MISSISSIPPI LEGISLATURE

To: Public Health and Welfare

By: Senator(s) Huggins

S. B. No. 2017

AN ACT TO REENACT SECTIONS 73-38-1 THROUGH 73-38-36, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE LICENSURE AND REGULATION OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS; TO AMEND SECTION 73-38-3, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS UNDER THE LICENSURE STATUTES; TO AMEND SECTION 73-38-11, MISSISSIPPI CODE OF 1972, TO RECONSTITUTE THE MEMBERSHIP OF THE MISSISSIPPI COUNCIL OF ADVISORS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY; TO AMEND SECTION 73-38-23, MISSISSIPPI CODE OF 1972, TO DELETE CERTAIN EXEMPTIONS FROM LICENSURE REQUIREMENTS; TO AMEND SECTION 73-38-25, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR TEMPORARY LICENSES; TO AMEND SECTION 73-38-27, MISSISSIPPI CODE OF 1972, TO REVISE THE GROUNDS FOR THE DENIAL, SUSPENSION AND REVOCATION OF LICENSES; TO AMEND SECTION 73-38-29, MISSISSIPPI CODE OF 1972, TO CLARIFY THE LICENSURE EXPIRATION DATE; TO AMEND SECTION 73-38-38, MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC REPEALER ON THOSE STATUTES WHICH PROVIDE FOR THE LICENSURE AND REGULATION OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-38-1, Mississippi Code of 1972, is reenacted as follows:

73-38-1. The State Board of Health, established and empowered by Section 41-3-1 et seq., shall discharge as additional duties and responsibilities the provisions of this chapter in the examination, licensing and regulation of persons who provide services in the areas of speech-language pathology and audiology.

SECTION 2. Section 73-38-3, Mississippi Code of 1972, is reenacted and amended as follows:

73-38-3. The following definitions apply as used in this chapter, unless the context otherwise requires:

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

(b) "Council" means the Mississippi Council of Advisors in Speech-Language Pathology and Audiology as established in Section 73-38-11.
(c) "Person" means any individual, organization or corporate body, except that only an individual may be licensed under this chapter.

(d) "Speech-language pathologist" means an individual who practices speech-language pathology and who presents himself to the public by any title or description of services incorporating the words "speech pathologist," "speech-language pathologist," "speech therapist," "speech correctionist," "speech clinician," "language pathologist," "language therapist," "logopedist," "communicologist," "voice therapist," "voice pathologist," or any similar title or description of services.

(e) "Speech-language pathology" means the application of principles, methods and procedures for the measurement, testing, evaluation, prediction, counseling, instruction, habilitation or rehabilitation related to the development and disorders of speech, voice, language, swallowing or feeding, or for the purpose of evaluating, preventing, ameliorating or modifying such disorders and conditions in individuals and/or groups of individuals.

(f) "Audiologist" means an individual who practices audiology and who presents himself to the public by any title or description of services incorporating the words "audiologist," "hearing clinician," "hearing therapist," or any similar title or description of service.

(g) "Audiology" means the application of principles, methods and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation or rehabilitation related to disorders of hearing and balance for the purpose of evaluating, identifying, preventing, ameliorating or modifying such disorders and conditions in individuals and/or groups of individuals; and for the purpose of this subsection the words "habilitation" and "rehabilitation"
include, but are not limited to, hearing aid dispensing and evaluation, and auditory training, and speech reading.

(h) "Speech-language pathology aide" means an individual who meets minimum qualifications which the council may establish for speech-language pathology aides, which qualifications shall be less than those established by this chapter as necessary for licensure as a speech-language pathologist, and who works under the supervision of a licensed speech-language pathologist.

(i) "Audiology aide" means an individual who meets minimum qualifications which the council may establish for audiology aides, which qualifications shall be less than those established by this chapter as necessary for licensure as an audiologist, and who works under the supervision of a licensed audiologist.

(j) "ASHA" means the American Speech-Language-Hearing Association.

SECTION 3. Section 73-38-5, Mississippi Code of 1972, is reenacted as follows:

73-38-5. (1) Licensure shall be granted either in speech-language pathology or audiology independently. A person may be licensed in both areas if he meets the respective qualifications.

(2) No person shall practice or represent himself as a speech-language pathologist or audiologist in this state unless he is licensed in accordance with the provisions of this chapter.

SECTION 4. Section 73-38-7, Mississippi Code of 1972, is reenacted as follows:

73-38-7. Nothing in this chapter shall be construed as preventing or restricting:

(a) A physician from engaging in the practice of medicine in this state, or a person using an audiometer to test hearing under the direct supervision of a licensed physician,
provided such person does not present himself to the public by any title or description of services incorporating the words "audiologist," "hearing clinician," "hearing therapist," or any similar title or description of services;

(b) Any person licensed as a hearing aid dispenser from measuring and testing hearing in relation to the fitting, usage and dispensing of hearing aids or rendering post fitting services to his clients or using any title provided in Sections 73-14-1 through 73-14-47;

(c) Any person licensed in this state by any other law from engaging in the profession or occupation for which he is licensed;

(d) A person from being employed or working in a volunteer capacity without a license, as provided in this chapter, as a speech-language pathologist or audiologist by the government of the United States or by the governing authority of any school district or private or parochial school in this state, if such person performs speech-language pathology or audiology services solely within the confines or under the jurisdiction of the organization by which he is employed, or working in a volunteer capacity; however, such person may, without obtaining a license under this chapter, consult with or disseminate his research findings and other scientific information to speech-language pathologists and audiologists outside the jurisdiction of the organization by which he is employed; such person may also offer lectures to the public for a fee, monetary or other, without being licensed under this chapter; such person may additionally elect to be subject to this chapter.

(e) The activities and services of persons pursuing a course of study leading to a degree in speech-language pathology at a college or university if such activities and services constitute a part of the supervised course of study and that such person is designated speech-language pathology intern,
speech-language pathology trainee, or by other such titles clearly indicating the training status appropriate to his level of training;

(f) The activities and services of a person pursuing a course of study leading to a degree in audiology at a college or university if such activities and services constitute a part of a supervised course of study and such person is designated audiology intern, audiology trainee, or by any other such titles clearly indicating the training status appropriate to his level of training; or

(g) The performance of speech-language pathology or audiology services in this state by any person not a resident of this state who is not licensed under this chapter if such services are performed for no more than five (5) days in any calendar year and in cooperation with a speech-language pathologist or audiologist licensed under this chapter, and if such person meets the qualifications and requirements for application for licensure described in subsections (a) through (c) of Section 73-38-9; however, a person not a resident of this state who is not licensed under this chapter, but who is licensed under the law of another state which has established licensure requirements at least equivalent to those established by Section 73-38-9, or who is the holder of the ASHA Certificate of Clinical Competence in Speech-Language Pathology or Audiology or its equivalent, may offer speech-language pathology or audiology services in this state for no more than thirty (30) days in any calendar year if such services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter; or

(h) Any person employed by a private industry or firm for the purpose of conducting hearing tests incident to the operations of such firm or industry relative to its employees and employment practices.
SECTION 5. Section 73-38-9, Mississippi Code of 1972, is reenacted as follows:

73-38-9. To be eligible for licensure by the board as a speech-language pathologist or audiologist and to be eligible for registration as a speech-language pathology aide or audiology aide, a person shall:

(a) Be of good moral character;
(b) (1) For speech-language pathologists or audiologists, possess at least a master's degree or its equivalent in the area of speech-language pathology or audiology, as the case may be, from an educational institution recognized by the board;
(2) For speech-language pathology aide or audiology aide, the board shall set minimum educational standards which shall be less than a bachelor's degree;
(c) For speech-language pathologists and audiologists, submit evidence of the completion of the educational, clinical experience and employment requirements, which requirements shall be based on appropriate national standards and prescribed by the rules and regulations adopted pursuant to this chapter;
(d) For speech-language pathologists and audiologists, pass an examination approved by the board. This examination may be taken either before or after the completion of the employment requirement specified pursuant to subsection (c) of this section;
(e) For speech-language pathology aides and audiology aides, no examination shall be required.

SECTION 6. Section 73-38-11, Mississippi Code of 1972, is reenacted and amended as follows:

73-38-11. (1) There is established the Mississippi Council of Advisors in Speech-Language Pathology and Audiology under the jurisdiction of the Mississippi State Board of Health. The council shall aid the board in administering the provisions of this chapter.
(2) The council shall be comprised of seven (7) members. Two (2) council members shall be speech-language pathologists, two (2) council members shall be audiologists, and two (2) council members shall be a licensed member of the health professions and a member of the public, both with an interest in the consumption of speech-language pathology or audiology services, with the seventh council member being a licensed physician, board certified in otolaryngology. All council members who are speech-language pathologists or audiologists shall at all times be holders of active and valid licenses for the practice of speech-language pathology and audiology in this state and shall be holders of the ASHA Certificate of Clinical Competence in Speech-Language Pathology or Audiology or its equivalent.

(3) Two (2) members shall be appointed from each Supreme Court district as presently constituted; and one (1) member shall be appointed from the state at large. No more than three (3) members of the council shall be appointed from any one (1) Supreme Court district as presently constituted. The board shall, within sixty (60) days of the effective date of this section, appoint the health profession’s member of the advisory council for a term of two (2) years, and the public member of the advisory council for a term of three (3) years. Thereafter, appointments made shall be for three-year terms, with no person being eligible to serve more than two (2) full consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year.

(4) Not less than sixty (60) days before the end of each calendar year, the Mississippi Speech-Language-Hearing Association will submit the names of at least three (3) persons for each speech-language pathologist or audiologist vacancy and the Mississippi Eye, Ear, Nose and Throat Association will submit the names of at least three (3) persons for an otolaryngologist vacancy occurring at the end of the calendar year. The board
shall make all appointments of council members from the list of names submitted by each association within sixty (60) days after receiving the lists. The board shall solicit nominations for the health profession member and the public member from licensed speech pathologists and audiologists. In the event of a vacancy, the board shall, within thirty (30) days after such vacancy, appoint a person from the previous list of names submitted who shall fill the unexpired term.

(5) The council shall meet during the first month of each calendar year to select a chairman and for other appropriate purposes. At least one (1) additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chairman or the written request of any two (2) council members. All meetings of the council shall be open to the public, except that the council may hold closed sessions to prepare, approve, grade or administer examinations, or upon request of an applicant who fails an examination, to prepare a response indicating any reason for his failure. The public shall be notified of meetings of the council through at least one (1) newspaper of general circulation in the state and public information channels not less than ten (10) calendar days before such meetings are held.

(6) Four (4) members of the council shall constitute a quorum for all purposes, but in no instance shall a meeting of four (4) council members be considered a quorum if there is not at least one (1) speech-language pathologist and one (1) audiologist present.

SECTION 7. Section 73-38-13, Mississippi Code of 1972, is reenacted as follows:

73-38-13. (1) The board shall have full authority to investigate and evaluate each and every applicant applying for a license to practice speech-language pathology or a license to practice audiology with the advice of the council.
(2) The board shall have the authority to issue subpoenas, examine witnesses and administer oaths, and shall, at its discretion, investigate allegations or practices violating the provisions of this chapter.

(3) The board shall adopt such rules and regulations not inconsistent with the laws of this state as may be necessary to effectuate the provisions of this chapter and may amend or repeal the same as may be necessary for such purposes, with the advice of the council.

(4) The conferral or enumeration of specific powers elsewhere in this chapter shall not be construed as a limitation of the general functions conferred by this section.

SECTION 8. Section 73-38-15, Mississippi Code of 1972, is reenacted as follows:

73-38-15. (1) The administration of the provisions of this chapter shall be financed from income accruing from fees, licenses and other charges assessed and collected by the board and from such other funds available to the board.

(2) The board shall receive and account for all funds received and shall keep such funds in a separate fund. Funds collected under the provisions of this chapter shall be used solely for the compensation and expenses of the council and the board and to administer the provisions of this chapter, which may include full or partial financing of continuing education programs promulgated by the council under Section 73-38-33. Such funds shall be subject to audit by the Auditor of the State of Mississippi.

(3) Members of the council shall receive no compensation for their services, but shall receive travel and other expenses necessarily incurred in the discharge of official duties.

SECTION 9. Section 73-38-17, Mississippi Code of 1972, is reenacted as follows:
73-38-17. (1) The board shall issue licenses and notices of renewal, revocation, suspension or reinstatement and shall publish annually the names of persons licensed under this chapter.

(2) The board shall publish and disseminate to all licensees, in an appropriate manner, the licensure standards prescribed by this chapter, any amendments thereto, and such rules and regulations as the board may adopt under the authority vested by Section 73-38-13 within sixty (60) days of their adoptions.

SECTION 10. Section 73-38-19, Mississippi Code of 1972, is reenacted as follows:

73-38-19. (1) A person eligible for licensure under Section 73-38-9 and desirous of licensure shall make application for examination to the board at least thirty (30) days prior to the date of examination upon a form and in such manner as the board shall prescribe.

(2) Any application shall be accompanied by the fee prescribed by Section 73-38-31, which fee shall in no case be refunded.

(3) A person who fails an examination may make application for reexamination if he again meets the requirements of subsections (1) and (2) of this section.

(4) A person certified by ASHA or licensed under the law of another state, a territory of the United States, or the District of Columbia as a speech-language pathologist or audiologist who has applied for examination under this section may perform speech-language pathology and audiology services in this state prior to a determination by the board that such person has successfully completed examination for licensure.

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

SECTION 11. Section 73-38-21, Mississippi Code of 1972, is reenacted as follows:
73-38-21. (1) Each applicant for licensure under this chapter shall be examined by the board in written examination. Standards for acceptable performance shall be established by the board with the advice of the council.

(2) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. Examinations shall be given at such places within this state as the board may determine at least twice each year and the board shall make public, in a manner it considers appropriate, notice of such examinations at least sixty (60) days prior to their administration, and shall appropriately notify all individual examination applicants of the time and place of their administration.

(3) The board may examine in whatever theoretical or applied field of speech-language pathology and audiology it considers appropriate and may examine with regard to a person's professional skills and judgment in the utilization of speech-language pathology or audiology techniques and methods.

(4) The board shall maintain a permanent record of all examination scores.

SECTION 12. Section 73-38-23, Mississippi Code of 1972, is reenacted and amended as follows:

73-38-23. * * *

(1) The board may waive the examination for licensure of any applicant who shall present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the council to be equivalent to those set forth in this chapter.

(2) The board shall waive the examination for licensure of any person certified as clinically competent by ASHA in the area for which such person is applying for licensure.

SECTION 13. Section 73-38-25, Mississippi Code of 1972, is reenacted and amended as follows:
73-38-25. (1) The board shall issue a license to any person who meets the requirements of this chapter and who pays to the board the fees prescribed in Section 73-38-31.

(2) (a) An applicant who fulfills all the requirements for licensure except professional employment and/or examination or persons granted a waiver under subsection (1) of Section 73-38-23 may apply to the board for a temporary license.

(b) Upon receiving an application provided under subsection (2)(a), the board shall issue a temporary license which entitles the applicant to practice speech-language pathology or audiology under the supervision of a licensee with licensure in the appropriate specialty while completing the requirements for licensure.

(c) No temporary license shall be issued by the board under this section unless the applicant shows to the satisfaction of the board that he is or will be supervised and trained by a person who holds a license in the appropriate specialty or unless the applicant is granted a waiver under subsection (1) of Section 73-38-23.

(d) The temporary license shall be effective for a period to be determined by the department.

(3) (a) Each person licensed under this chapter who supervises a speech-language pathology or audiology aide shall register the same with the board.

(b) The licensee who supervises aides or temporary licensees is responsible for the services provided to the client by said aides or temporary licensees and may suffer suspension, revocation or other appropriate penalty for failure to exercise his responsibilities in the supervision of aides or temporary licensees.

(c) Speech-language pathology and audiology aides shall pay to the board a registration fee as prescribed in Section 73-38-31, subsection (1).
SECTION 14. Section 73-38-27, Mississippi Code of 1972, is reenacted and amended as follows:

73-38-27. (1) The board may refuse to issue or renew a license, or may suspend or revoke a license where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Such unprofessional conduct may result from:

   (a) Negligence in the practice or performance of professional services or activities;

   (b) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public in the course of professional services or activities;

   (c) Perpetrating or cooperating in fraud or material deception in obtaining or renewing a license or attempting the same;

   (d) Being convicted of any crime which has a substantial relationship to the licensee’s activities and services or an essential element of which is misstatement, fraud or dishonesty;

   (e) Being convicted of any crime which is a felony under the laws of this state or the United States;

   (f) Engaging in or permitting the performance of unacceptable services personally or by others working under the licensee’s supervision due to the licensee’s deliberate or negligent act or acts or failure to act, regardless of whether actual damage or damages to the public is established;

   (g) Continued practice although the licensee has become unfit to practice as a speech-language pathologist or audiologist due to: (i) failure to keep abreast of current professional theory or practice; or (ii) physical or mental disability; the entry of an order or judgment by a court of competent jurisdiction...
that a licensee is in need of mental treatment or is incompetent
shall constitute mental disability; or (iii) addiction or severe
dependency upon alcohol or other drugs which may endanger the
public by impairing the licensee's ability to practice;
(h) Having disciplinary action taken against the
licensee's license in another state;
(i) Making differential, detrimental treatment against
any person because of race, color, creed, sex, religion or
national origin;
(j) Engaging in lewd conduct in connection with
professional services or activities;
(k) Engaging in false or misleading advertising;
(l) Contracting, assisting or permitting unlicensed
persons to perform services for which a license is required under
this chapter;
(m) Violation of any probation requirements placed on a
license by the board;
(n) Revealing confidential information except as may be
required by law;
(o) Failing to inform clients of the fact that the
client no longer needs the services or professional assistance of
the licensee;
(p) Charging excessive or unreasonable fees or engaging
in unreasonable collection practices;
(q) For treating or attempting to treat ailments or
other health conditions of human beings other than by speech or
audiology therapy as authorized by this chapter;
(r) For applying or offering to apply speech or
audiology therapy, exclusive of initial evaluation or screening
and exclusive of education or consultation for the prevention of
physical and mental disability within the scope of speech or
audiology therapy, or for acting as a speech-language pathologist
or audiologist, or speech-language pathologist or audiologist aide
other than under the direct, on-site supervision of a licensed
speech-language pathologist or audiologist;

(s) Violations of the current codes of conduct for
speech-language pathologists or audiologists, and speech-language
pathologist or audiologist assistants adopted by the American
Speech-Language-Hearing Association;

(t) Violations of any rules or regulations promulgated
pursuant to this chapter.

(2) The board may order a licensee to submit to a reasonable
physical or mental examination if the licensee's physical or
mental capacity to practice safely is at issue in a disciplinary
proceeding. * * *

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

SECTION 15. Section 73-38-29, Mississippi Code of 1972, is
reenacted and amended as follows:

73-38-29. (1) Licenses issued under this chapter shall
expire and become invalid at midnight of the expiration date.

(2) Every person licensed under this chapter shall, on or
before the license expiration date, pay a fee for the biennial
renewal of license to the board. The board may suspend the
license of any person who fails to have his license renewed by the expiration date. After the expiration date, the board may renew a license upon payment of a fee to the board. No person who requests renewal of license, whose license has expired, shall be required to submit to examination as a condition to renewal, if such renewal application is made within two (2) years from the date of such expiration.

(3) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

(4) A license revoked on disciplinary grounds is subject to expiration as provided in subsection (1) of this section, but it may not be renewed. If such license is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the fee for a license issued after the expiration date which is in effect on the last preceding regular renewal date before the date on which it is reinstated. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(5) Any person who fails to renew his license within the two years after the date of its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but such person may apply for and obtain a new license if he meets the requirements of this chapter.

SECTION 16. Section 73-38-31, Mississippi Code of 1972, is reenacted as follows:

73-38-31. (1) The board shall assess fees for the following purposes:
(a) Initial licensing;
(b) Renewal of licensure;
(c) License issued after expiration date;
(d) Late renewal payment penalty;
(e) Temporary license;
(f) Renewal of temporary license; and
(g) Registration of aides.

(2) Every person to whom a license is issued pursuant to this chapter shall, as a condition precedent to its issuance, and in addition to any application, examination or other fee, pay the prescribed initial license fee.

(3) Fees prescribed in subsection (1) of this section shall be exclusive and no municipality shall have the right to require any person licensed under this chapter to furnish any bond, pass any examination, or pay any license fee or occupational tax.

(4) Fees listed in subsection (1) of this section shall be commensurate to the extent feasible with the cost of fulfilling the duties of the board and council as defined by this chapter; however, no individual fee shall exceed One Hundred Dollars ($100.00).

SECTION 17. Section 73-38-33, Mississippi Code of 1972, is reenacted as follows:

73-38-33. The board shall require the applicant for license renewal to present evidence of the satisfactory completion of continuing education requirements as determined by the board.

SECTION 18. Section 73-38-35, Mississippi Code of 1972, is reenacted as follows:

73-38-35. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or imprisoned in the county jail for a period not exceeding six (6) months, or both.
SECTION 19. Section 73-38-36, Mississippi Code of 1972, is reenacted as follows:

73-38-36. All fees collected by the State Board of Health under this chapter and any penalties collected by the board for violations of this chapter shall be deposited in a special fund hereby created in the State Treasury and shall be used for the implementation and administration of this chapter when appropriated by the Legislature for such purpose.

SECTION 20. Section 73-38-38, Mississippi Code of 1972, is amended as follows:

73-38-38. Sections 73-38-1 through 73-38-36 shall stand repealed on July 1, 2005.

SECTION 21. This act shall take effect and be in force from and after June 30, 2002.