

By: Representative Moody

To: Public Health and
WelfareHOUSE BILL NO. 572
(As Passed the House)

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 AMEND REENACTED SECTION 73-9-43, MISSISSIPPI CODE OF 1972, TO
57 PROVIDE FOR CERTAIN INCREASES IN THE STATUTORY MAXIMUM FEE
58 ASSESSMENTS, TO DELETE THE EXEMPTION FROM THE PAYMENT OF RENEWAL
59 FEES FOR DENTISTS OVER THE AGE OF 70, TO PROVIDE FOR A TWO-MONTH
60 PENALTY PHASE AND CLARIFY THE LANGUAGE THEREFOR TO APPLY TO ALL
61 LICENSES AND PERMITS, TO DELETE CERTAIN PROVISIONS COVERED BY
62 OTHER STATUTES, TO PROVIDE FOR A DAILY PER DIEM FOR BOARD MEMBERS
63 WHO ADMINISTER INITIAL AND RETAKE LICENSURE EXAMINATIONS; TO AMEND
64 REENACTED SECTION 73-9-45, MISSISSIPPI CODE OF 1972, TO DELETE THE
65 REQUIREMENT THAT EACH DENTIST AND DENTAL HYGIENIST MUST
66 INVESTIGATE COMPLAINTS; TO AMEND REENACTED SECTION 73-9-47,
67 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DUTIES OF THE
68 EXECUTIVE DIRECTOR; TO AMEND REENACTED SECTION 73-9-49,
69 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DUTIES OF THE
70 EXECUTIVE DIRECTOR, AND TO DELETE THE REQUIREMENT THAT ANNUAL
71 REPORTS BE FILED WITH THE GOVERNOR; TO AMEND REENACTED SECTION
72 73-9-57, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTIES FOR
73 PRACTICING ILLEGALLY; TO AMEND REENACTED SECTION 73-9-61,
74 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DISCIPLINARY ACTION
75 AGAINST ALL LICENSES AND PERMITS ISSUED BY THE BOARD; TO AMEND
76 REENACTED SECTION 73-9-63, MISSISSIPPI CODE OF 1972, TO CLARIFY
77 THE PROCEDURES FOR FILING NOTICES OF COMPLAINTS, AND TO PROVIDE
78 FOR NOTICES OF COMPLAINTS FOR ALL LICENSES AND PERMITS ISSUED BY
79 THE BOARD; TO AMEND REENACTED SECTION 73-9-65, MISSISSIPPI CODE OF
80 1972, TO DELETE THE REQUIREMENT THAT SUSPENSIONS, REVOCATIONS AND
81 REINSTATEMENTS BE FILED WITH THE CIRCUIT CLERK, TO PROVIDE FOR
82 APPEAL FROM ALL TYPES OF DISCIPLINARY ACTIONS, TO PROVIDE AN
83 APPEAL VENUE FOR DISCIPLINED LICENSEES WHO RESIDE OUTSIDE THE
84 STATE OF MISSISSIPPI, TO PROVIDE AN APPEAL VENUE FOR HOLDERS OF
85 ALL LICENSES AND PERMITS ISSUED BY THE BOARD; TO REPEAL SECTION
86 73-9-67, MISSISSIPPI CODE OF 1972, WHICH IS THE AUTOMATIC REPEALER
87 ON THOSE STATUTES AUTHORIZING THE BOARD OF DENTAL EXAMINERS AND
88 ITS DUTIES AND POWERS; TO AMEND SECTION 73-9-107, MISSISSIPPI CODE
89 OF 1972, TO PROVIDE FOR THE CONFIDENTIALITY OF ALL RECORDS IN THE
90 POSSESSION OF THE BOARD AND EXAMINING COMMITTEE UNLESS SO ORDERED
91 BY THE COURT, AND TO PROVIDE FOR ANONYMITY OF THOSE INDIVIDUALS
92 FILING REPORTS WITH THE BOARD WHO HAVE REQUESTED TO REMAIN
93 ANONYMOUS; TO AMEND SECTION 73-9-113, MISSISSIPPI CODE OF 1972, TO
94 ALLOW FOR THE RECOVERY OF COSTS AND IMPOSITION OF PENALTIES AS
95 PROVIDED FOR IN SECTION 73-9-61, MISSISSIPPI CODE OF 1972; AND FOR
96 RELATED PURPOSES.

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

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

100 73-9-1. Every person who desires to practice dentistry or
101 dental hygiene in this state must obtain a license to do so as
102 hereinafter provided; but this section shall not apply to dentists
103 or dental hygienists now holding permanent licenses to practice
104 provided the same have been recorded as required by law.

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



107 73-9-3. "Dentistry" is defined as the evaluation, diagnosis,
108 prevention and/or treatment (nonsurgical, surgical or related
109 procedures) of diseases, disorders and/or conditions of the oral
110 cavity, maxillofacial area and/or the adjacent and associated
111 structures and their impact on the human body; provided by a
112 dentist, within the scope of his or her education, training and
113 experience, in accordance with the ethics of the profession and
114 applicable law, provided that nothing in this section shall be so
115 construed as to prevent:

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

119 (b) The performance of mechanical work upon inanimate
120 objects by persons working in dental offices under their
121 supervision; or

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

125 (d) Dentists from outside the state from giving
126 educational clinics or demonstrations before a dental society,
127 convention or association; or

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

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

138 (g) The practice of dentistry or of dental hygiene by
139 students under the supervision of faculty in any dental school,



140 college, or dental department of any school, college or
141 university, or school of dental hygiene recognized by the
142 board * * *; or

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

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

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

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

166 73-9-5. (1) For the purpose of this chapter, a dental
167 hygienist shall be an individual who has completed an accredited
168 dental hygiene education program, passed the national dental
169 hygiene board and is licensed by the State Board of Dental
170 Examiners to provide, as an auxiliary to the dentist, preventive
171 care services including, but not limited to, scaling and
172 polishing. In fulfilling these services, dental hygienists



173 provide treatment that helps to prevent oral disease such as
174 dental caries and periodontal disease and for educating patients
175 in prevention of these and other dental problems.

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

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

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

192 73-9-7. (1) The duties of the Mississippi State Board of
193 Dental Examiners, or "the board," shall be to carry out the
194 purposes and provisions of the laws pertaining to the practice of
195 dentistry and dental hygiene. The Mississippi State Board of
196 Dental Examiners is continued and reconstructed as follows: The
197 board shall consist of seven (7) * * * licensed and actively
198 practicing dentists and one (1) licensed and actively practicing
199 dental hygienist, each a graduate of an accredited college of
200 dentistry or dental hygiene, as appropriate, and practicing within
201 the State of Mississippi for a period of five (5) or more years
202 next preceding his or her appointment. No dentist or dental
203 hygienist shall be eligible for appointment who can be construed
204 to be in violation of current state ethics laws and regulations.



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

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

218 * * * The board shall poll all licensed dentists * * * in
219 the state by dental district as follows:

220 Dental District One: Alcorn, Benton, Calhoun, Chickasaw,
221 Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall,
222 Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union,
223 Webster;

224 Dental District Two: Bolivar, Carroll, Coahoma, DeSoto,
225 Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery,
226 Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica,
227 Washington, Yalobusha, Yazoo;

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

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

232 Dental District Five: George, Greene, Hancock, Harrison,
233 Jackson, Pearl River, Stone;

234 Dental District Six: Adams, Amite, Claiborne, Copiah,
235 Franklin, Jefferson Davis, Jefferson, Lawrence, Lincoln, Marion,
236 Pike, Simpson, Walthall, Wilkinson;



237 and request the submission from each such dental district of three
238 (3) nominations for appointment as members of the board from the
239 six (6) districts. Thirty (30) days after submitting that
240 request, the board shall list all nominations by district
241 according to the number of votes each received. The top three (3)
242 names from each district shall then be considered as a list of
243 names to be submitted to the Governor as referred to above each
244 time a vacancy occurs in one (1) of the six (6) positions
245 appointed from districts or whenever the Governor requests that
246 submission. During the course of each calendar year, the board
247 shall take like polls of all licensed dentists practicing in each
248 dental district, and shall prepare new lists therefrom to be
249 submitted to the Governor, which shall be used in the appointment
250 of the six (6) members appointed from districts.

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

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



270 the Governor, which shall be used in the appointment of the dental
271 hygienist member from the state at large. In case of a tie, the
272 persons receiving tie votes shall have their names placed on the
273 list even though it results in more than six (6) names on the
274 list.

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

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

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

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



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

304 73-9-9. The Governor may remove any member of the board on
305 proof of inefficiency, incompetency, immorality, unprofessional
306 conduct, or continued absence from the state, for failure to
307 perform duties, or for other sufficient cause. Any member who
308 does not attend two (2) consecutive meetings of the board, without
309 just cause, shall be subject to removal by the Governor. The
310 president of the board shall notify the Governor in writing when
311 any such member has failed to attend two (2) consecutive regular
312 meetings. No removal shall be made without first giving the
313 accused an opportunity to be heard in refutation of the charges
314 made against him or her, and he or she shall be entitled to
315 receive a copy of the charges at the time of filing.

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

318 73-9-11. Each person appointed as a member of the board
319 shall qualify by taking the oath prescribed by the constitution
320 for the state officers, and shall file certificate thereof in the
321 Office of the Secretary of State within fifteen (15) days after
322 execution of such certificate. A majority of the board shall at
323 all times constitute a quorum for the transaction of business.

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

326 73-9-13. The State Board of Dental Examiners shall each year
327 elect from their number a president, vice president and * * *
328 secretary-treasurer to serve for the coming year and until their
329 successors are qualified. Only dentist members of the board may
330 hold the offices of president and vice president. The board shall
331 have a seal with appropriate wording to be kept at the offices of
332 the board. The secretary and the executive director of the board
333 shall be required to make bond in such sum and with such surety as
334 the board may determine. It shall be the duty of the executive



335 director to keep a complete record of the acts and proceedings of
336 the board and to preserve all papers, documents and correspondence
337 received by the board relating to its duties and office. * * *

338 The board shall have the following powers and duties:

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

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

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

353 (d) To provide for the enforcement of and to enforce
354 the laws of the State of Mississippi and the rules and regulations
355 of the State Board of Dental Examiners.

356 (e) To compile at least once each calendar year and to
357 maintain an adequate list of prospective dentist and dental
358 hygienist appointees for approval by the Governor as provided for
359 elsewhere by law * * *.

360 (f) To issue licenses and permits to applicants when
361 found to be qualified.

362 (g) To provide for * * * reregistration of all licenses
363 and permits duly issued by the board.

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

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



368 (j) To issue licenses or duplicates and * * *
369 reregistration/renewal certificates, and to collect and account
370 for fees for same.

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

374 (l) To provide by appropriate rules and regulations,
375 within the provisions of the state laws, for revoking or
376 suspending * * * licenses and permits and a system of fines for
377 lesser penalties.

378 (m) To prosecute, investigate or initiate prosecution
379 for violations of the laws of the state pertaining to practice of
380 dentistry or dental hygiene, or matters affecting the rights and
381 duties, or related thereto.

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

386 (o) To adopt rules and regulations providing for the
387 reasonable regulation of advertising by dentists and dental
388 hygienists.

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

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

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

397 73-9-15. All board action on rules, regulations and policy
398 matters, such as required to be by vote, shall be by roll call or
399 mail ballot in which the vote of each member shall be recorded
400 whether for, against or otherwise. The dental hygienist member of



401 the board shall only vote on rules, regulations, policy and
402 administrative matters relating to the licensing, qualifications
403 and practice of dental hygiene. The results of the vote shall be
404 a public record except that information pertaining to * * *
405 investigations or examinations shall be confidential unless waived
406 by the persons investigated or examined.

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

409 73-9-17. The board is authorized to prescribe and enforce
410 regulations and to perform those acts compatible with and
411 authorized by, either directly or by implication, the laws of the
412 state for the purpose of implementing the provisions of this
413 chapter.

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

416 73-9-19. The State Board of Dental Examiners shall maintain
417 a compiled list of the names and post office addresses of all
418 licensees registered with the board, arranged alphabetically by
419 name and also by the municipalities where their offices are
420 situated. Every licensee shall notify the board within thirty
421 (30) days of any change in address of his or her office or
422 residence. Failure to keep the board apprised of any change of
423 address may result in an administrative penalty to the licensee,
424 the amount of which shall not exceed the amount stipulated in
425 Section 73-9-43. Every licensee shall prominently display his or
426 her current registration, either the original or a notarized copy,
427 in his or her place(s) of business. As used in this section, the
428 word "licensee" shall include all dental and dental hygiene
429 license holders, as well as all holders of permits duly issued by
430 the board.

431 Every licensee shall, in accordance with the laws and rules
432 and regulations of the board, together with appropriate required
433 information and renewal fee, apply * * * for renewal for such



434 period as set by the board, and the board shall issue the
435 registration certificate to any licensee in good standing with the
436 board. The board shall have the specific authority to adopt such
437 rules and regulations setting the dates and deadlines for
438 license/permit renewal and establishing the penalty for failure to
439 renew same.

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

456 Any licensee who is registered but not actively practicing in
457 the State of Mississippi at the time of making application for
458 renewal, shall be registered on the "inactive" list and shall not
459 be authorized to practice his or her profession in this state.
460 The "inactive" list shall be maintained by the board and shall set
461 out the names and post office addresses of all licensees
462 registered but not actively practicing in this state, arranged
463 alphabetically by name and also by the municipalities and states
464 of their last known professional or residential address. However,
465 licensed dentists or dental hygienists actively practicing * * *
466 at a veterans hospital, federal government facility or residency



467 graduate school program at the time of renewal shall not be
468 registered on the inactive list.

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

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

489 Any licensed dentist or dental hygienist registered on the
490 "inactive" list shall not be eligible for registration on the
491 active list until either of the following conditions have been
492 satisfied:

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

497 (b) Evidence to the satisfaction of the board shall be
498 submitted that they have actively practiced their profession in
499 good standing in another state and have not been guilty of conduct



500 that would warrant suspension or revocation as provided by
501 applicable law.

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

504 73-9-21. Such stationery, blank books and forms as may be
505 needed by the board in the discharge of its duties shall be
506 furnished to it in the manner as like supplies are furnished other
507 state departments.

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

510 73-9-23. (1) No person who desires to practice dentistry or
511 dental hygiene in the State of Mississippi shall be licensed until
512 that person has passed an examination by the board. Applicants
513 for examination shall apply in writing to the * * * board for an
514 examination at least thirty (30) days before the examination and
515 shall upon application pay a nonrefundable fee as elsewhere
516 provided in this chapter.

517 (2) An applicant for licensure by examination as a dentist
518 who is a graduate of a dental school accredited by the Commission
519 on Dental Accreditation * * * of the American Dental Association
520 (ADA), or its successor commission, shall:

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

524 (b) Exhibit with the application a diploma or
525 certificate of graduation from the ADA accredited dental school;
526 and

527 (c) Have successfully completed Parts I and II of the
528 National Board * * * Examinations of the Joint Commission on
529 National Dental Examinations, or its successor commission, unless
530 the applicant graduated from an accredited dental school before
531 1960.



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

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

537 (b) Be proficient in oral and written communications in
538 the English language;

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

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

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

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

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

561 (a) Be of good moral character, be possessed of a high
562 school education and have attained the age of eighteen (18)
563 years; * * *



564 (b) Exhibit with the application a diploma or
565 certificate of graduation from the ADA accredited dental hygiene
566 school; and

567 (c) Have successfully completed the National Board
568 Dental Hygiene Examinations of the Joint Commission on National
569 Dental Examinations, or its successor commission.

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

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

575 (b) Be proficient in oral and written communications in
576 the English language;

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

581 (d) Have been licensed as a dental hygienist or
582 admitted to the practice of dental hygiene in the foreign country
583 in which the applicant received foreign dental hygiene school
584 training;

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

593 (f) Have successfully completed the National Board
594 Dental Hygiene Examinations of the Joint Commission on National
595 Dental Examinations, or its successor commission.



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

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

624 (8) The Board of Dental Examiners may, at its own
625 discretion, accept certification of a licensure applicant, either
626 dentist or dental hygienist, by the National Board Examinations of
627 the Joint Commission on National Dental Examinations, or its
628 successor commission, in lieu of the written examination.



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

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

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

637 73-9-24. (1) In addition to the method for obtaining a
638 license to practice dentistry or dental hygiene by way of
639 examination as provided by Section 73-9-23, the board, in its sole
640 discretion, may grant a license to a candidate who meets the
641 following criteria:

642 (a) Submit proof of graduation from a dental school or
643 school of dental hygiene accredited by the Commission on Dental
644 Accreditation * * * of the American Dental Association (ADA), or
645 its successor commission.

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

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

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

657 (e) Has not been the subject of pending or final
658 disciplinary action in any state in which the applicant has been
659 licensed;

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



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

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

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

669 (j) Has successfully completed all parts of the
670 National Board Examinations of the Joint Commission on National
671 Dental Examinations, or its successor commission, unless the
672 applicant graduated from an accredited dental or dental hygiene
673 school before 1960;

674 (k) Successfully passes a written jurisprudence
675 examination;

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

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

681 (i) Information from the National Practitioner
682 Data Bank, the Healthcare Integrity and Protection Data Bank
683 and/or the American Association of Dental Examiners Clearinghouse
684 for Disciplinary Information.

685 (ii) Questioning under oath.

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

688 (iv) Substance abuse testing or treatment.

689 (v) Background checks for criminal or fraudulent
690 activities.

691 (vi) Participation in continuing education.

692 (vii) A current certificate in cardiopulmonary
693 resuscitation.



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

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

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

700 (xi) Proof of professional liability coverage and
701 that the coverage has not been refused, declined, canceled,
702 nonrenewed or modified.

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

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

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

720 (4) Any applicant applying for a specialty license by
721 credentials must stay within his or her board recognized specialty
722 and must practice only that specialty within the State of
723 Mississippi. A specialty license holder must hold a general
724 dentistry license before obtaining a specialty license.

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



727 73-9-25. The regular meeting of the State Board of Dental
728 Examiners shall be held at least annually at such place, date and
729 time as the board may determine in its discretion, for the purpose
730 of examining applicants for a license to practice dentistry and
731 dental hygiene, and continue in session until all applicants * * *
732 have been examined and their examinations have been approved or
733 disapproved. The board may meet more often if necessary, in the
734 discretion of the board, at such times and places as it may deem
735 proper for the examination of applicants who may wish to practice
736 dentistry or dental hygiene in this state, to administer makeup
737 examinations, or for the purpose of enforcing the dental laws of
738 the state.

739 * * * Examinations for a license to practice dentistry or
740 dental hygiene shall cover the subjects taught in the recognized
741 schools of dentistry or dental hygiene together with such other
742 subjects and practical demonstrations as the board may require.

743 The state shall furnish the necessary equipment for the
744 required practical examinations for dentists and dental
745 hygienists, and properly house and care for same.

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

748 73-9-27. Each license issued by the board shall bear a
749 serial number, the full name and residence of licensee, the date
750 of issuance, the seal of the board, and shall be attested by the
751 signatures of all the board members. Certified copies of the
752 license may be issued by the president, secretary or executive
753 director under their signature and seal, for which the secretary
754 or executive director shall collect a fee as elsewhere provided in
755 this chapter.

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

758 73-9-28. The Mississippi State Board of Dental Examiners
759 is * * * vested with the authority to promulgate rules and



760 regulations allowing special categories of licenses, certificates,
761 specialty certificates and permits under which institutional,
762 teaching and provisional privileges may be granted on an
763 individual basis, pursuant to such rules and regulations
764 prescribing the qualifications, conditions and limitations of such
765 privileges as may be established by the board. Those
766 qualifications, conditions and limitations shall pertain to
767 applicants who require but are eligible for less than complete
768 resident licensure as provided for in the dental practice act.

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

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

777 73-9-29. Any dentist of this state licensed by the
778 Mississippi State Board of Dental Examiners, who has complied with
779 the requirements specified by the Council on Dental Education of
780 the American Dental Association, or its successor council or
781 commission, in a specialty branch of dentistry or who has
782 otherwise met the requirements of the rules and regulations
783 promulgated by the board may apply for a certificate as a
784 specialist. The application shall be accompanied by the payment
785 of a fee not to exceed the fee provided for in Section 73-9-43 and
786 the application must be on file for at least sixty (60) days
787 before the regular meeting of the board, and if the application is
788 accepted the applicant may be notified to appear for examination
789 before the board and a committee of that particular specialty, if
790 available, appointed by the board. Examinations may be oral,
791 written, or both, and the applicant may be required to demonstrate
792 his or her knowledge and proficiency in the specialty in which he



793 or she desires to be certified. The board is authorized to
794 certify specialists in all specialty areas approved by the
795 American Dental Association.

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

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

808 Only the following shall be eligible to announce as
809 specialists:

810 (a) A diplomate of a specialty board approved by the
811 American Dental Association;

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

818 (c) A dentist who has announced a specialized practice
819 in one (1) of the special areas of dental practice within the
820 State of Mississippi for at least five (5) years before January 1,
821 1970, and who meets the requirements elsewhere in this section may
822 be granted a specialist certificate upon application and payment
823 only of an initial specialty registration fee.



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

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

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

832 73-9-35. The holder of either of the licenses provided for,
833 shall at all times, upon request, exhibit same * * * to any member
834 of the Board of Dental Examiners, or his authorized agent or to
835 any officer of the law.

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

838 73-9-37. If a license to practice dentistry or dental
839 hygiene be issued and be lost or destroyed, the board may issue
840 another in lieu thereof, upon satisfactory proof of such loss or
841 destruction.

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

844 73-9-39. It shall be unlawful for any person or persons to
845 practice or offer to practice dentistry under, or use the name of
846 any company, association or corporation or business name or any
847 name except his or their own in a manner which is in violation of
848 Section 73-9-61, or to operate, manage or be employed in any room,
849 rooms or office where dental work is done or contracted for, and
850 that is operated under the name of any company, association, trade
851 name or corporation in a manner which is in violation of Section
852 73-9-61.

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

855 73-9-41. (1) No person shall practice, attempt to practice
856 or offer to practice dentistry or dental hygiene within the state



857 without first having been authorized and issued a license by the
858 board; nor shall any person practice, attempt to practice, or
859 offer to practice dentistry or dental hygiene within the state
860 during any period of suspension of his or her license by the board
861 or after revocation or being voided for failure to reregister by
862 the board of any license previously issued to the offending
863 person.

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

870 (a) Making impressions or casts of the human mouth or
871 teeth;

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

875 (c) Constructing or supplying dentures from impressions
876 or casts without the work authorization or prescription of a
877 person licensed under the laws of this state to practice
878 dentistry.

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

884 (4) In addition to any other civil remedy or criminal
885 penalty provided for by law, the executive director or the
886 secretary of the board may issue a summons to appear before the
887 board to any person or persons who the executive director or any
888 member of the board has probable cause to believe has violated
889 this section by practicing, attempting to practice, or offering to



890 practice dentistry or dental hygiene without a current, valid
891 license or permit and any necessary witnesses. The summons issued
892 by the board shall command each person to whom it is directed to
893 attend and give testimony at a time and place * * * specified in
894 the summons. The summons shall be served upon the individual
895 personally or by any type of mailing requiring a return receipt
896 and shall include a statement of the charges and an explanation of
897 the manner in which the unlicensed person shall be required to
898 respond to the board.

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

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

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

909 (c) For the third and any subsequent violations, a
910 monetary penalty of not more than Five Thousand Dollars
911 (\$5,000.00).

912 (d) For any violation, the board may assess those
913 reasonable costs that are expended by the board in the
914 investigation and conduct of the hearing as provided in subsection
915 (4) of this section, including, but not limited to, the cost of
916 process service, court reporters, expert witnesses and other
917 witness expenses paid by the board, and investigators. Appeals
918 from the board's decision may be taken as provided in Section
919 73-9-65. Any monetary penalty or assessment levied under this
920 section shall be paid to the board by the illegal practitioner
921 upon the expiration of the period allowed for appealing those
922 penalties or may be paid sooner if the illegal practitioner



923 elects. *Monetary penalties collected by the board under this*
924 *section shall be deposited to the credit of the General Fund of*
925 *the State Treasury. Any monies collected for assessment of costs*
926 *by the board shall be deposited into the special fund of the*
927 *board.*

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

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

939 73-9-43. (1) The secretary or executive director shall
940 collect in advance all fees provided for in this chapter as
941 established by the board, not to exceed:

942	Application for dental license.....	\$ 600.00
943	Application for dental license through	
944	credentials.....	2,500.00
945	Application for dental specialty license.....	400.00
946	Application for dental institutional,	
947	teaching or provisional license.....	600.00
948	Application for dental hygiene license.....	400.00
949	Application for dental hygiene license through	
950	credentials.....	750.00
951	Application for dental hygiene institutional,	
952	teaching or provisional license.....	400.00
953	Application for general anesthesia permit.....	400.00
954	Application for I.V. sedation permit.....	400.00
955	Application for radiology permit.....	100.00



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



989 Requests for database information..... 300.00
990 Radiology examinations administered in board's
991 office..... 100.00
992 Dental and dental hygiene licensure examination
993 manuals..... 50.00
994 Dental and dental hygiene licensure by
995 credentials packets..... 50.00
996 Laws and/or regulations..... 50.00
997 Disciplinary action orders..... 25.00
998 Newsletters..... 20.00

999 * * *

1000 (2) The board may enact and enforce for delinquency in
1001 payment for any fees set out in this section a penalty in addition
1002 to the fee of an amount up to but not in excess of the fee. An
1003 additional fee of an amount equal to the first penalty may be
1004 assessed for each thirty (30) days, or part thereof, of
1005 delinquency. If any license or permit holder is delinquent in
1006 payment of renewal fees exceeding sixty (60) days from the initial
1007 renewal deadline as set by the board, the person shall be presumed
1008 to be no longer practicing, shall be stricken from the rolls and
1009 shall be deemed an illegal practitioner, subject to the penalties
1010 as enumerated in Section 73-9-41. In order to practice his or her
1011 profession in this state thereafter, the person may, at the
1012 discretion of the board, be considered as a new applicant and
1013 subject to examination and other licensing requirements as an
1014 original applicant.

1015 (3) The secretary or executive director shall faithfully
1016 account for all monies received by the board. All fees and any
1017 other monies received by the board, *except monetary penalties*
1018 *collected under Section 73-9-61,* shall be deposited in a special
1019 fund that is created in the State Treasury and shall be used for
1020 the implementation and administration of this chapter when
1021 appropriated by the Legislature for that purpose. * * * Any



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

1027 * * *

1028 (4) For conducting the initial and retake examinations of
1029 applicants for licensure the secretary shall receive no more than
1030 Nine Hundred Dollars (\$900.00) per day for each examination, and
1031 no other member shall receive more than Seven Hundred Dollars
1032 (\$700.00) per day for each examination. The receipt of that
1033 compensation shall not entitle members of the board to receive or
1034 be eligible for any state employee group insurance, retirement or
1035 other fringe benefits. * * * Any fees or income other than the
1036 maximum allowable for examining applicants for licensure as set
1037 out above shall be accounted for and may be used as needed in
1038 carrying out the provisions of this chapter.

1039 (5) * * * A portion of the fee charged for license renewal
1040 of dentists and dental hygienists * * * may be used to support a
1041 program to aid impaired dentists and/or dental hygienists. The
1042 payment of per diem and expense for attending * * * board meetings
1043 shall be in addition to the compensation permitted above for
1044 examining applicants for licensure, and the per diem shall not
1045 exceed the amount provided in Section 25-3-69.

1046 **SECTION 24.** Section 73-9-45, Mississippi Code of 1972, is
1047 reenacted and amended as follows:

1048 73-9-45. Each member of the board and each licensed and
1049 practicing dentist and dental hygienist is constituted an agent
1050 who may investigate all complaints and all alleged cases of
1051 noncompliance with, or violation of the provisions of this chapter
1052 and may bring all those matters to the notice of the proper
1053 prosecuting officers, where it appears probable that an offense
1054 has been committed.



1055 **SECTION 25.** Section 73-9-47, Mississippi Code of 1972, is
1056 reenacted and amended as follows:

1057 73-9-47. The board shall, as far as practicable, provide by
1058 rule for the conduct of its business by mail, but all examinations
1059 shall be conducted in person by the board, or by a quorum thereof
1060 as provided herein.

1061 Any official action or vote taken by mail shall be preserved
1062 by the secretary or executive director in the same manner as the
1063 minutes of regular meetings.

1064 **SECTION 26.** Section 73-9-49, Mississippi Code of 1972, is
1065 reenacted and amended as follows:

1066 73-9-49. The secretary or executive director of the board
1067 shall, at its regular annual meeting, submit a report of its
1068 receipts and disbursements for the preceding year, and a report of
1069 its actions in general during the preceding year. * * *

1070 **SECTION 27.** Section 73-9-51, Mississippi Code of 1972, is
1071 reenacted as follows:

1072 73-9-51. No member of the board shall during the term of his
1073 office or thereafter, be required to defend any action for damages
1074 in any of the courts of this state where it is shown that said
1075 damage followed or resulted from any of the official acts of said
1076 board in the performance of its powers, duties or authority as set
1077 forth in this chapter. Any such action filed shall upon motion be
1078 dismissed, at the cost of the plaintiff, with prejudice.

1079 **SECTION 28.** Section 73-9-53, Mississippi Code of 1972, is
1080 reenacted as follows:

1081 73-9-53. Legally licensed pharmacists of this state are
1082 hereby authorized to fill prescriptions of legally licensed and
1083 registered dentists of this state for any drugs to be used in the
1084 practice of dentistry.

1085 **SECTION 29.** Section 73-9-55, Mississippi Code of 1972, is
1086 reenacted as follows:



1087 73-9-55. A written work authorization shall accompany all
1088 dental laboratory work sent by a licensed dentist to a commercial
1089 dental laboratory or private dental laboratory technician.

1090 The original of said written authorization shall be kept on
1091 file by a commercial dental laboratory or a private dental
1092 laboratory technician for a period of time required by the State
1093 Board of Dental Examiners, not to exceed two (2) years from the
1094 date it was received, and one (1) carbon copy of this written work
1095 authorization shall be kept on file by the licensed dentist
1096 executing this written work authorization for a like period not to
1097 exceed two (2) years from the date it was issued.

1098 This said written work authorization shall include the
1099 following information:

1100 (1) Date signed.

1101 (2) The name and address of the commercial dental
1102 laboratory or private dental laboratory technician.

1103 (3) The name or identification number of the patient
1104 for whom the act or service is ordered.

1105 (4) The licensed dentist's name, address, and license
1106 number.

1107 (5) The signature of the licensed dentist.

1108 (6) The description of the kind and type of appliance,
1109 process, fabrication, service, or material ordered.

1110 Any dental laboratory having received a work authorization
1111 from a licensed dentist for any appliance, process, fabrication,
1112 service, or material, who shall thereafter secure the services of
1113 another dental laboratory for the performance of any said work or
1114 services, shall furnish to such laboratory a written work order
1115 therefor, and both laboratories shall keep on file a record
1116 thereof for a like period not to exceed two (2) years from the
1117 date received.

1118 In the enforcement of this section and the foregoing rules
1119 and regulations promulgated pursuant thereto, the members of the



1120 Board of Dental Examiners, their agents, investigators, and
1121 employees shall have the right to inspect the records of any
1122 dental office or any dental laboratory during regular office
1123 hours.

1124 **SECTION 30.** Section 73-9-57, Mississippi Code of 1972, is
1125 reenacted and amended as follows:

1126 73-9-57. If any person for any reason whatsoever, shall
1127 practice, attempt, or offer to practice dentistry or dental
1128 hygiene illegally within the meaning of this chapter, he or she
1129 shall be deemed guilty of a misdemeanor, and upon conviction shall
1130 be fined not less than Two Thousand Dollars (\$2,000.00) nor more
1131 than Five Thousand Dollars (\$5,000.00) or be imprisoned in the
1132 county jail not less than two (2) months nor more than six (6)
1133 months.

1134 **SECTION 31.** Section 73-9-59, Mississippi Code of 1972, is
1135 reenacted as follows:

1136 73-9-59. It shall be the duty of the several prosecuting
1137 officers of this state on notice from a member of the board or
1138 other persons having knowledge of violations of this chapter to
1139 institute prosecutions in the same manner as for other
1140 misdemeanors.

1141 **SECTION 32.** Section 73-9-61, Mississippi Code of 1972, is
1142 reenacted and amended as follows:

1143 73-9-61. (1) Upon satisfactory proof, and in accordance
1144 with statutory provisions elsewhere set out for such hearings and
1145 protecting the rights of the accused as well as the public, the
1146 State Board of Dental Examiners may deny the issuance or renewal
1147 of a license or may revoke or suspend the license of any licensed
1148 dentist or dental hygienist practicing in the State of
1149 Mississippi, or take any other action in relation to the license
1150 as the board may deem proper under the circumstances, for any of
1151 the following reasons:



1152 (a) Misrepresentation in obtaining a license, or
1153 attempting to obtain, obtaining, attempting to renew or renewing a
1154 license or professional credential by making any material
1155 misrepresentation, including the signing in his or her
1156 professional capacity any certificate that is known to be false at
1157 the time he or she makes or signs the certificate.

1158 (b) Willful violation of any of the rules or
1159 regulations duly promulgated by the board, or of any of the rules
1160 or regulations duly promulgated by the appropriate dental
1161 licensure agency of another state or jurisdiction.

1162 (c) Being impaired in the ability to practice dentistry
1163 or dental hygiene with reasonable skill and safety to patients by
1164 reason of illness or use of alcohol, drugs, narcotics, chemicals,
1165 or any other type of material or as a result of any mental or
1166 physical condition.

1167 (d) Administering, dispensing or prescribing any
1168 prescriptive medication or drug outside the course of legitimate
1169 professional dental practice.

1170 (e) Being convicted or found guilty of or entering a
1171 plea of nolo contendere to, regardless of adjudication, a
1172 violation of any federal or state law regulating the possession,
1173 distribution or use of any narcotic drug or any drug considered a
1174 controlled substance under state or federal law, a certified copy
1175 of the conviction order or judgment rendered by the trial court
1176 being prima facie evidence thereof, notwithstanding the pendency
1177 of any appeal.

1178 (f) Practicing incompetently or negligently, regardless
1179 of whether there is actual harm to the patient.

1180 (g) Being convicted or found guilty of or entering a
1181 plea of nolo contendere to, regardless of adjudication, a crime in
1182 any jurisdiction that relates to the practice of dentistry or
1183 dental hygiene, a certified copy of the conviction order or



1184 judgment rendered by the trial court being prima facie evidence
1185 thereof, notwithstanding the pendency of any appeal.

1186 (h) Being convicted or found guilty of or entering a
1187 plea of nolo contendere to, regardless of adjudication, a felony
1188 in any jurisdiction, a certified copy of the conviction order or
1189 judgment rendered by the trial court being prima facie evidence
1190 thereof, notwithstanding the pendency of any appeal.

1191 (i) Delegating professional responsibilities to a
1192 person who is not qualified by training, experience or licensure
1193 to perform them.

1194 (j) The refusal of a licensing authority of another
1195 state or jurisdiction to issue or renew a license, permit or
1196 certificate to practice dentistry or dental hygiene in that
1197 jurisdiction or the revocation, suspension or other restriction
1198 imposed on a license, permit or certificate issued by the
1199 licensing authority that prevents or restricts practice in that
1200 jurisdiction, a certified copy of the disciplinary order or action
1201 taken by the other state or jurisdiction being prima facie
1202 evidence thereof, notwithstanding the pendency of any appeal.

1203 (k) Surrender of a license or authorization to practice
1204 dentistry or dental hygiene in another state or jurisdiction when
1205 the board has reasonable cause to believe that the surrender is
1206 made to avoid or in anticipation of a disciplinary action.

1207 (l) Any unprofessional conduct to be determined by the
1208 board on a case-by-case basis, which shall include but not be
1209 restricted to the following:

1210 (i) Committing any crime involving moral
1211 turpitude.

1212 (ii) Practicing deceit or other fraud upon the
1213 public.

1214 (iii) Practicing dentistry or dental hygiene under
1215 a false or assumed name.



1216 (iv) Advertising that is false, deceptive or
1217 misleading.

1218 (v) Announcing a specialized practice shall be
1219 considered advertising that tends to deceive or mislead the public
1220 unless the dentist announcing as a specialist conforms to other
1221 statutory provisions and the duly promulgated rules or regulations
1222 of the board pertaining to practice of dentistry in the State of
1223 Mississippi.

1224 (m) Failure to provide and maintain reasonable sanitary
1225 facilities and conditions or failure to follow board rules
1226 regarding infection control.

1227 (n) Committing any act which would constitute sexual
1228 misconduct upon a patient or upon ancillary staff. For purposes
1229 of this subsection, the term sexual misconduct means:

1230 (i) Use of the licensee-patient relationship to
1231 engage or attempt to engage the patient in sexual activity; or

1232 (ii) Conduct of a licensee that is intended to
1233 intimidate, coerce, influence or trick any person employed by or
1234 for the licensee in a dental practice or educational setting for
1235 the purpose of engaging in sexual activity or activity intended
1236 for the sexual gratification of the licensee.

1237 (o) Violation of a lawful order of the board previously
1238 entered in a disciplinary or licensure hearing; failure to
1239 cooperate with any lawful request or investigation by the board;
1240 or failure to comply with a lawfully issued subpoena of the board.

1241 (p) Willful, obstinate and continuing refusal to
1242 cooperate with the board in observing its rules and regulations in
1243 promptly paying all legal license or other fees required by law.

1244 (q) Practicing dentistry or dental hygiene while the
1245 person's license is suspended.

1246 (2) In lieu of revocation of a license as provided for
1247 above, the board may suspend the license of the offending dentist
1248 or dental hygienist, suspend the sedation permit of the offending



1249 dentist, or take any other action in relation to his or her
1250 license as the board may deem proper under the circumstances.

1251 (3) When a license to practice dentistry or dental hygiene
1252 is revoked or suspended by the board, the board may, in its
1253 discretion, stay the revocation or suspension and simultaneously
1254 place the licensee on probation upon the condition that the
1255 licensee shall not violate the laws of the State of Mississippi
1256 pertaining to the practice of dentistry or dental hygiene and
1257 shall not violate the rules and regulations of the board and shall
1258 not violate any terms in relation to his or her license as may be
1259 set by the board.

1260 (4) In a proceeding conducted under this section by the
1261 board for the denial, revocation or suspension of a license to
1262 practice dentistry or dental hygiene, the board shall have the
1263 power and authority for the grounds stated for that denial,
1264 revocation or suspension, and in addition thereto or in lieu of
1265 that denial, revocation or suspension may assess and levy upon any
1266 person licensed to practice dentistry or dental hygiene in the
1267 State of Mississippi, a monetary penalty, as follows:

1268 (a) For the first violation of any of subparagraph (a),
1269 (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection
1270 (1) of this section, a monetary penalty of not less than Fifty
1271 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

1272 (b) For the second violation of any of subparagraph
1273 (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of
1274 subsection (1) of this section, a monetary penalty of not less
1275 than One Hundred Dollars (\$100.00) nor more than One Thousand
1276 Dollars (\$1,000.00).

1277 (c) For the third and any subsequent violation of any
1278 of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o)
1279 or (q) of subsection (1) of this section, a monetary penalty of
1280 not less than Five Hundred Dollars (\$500.00) and not more than
1281 Five Thousand Dollars (\$5,000.00).



1282 (d) For any violation of any of subparagraphs (a)
1283 through (q) of subsection (1) of this section, those reasonable
1284 costs that are expended by the board in the investigation and
1285 conduct of a proceeding for licensure revocation or suspension,
1286 including, but not limited to, the cost of process service, court
1287 reporters, expert witnesses and investigators.

1288 (5) The power and authority of the board to assess and
1289 levy * * * monetary penalties under this section shall not be
1290 affected or diminished by any other proceeding, civil or criminal,
1291 concerning the same violation or violations except as provided in
1292 this section.

1293 (6) A licensee shall have the right of appeal from the
1294 assessment and levy of a monetary penalty as provided in this
1295 section under the same conditions as a right of appeal is provided
1296 elsewhere for appeals from an adverse ruling, order or decision of
1297 the board.

1298 (7) Any monetary penalty assessed and levied under this
1299 section shall not take effect until after the time for appeal has
1300 expired. In the event of an appeal, the appeal shall act as a
1301 supersedeas.

1302 (8) A monetary penalty assessed and levied under this
1303 section shall be paid to the board by the licensee upon the
1304 expiration of the period allowed for appeal of those penalties
1305 under this section or may be paid sooner if the licensee elects.
1306 *With the exception of subsection (4)(d) of this section, monetary*
1307 *penalties collected by the board under this section shall be*
1308 *deposited to the credit of the General Fund of the State Treasury.*
1309 *Any monies collected by the board under subsection (4)(d) of this*
1310 *section shall be deposited into the special fund operating account*
1311 *of the board.*

1312 (9) When payment of a monetary penalty assessed and levied
1313 by the board against a licensee in accordance with this section is
1314 not paid by the licensee when due under this section, the board



1315 shall have power to institute and maintain proceedings in its name
1316 for enforcement of payment in the chancery court of the county and
1317 judicial district of residence of the licensee, and if the
1318 licensee is a nonresident of the State of Mississippi, the
1319 proceedings shall be in the Chancery Court of the First Judicial
1320 District of Hinds County, Mississippi.

1321 (10) In addition to the reasons specified in subsection (1)
1322 of this section, the board shall be authorized to suspend the
1323 license of any licensee for being out of compliance with an order
1324 for support, as defined in Section 93-11-153. The procedure for
1325 suspension of a license for being out of compliance with an order
1326 for support, and the procedure for the reissuance or reinstatement
1327 of a license suspended for that purpose, and the payment of any
1328 fees for the reissuance or reinstatement of a license suspended
1329 for that purpose, shall be governed by Section 93-11-157 or
1330 93-11-163, as the case may be. If there is any conflict between
1331 any provision of Section 93-11-157 or 93-11-163 and any provision
1332 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
1333 as the case may be, shall control.

1334 (11) All grounds for disciplinary action, including
1335 imposition of fines and assessment of costs as enumerated above,
1336 shall also apply to any other license or permit issued by the
1337 board under this chapter or regulations duly adopted by the board.

1338 **SECTION 33.** Section 73-9-63, Mississippi Code of 1972, is
1339 reenacted and amended as follows:

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



1348 the preceding section, it may dismiss the complaint. In the event
1349 of a dismissal, the person filing the complaint and the accused
1350 dentist or dental hygienist shall be given written notice of the
1351 board's determination. If the board determines there is
1352 reasonable cause to believe the accused has committed the
1353 offenses, and a hearing should be held to determine the validity
1354 of the complaint, the executive director of the board shall set a
1355 day for a hearing, and * * * shall notify the accused that on the
1356 day fixed for hearing he or she may appear and show cause, if any,
1357 why his or her license to practice dentistry or dental hygiene in
1358 the state should not be revoked or have other disciplinary action
1359 taken against it. The notice shall be served upon the dentist or
1360 dental hygienist either personally or by registered or certified
1361 mail with return receipt requested. The board may, by regulation,
1362 establish an investigative panel consisting of at least two (2)
1363 people, one (1) of whom shall be a board member, to review
1364 complaints to determine the existence of probable cause and
1365 whether the complaints should proceed to formal hearing.

1366 Nothing in this section shall prevent the board from
1367 determining that it should investigate a licensee without a signed
1368 complaint provided that a prior determination is made that
1369 probable cause exists that a violation of this chapter may have
1370 occurred.

1371 For the purpose of the hearings or investigation of
1372 complaints, the board is empowered to require the attendance of
1373 witnesses, reimburse witnesses for necessary expenses and mileage
1374 incurred, subpoena documents and records, employ and compensate
1375 expert witnesses, administer oaths, and hear testimony, either
1376 oral or documentary, for and against the accused. Hearings shall
1377 be conducted by a majority of the members of the board. A record
1378 of the hearing shall be made, which shall consist of all testimony
1379 received and all documents and other material introduced. If
1380 after the hearing the board is satisfied that the accused has been



1381 guilty of the offense charged in the accusation, it shall
1382 thereupon, without further notice, order such disciplinary action
1383 as it deems proper. All procedural due process requirements as
1384 enumerated above also shall apply to any other license or permit
1385 issued by the board under this chapter or regulations duly adopted
1386 by the board.

1387 **SECTION 34.** Section 73-9-65, Mississippi Code of 1972, is
1388 reenacted and amended as follows:

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



1414 dentist or dental hygienist may deposit One Hundred Dollars
1415 (\$100.00) with the clerk of the chancery court. If there is an
1416 appeal, the appeal may, in the discretion of and on motion to the
1417 chancery court, act as a supersedeas. The chancery court shall
1418 dispose of the appeal and enter its decision promptly. The
1419 hearing on the appeal may, in the discretion of the chancellor, be
1420 tried in vacation. Appeals may be had to the Supreme Court of the
1421 State of Mississippi as provided by law from any final action of
1422 the chancery court. No such person shall be allowed to practice
1423 dentistry or dental hygiene or deliver health care services in
1424 violation of any action of the chancery court * * * while any such
1425 appeal to the Supreme Court is pending. All procedural appeal
1426 requirements as enumerated above also shall apply to any other
1427 license or permit issued by the board under this chapter or
1428 regulations duly adopted by the board.

1429 Actions taken by the board in suspending a license when
1430 required by Section 93-11-157 or 93-11-163 are not actions from
1431 which an appeal may be taken under this section. Any appeal of a
1432 license suspension that is required by Section 93-11-157 or
1433 93-11-163 shall be taken in accordance with the appeal procedure
1434 specified in Section 93-11-157 or 93-11-163, as the case may be,
1435 rather than the procedure specified in this section.

1436 **SECTION 35.** Section 73-9-67, Mississippi Code of 1972, which
1437 is the automatic repealer of Sections 73-9-1 through 73-9-117,
1438 Mississippi Code of 1972, which create the Board of Dental
1439 Examiners and describe its duties and powers, is repealed.

1440 **SECTION 36.** Section 73-9-107, Mississippi Code of 1972, is
1441 amended as follows:

1442 73-9-107. (1) The examining committee assigned to examine a
1443 dentist or dental hygienist pursuant to referral by the board
1444 under Section 73-9-105 shall conduct an examination of the dentist
1445 or dental hygienist for the purpose of determining his or her
1446 fitness to practice dentistry or dental hygiene with reasonable



1447 skill and safety to patients, either on a restricted or
1448 unrestricted basis, and shall report its findings and
1449 recommendations to the board. The committee shall order the
1450 dentist or dental hygienist to appear before the committee for
1451 examination and give him or her ten (10) days' notice of the time
1452 and place of the examination, together with a statement of the
1453 cause for the examination. The notice shall be served upon the
1454 dentist or dental hygienist either personally or by registered or
1455 certified mail with return receipt requested.

1456 (2) If the examining committee, in its
1457 discretion, * * * deems an independent mental or physical
1458 examination of the dentist or dental hygienist necessary to its
1459 determination of the fitness of the dentist or dental hygienist to
1460 practice, the committee shall order the dentist or dental
1461 hygienist to submit to the examination. Any person licensed to
1462 practice dentistry or dental hygiene in this state shall be deemed
1463 to have waived all objections to the admissibility of the
1464 examining committee's report in any proceedings before the board
1465 under Sections 73-9-101 through 73-9-117 on the grounds of
1466 privileged communication. Any dentist or dental hygienist ordered
1467 to an examination before the committee under this subsection shall
1468 be entitled to an independent mental or physical examination if he
1469 or she makes a request therefor.

1470 (3) Any dentist or dental hygienist who submits to a
1471 diagnostic mental or physical examination as ordered by the
1472 examining committee shall have a right to designate another
1473 physician to be present at the examination and make an independent
1474 report to the board.

1475 (4) Failure of a dentist or dental hygienist to comply with
1476 a committee order under subsection (1) of this section to appear
1477 before it for examination or to submit to mental or physical
1478 examination under subsection (2) of this section shall be reported
1479 by the committee to the board, and unless due to circumstances



1480 beyond the control of the dentist or dental hygienist, shall be
1481 grounds for suspension by the board of his or her license to
1482 practice dentistry or dental hygiene in this state until such time
1483 as the dentist or dental hygienist has complied with the order of
1484 the committee.

1485 (5) The examining committee may inspect patient records in
1486 accordance with the rules and regulations duly promulgated by the
1487 Board of Dental Examiners.

1488 (6) All patient records, investigative reports, and other
1489 documents in possession of the board and examining committee shall
1490 be deemed confidential and not subject to subpoena or disclosure
1491 unless so ordered by the court from which the subpoena issued, but
1492 the court, in its discretion, may limit use or disclosure of the
1493 records. Notwithstanding, and to encourage the prompt reporting
1494 of disabled practitioners, neither the board nor examining
1495 committee shall reveal the identity of any source of information
1496 where the source has requested anonymity.

1497 **SECTION 37.** Section 73-9-113, Mississippi Code of 1972, is
1498 amended as follows:

1499 73-9-113. (1) The board may proceed against a dentist or
1500 dental hygienist under Sections 73-9-101 through 73-9-117 by
1501 serving upon the dentist or dental hygienist at least fifteen (15)
1502 days' notice of a time and place fixed for a hearing, together
1503 with copies of the examining committee's report and diagnosis.
1504 The notice and reports shall be served upon the dentist or dental
1505 hygienist either personally or by registered or certified mail
1506 with return receipt requested.

1507 (2) At the hearing the dentist or dental hygienist shall
1508 have the right to be present, to be represented by counsel, to
1509 produce witnesses or evidence in his or her behalf, to
1510 cross-examine witnesses, and to have subpoenas issued by the
1511 board.



1512 (3) At the conclusion of the hearing, the board shall make a
1513 determination of the merits and may issue an order imposing one or
1514 more of the following:

1515 (a) Make a recommendation that the dentist or dental
1516 hygienist submit to the care, counseling or treatment by
1517 physicians acceptable to the board.

1518 (b) Suspend or restrict the license to practice
1519 dentistry or dental hygiene for the duration of his or her
1520 impairment.

1521 (c) Revoke the license of the dentist or dental
1522 hygienist.

1523 (d) Impose an assessment of costs or monetary penalty
1524 as provided for in Section 73-9-61.

1525 (4) The board may temporarily suspend the license of any
1526 dentist or dental hygienist without a hearing, simultaneously with
1527 the institution of proceedings for a hearing under this section,
1528 if it finds that the evidence in support of the examining
1529 committee's determination is clear, competent and unequivocal and
1530 that his or her continuation in practice would constitute an
1531 imminent danger to public health and safety.

1532 (5) Neither the record of the proceedings nor any order
1533 entered against a dentist or dental hygienist may be used against
1534 him or her in any other legal proceedings except upon judicial
1535 review as provided herein.

1536 **SECTION 38.** This act shall take effect and be in force from
1537 and after June 30, 2002.

