dental hygienist to  
1458 practice, the committee shall order the dentist or dental  
1459 hygienist to submit to the examination. Any person licensed to  
1460 practice dentistry or dental hygiene in this state shall be deemed  
1461 to have waived all objections to the admissibility of the  
1462 examining committee's report in any proceedings before the board  
1463 under Sections 73-9-101 through 73-9-117 on the grounds of  
1464 privileged communication. Any dentist or dental hygienist ordered  
1465 to an examination before the committee under this subsection shall  
1466 be entitled to an independent mental or physical examination if he  
1467 or she makes a request therefor.

1468 (3) Any dentist or dental hygienist who submits to a  
1469 diagnostic mental or physical examination as ordered by the  
1470 examining committee shall have a right to designate another  
1471 physician to be present at the examination and make an independent  
1472 report to the board.

1473 (4) Failure of a dentist or dental hygienist to comply with  
1474 a committee order under subsection (1) of this section to appear  
1475 before it for examination or to submit to mental or physical  
1476 examination under subsection (2) of this section shall be reported  
1477 by the committee to the board, and unless due to circumstances  
1478 beyond the control of the dentist or dental hygienist, shall be  
1479 grounds for suspension by the board of his or her license to  
1480 practice dentistry or dental hygiene in this state until such time



1481 as the dentist or dental hygienist has complied with the order of  
1482 the committee.

1483 (5) The examining committee may inspect patient records in  
1484 accordance with the rules and regulations duly promulgated by the  
1485 Board of Dental Examiners.

1486 (6) All patient records, investigative reports, and other  
1487 documents in possession of the board and examining committee shall  
1488 be deemed confidential and not subject to subpoena or disclosure  
1489 unless so ordered by the court from which the subpoena issued, but  
1490 the court, in its discretion, may limit use or disclosure of the  
1491 records. Notwithstanding, and to encourage the prompt reporting  
1492 of disabled practitioners, neither the board nor examining  
1493 committee shall reveal the identity of any source of information  
1494 where the source has requested anonymity.

1495 **SECTION 37.** Section 73-9-113, Mississippi Code of 1972, is  
1496 amended as follows:

1497 73-9-113. (1) The board may proceed against a dentist or  
1498 dental hygienist under Sections 73-9-101 through 73-9-117 by  
1499 serving upon the dentist or dental hygienist at least fifteen (15)  
1500 days' notice of a time and place fixed for a hearing, together  
1501 with copies of the examining committee's report and diagnosis.  
1502 The notice and reports shall be served upon the dentist or dental  
1503 hygienist either personally or by registered or certified mail  
1504 with return receipt requested.

1505 (2) At the hearing the dentist or dental hygienist shall  
1506 have the right to be present, to be represented by counsel, to  
1507 produce witnesses or evidence in his or her behalf, to  
1508 cross-examine witnesses, and to have subpoenas issued by the  
1509 board.

1510 (3) At the conclusion of the hearing, the board shall make a  
1511 determination of the merits and may issue an order imposing one or  
1512 more of the following:



1513                   (a) Make a recommendation that the dentist or dental  
1514 hygienist submit to the care, counseling or treatment by  
1515 physicians acceptable to the board.

1516                   (b) Suspend or restrict the license to practice  
1517 dentistry or dental hygiene for the duration of his or her  
1518 impairment.

1519                   (c) Revoke the license of the dentist or dental  
1520 hygienist.

1521                   (d) Impose an assessment of costs or monetary penalty  
1522 as provided for in Section 73-9-61.

1523                   (4) The board may temporarily suspend the license of any  
1524 dentist or dental hygienist without a hearing, simultaneously with  
1525 the institution of proceedings for a hearing under this section,  
1526 if it finds that the evidence in support of the examining  
1527 committee's determination is clear, competent and unequivocal and  
1528 that his or her continuation in practice would constitute an  
1529 imminent danger to public health and safety.

1530                   (5) Neither the record of the proceedings nor any order  
1531 entered against a dentist or dental hygienist may be used against  
1532 him or her in any other legal proceedings except upon judicial  
1533 review as provided herein.

1534                   **SECTION 38.** This act shall take effect and be in force from  
1535 and after June 30, 2002.

