

By: Senator(s) Burton

To: Public Health and
Welfare; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2691

1 AN ACT TO AMEND SECTION 37-101-291, MISSISSIPPI CODE OF 1972,
2 RELATING TO THE HEALTH CARE PROFESSIONS PAID EDUCATIONAL LEAVE
3 PROGRAM, TO PROVIDE THAT THE PERIOD OF OBLIGATION FOR EMPLOYMENT
4 IN ORDER TO PAY BACK A LOAN UNDER THE PROGRAM SHALL BE ON A YEAR
5 FOR A YEAR BASIS WITH A MINIMUM OF 2 YEARS, TO AUTHORIZE
6 CONTRACTING WITH A BANK OR COLLECTION AGENCY TO COLLECT ON
7 DEFAULTING PARTICIPANTS, TO PROVIDE THAT A DEFAULTING
8 PARTICIPANT'S DEBT SHALL BE DEEMED A DELINQUENCY WHICH IS GROUNDS
9 FOR REVOCATION OF A PROFESSIONAL LICENSE, TO CLARIFY THAT ALL
10 EDUCATIONAL LEAVE COMPENSATION RECEIVED BY THE PARTICIPANT IS
11 CONDITIONALLY EARNED, TO PRESCRIBE THE AMOUNT OF LIQUIDATED
12 DAMAGES FOR A DEFAULTING PARTICIPANT, TO PROVIDE THAT SUCH
13 CONDITIONS SHALL BE PROSPECTIVE; TO AMEND SECTIONS 73-15-29,
14 73-23-59, 73-24-24, 73-31-21 AND 73-38-27, MISSISSIPPI CODE OF
15 1972, TO REQUIRE THE LICENSING AGENCIES OF CERTAIN PROFESSIONS AND
16 OCCUPATIONS TO SUSPEND THE LICENSE OF ANY LICENSEE WHO DEFAULTS ON
17 OR FAILS TO COMPLY WITH THE REQUIREMENTS OF A STATE EDUCATIONAL
18 LOAN, SERVICE CONDITIONAL SCHOLARSHIP OR LOAN REPAYMENT PROGRAM
19 OBLIGATION UNDER WHICH THE LICENSEE OBTAINED ANY OF THE EDUCATION
20 NECESSARY TO QUALIFY FOR THE LICENSE; TO PROVIDE THAT THE PERSON'S
21 LICENSE SHALL REMAIN SUSPENDED UNTIL HE OR SHE HAS MADE
22 ARRANGEMENTS SATISFACTORY TO THE LICENSING AGENCY FOR REPAYING THE
23 EDUCATIONAL LOAN OR MEETING THE OBLIGATIONS OF THE SCHOLARSHIP OR
24 LOAN REPAYMENT PROGRAM; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** Section 37-101-291, Mississippi Code of 1972, is
27 amended as follows:

28 37-101-291. (1) In order to help alleviate the problem of
29 the shortage of health care professionals at the state health
30 institutions, there is hereby established a program of paid
31 educational leave for the study of such health care professions as
32 defined in Section 37-101-287 and licensed practical nursing by
33 any employee who works at these state health institutions and who
34 declares an intention to work in such respective health care
35 occupation in the same state health institution in which they were
36 working when they were granted educational leave, for a minimum
37 period of time after graduation.



38 (2) The paid educational leave program shall be administered
39 by the respective state health institutions.

40 (3) (a) Within the limits of the funds available to a state
41 health institution for such purpose, the institution may grant
42 paid educational leave to those applicants deemed qualified
43 therefor, upon such terms and conditions as it may impose and as
44 provided for in this section.

45 (b) In order to be eligible for paid educational leave,
46 an applicant must:

47 (i) Be working at a state health institution at
48 the time of application;

49 (ii) Attend any college or school approved and
50 designated by the state health institution; and

51 (iii) Agree to work as a health care professional
52 as defined in Section 37-101-285 or as a licensed practical nurse
53 in the same state health institution for a period of time
54 equivalent to the period of time for which applicant receives paid
55 educational leave compensation, calculated to the nearest whole
56 month, but not less than two (2) years.

57 (c) (i) Before being granted paid educational leave,
58 each applicant shall enter into a contract with the state health
59 institution, which shall be deemed a contract with the State of
60 Mississippi, agreeing to the terms and conditions upon which the
61 paid educational leave shall be granted to him. The contract
62 shall include such terms and provisions necessary to carry out the
63 full purpose and intent of this section. The form of such
64 contract shall be prepared and approved by the Attorney General of
65 this state, and shall be signed by the executive director of the
66 respective state health institution and the recipient. If the
67 recipient is a minor, his minority disabilities shall be removed
68 by a chancery court of competent jurisdiction before the contract
69 is signed.



70 (ii) The state health institution shall have the
71 authority to cancel any contract made between it and any recipient
72 for paid educational leave upon such cause being deemed sufficient
73 by the executive director of such institution.

74 (iii) The state health institution is vested with
75 full and complete authority and power to sue in its own name any
76 recipient for any balance due the state on any such uncompleted
77 contract, which suit shall be filed and handled by the Attorney
78 General of the state. The state health institution is also vested
79 with full and complete authority and power to contract with a
80 collection agency or banking institution, subject to approval by
81 the Attorney General of the state, for collection of any balance
82 due the state from any recipient. The State of Mississippi, any
83 agency of the state, the state health institution and its
84 employees are hereby immune from any suit brought in law or equity
85 for actions taken by the collection agency or banking institution
86 incidental to or arising from their performance of such a
87 contract. The state health institution, collection agency and
88 banking institution is further vested with the authority and power
89 to negotiate for payment of a sum less than full payment to
90 satisfy any balance the recipient owes the state, subject to
91 approval by the facility director of the sponsoring facility
92 within the state health institution.

93 (iv) Failure to meet the terms of an educational
94 loan contract shall be grounds for revocation of the professional
95 license which was earned through the paid educational leave
96 compensation granted under this section.

97 (v) A finding by the sponsoring agency of a
98 default by the recipient shall be a finding of unprofessional
99 conduct and therefore a basis for the revocation of the
100 professional license which was obtained through the educational
101 leave program. Further, a finding by the sponsoring agency of a
102 default by the recipient shall be grounds for suspension of any



103 professional license until he has made arrangements satisfactory
104 to the sponsoring agency for repaying the educational loan or
105 meeting the obligations of the loan repayment program. Further, a
106 finding by the sponsoring agency of a default by the recipient
107 shall be grounds for revocation of any license, certificate,
108 permit, credential, registration or any other authorization issued
109 by a licensing entity that allows a person to engage in a
110 business, occupation or profession to operate a motor vehicle, to
111 sell alcoholic beverages or to hunt and fish. The procedure for
112 hearing and appeal shall be the same as set forth in this section
113 for a finding of default.

114 (vi) Notice of pending default status shall be
115 mailed to the recipient at the last known address by the
116 sponsoring agency.

117 (vii) The sponsoring agency shall conduct a
118 hearing of pending default status, make a final determination, and
119 issue an Order of Default, if appropriate.

120 (viii) Recipients may appear either personally or
121 by counsel, or both, and produce and cross-examine witnesses or
122 evidence in his/her behalf. The procedure of the hearing shall
123 not be bound by the Mississippi Rules of Civil Procedure and
124 Evidence.

125 (ix) If a recipient is found to be in default, a
126 copy of an Order of Default shall be forwarded to the appropriate
127 licensing agency.

128 (x) Appeals from a finding of default by the
129 sponsoring agency shall be to the Circuit Court of Hinds County.
130 Actions taken by a licensing entity in revoking a license when
131 required by this section are not actions from which an appeal may
132 be taken under the general licensing and disciplinary provisions
133 applicable to the licensing agency.



134 (xi) Rules and regulations governing hearing and
135 other applicable matters shall be promulgated by the sponsoring
136 agency.

137 (xii) A license which has been revoked pursuant to
138 this statute shall be reinstated upon a showing of proof that the
139 recipient is no longer in default.

140 (4) (a) Any recipient who is granted paid educational leave
141 by a state health institution shall be compensated by the
142 institution during the time he or she is in school, at the rate of
143 pay received by a nurse's aide employed at the respective state
144 health institution. All educational leave compensation received
145 by the recipient while in school shall be considered earned
146 conditioned upon the fulfillment of the terms and obligations of
147 the educational leave contract and this section. However, no
148 recipient of full-time educational leave shall accrue personal or
149 major medical leave while he or she is on paid educational leave.
150 Recipients of paid educational leave shall be responsible for
151 their individual costs of tuition and books.

152 (b) Paid educational leave shall be granted only upon
153 the following conditions:

154 (i) The recipient shall fulfill his or her
155 obligation under the contract with the State of Mississippi by
156 working as a health care professional defined in Section
157 37-101-287 or as a licensed practical nurse in a state health
158 institution; a recipient sponsored by a health institution under
159 the supervision of the Mississippi Department of Mental Health may
160 fulfill his or her obligation under the contract with the State of
161 Mississippi at another health institution under the supervision of
162 the Mississippi Department of Mental Health with prior written
163 approval of the Director of the Department of Mental Health
164 institution with which he or she originally contracted for
165 educational leave. * * * The total compensation that the
166 recipient was paid while on educational leave shall be considered



167 as unconditionally earned per year pro rata for each year of
168 service as such health care professional in his or her respective
169 state health institution under the educational leave contract.

170 (ii) If the recipient does not work as a health
171 care professional as defined in Section 37-101-285 or as a
172 licensed practical nurse in his respective state health
173 institution for the period as stated in paragraph 3(b)(iii) above,
174 the recipient shall be liable for repayment on demand of the
175 remaining portion of the compensation that he or she was paid
176 while on paid educational leave which has not been unconditionally
177 earned, with interest accruing at ten percent (10%) per annum from
178 the recipient's date of graduation, or the date that the recipient
179 last worked at that state health institution, whichever is the
180 later date. In addition, there shall be * * * liquidated damages
181 equal to Five Thousand Dollars (\$5,000.00), which may be reduced,
182 pro rata per year for each year * * * served under the contract.

183 (iii) If any recipient fails or withdraws from
184 school at any time before completing his or her health care
185 training, the recipient shall be liable for repayment on demand of
186 the amount of the total compensation that he or she was paid while
187 on paid educational leave, with interest accruing at ten percent
188 (10%) per annum from the date the recipient failed or withdrew
189 from school, but shall not be liable for liquidated damages.
190 However, if the recipient returns to work in the same position he
191 or she held in the same state health institution prior to
192 accepting educational leave, he or she shall not be liable for
193 payment of any interest on the amount owed, or for liquidated
194 damages.

195 (iv) The issuance and renewal of the professional
196 license required to work as a health care professional as defined
197 in Section 37-101-285 for which the educational leave was granted
198 shall be contingent upon the repayment of the total compensation
199 that the recipient received while on paid educational leave. No



200 license shall be granted until a contract for repayment is
201 executed. No license shall be renewed without proof of an
202 existing contract which is not in default. Failure to meet the
203 terms of an educational loan contract shall be grounds for
204 revocation of the professional license which was earned through
205 the paid educational leave compensation granted under this
206 section. Any person who receives any amount of paid educational
207 leave compensation while in school and subsequently receives a
208 professional license shall be deemed to have earned said
209 professional license through paid educational leave.

210 (v) The obligations of educational leave
211 recipients under contracts entered into prior to July 1, 2002,
212 shall remain unchanged. State health institutions may use all of
213 the collection and license revocation provisions of this chapter
214 to collect money owed under all educational leave contracts,
215 regardless of when they were executed.

216 **SECTION 2.** Section 73-15-29, Mississippi Code of 1972, is
217 amended as follows:

218 73-15-29. (1) The board shall have power to revoke, suspend
219 or refuse to renew any license issued by the board, or to revoke
220 or suspend any privilege to practice, or to deny an application
221 for a license, or to fine, place on probation and/or discipline a
222 licensee, in any manner specified in this chapter, upon proof that
223 the person:

224 (a) Has committed fraud or deceit in securing or
225 attempting to secure the license;

226 (b) Has been convicted of felony, or a crime involving
227 moral turpitude or has had accepted by a court a plea of nolo
228 contendere to a felony or a crime involving moral turpitude (a
229 certified copy of the judgment of the court of competent
230 jurisdiction of the conviction or pleas shall be prima facie
231 evidence of the conviction);



232 (c) Has negligently or willfully acted in a manner
233 inconsistent with the health or safety of the persons under the
234 licensee's care;

235 (d) Has had a license or privilege to practice as a
236 registered nurse or a licensed practical nurse suspended or
237 revoked in any jurisdiction, has voluntarily surrendered the
238 license or privilege to practice in any jurisdiction, has been
239 placed on probation as a registered nurse or licensed practical
240 nurse in any jurisdiction or has been placed under a disciplinary
241 order(s) in any manner as a registered nurse or licensed practical
242 nurse in any jurisdiction, (a certified copy of the order of
243 suspension, revocation, probation or disciplinary action shall be
244 prima facie evidence of the action);

245 (e) Has negligently or willfully practiced nursing in a
246 manner that fails to meet generally accepted standards of that
247 nursing practice;

248 (f) Has negligently or willfully violated any order,
249 rule or regulation of the board pertaining to nursing practice or
250 licensure;

251 (g) Has falsified or in a repeatedly negligent manner
252 made incorrect entries or failed to make essential entries on
253 records;

254 (h) Is addicted to or dependent on alcohol or other
255 habit-forming drugs or is a habitual user of narcotics,
256 barbiturates, amphetamines, hallucinogens, or other drugs having
257 similar effect, or has misappropriated any medication;

258 (i) Has a physical, mental or emotional disability that
259 renders the licensee unable to perform nursing services or duties
260 with reasonable skill and safety;

261 (j) Has engaged in any other conduct, whether of the
262 same or of a different character from that specified in this
263 chapter, that would constitute a crime as defined in Title 97 of
264 the Mississippi Code of 1972, as now or hereafter amended, and



265 that relates to the person's employment as a registered nurse or
266 licensed practical nurse;

267 (k) Engages in conduct likely to deceive, defraud or
268 harm the public;

269 (l) Engages in any unprofessional conduct as identified
270 by the board in its rules; or

271 (m) Has violated any provision of this chapter.

272 (2) Notwithstanding any provision of this chapter:

273 (a) The board shall suspend the license of any person
274 who defaults on or fails to comply with the requirements of a
275 state educational loan, service conditional scholarship or loan
276 repayment program obligation under which the person obtained any
277 of the education necessary to qualify for a license under this
278 chapter; and

279 (b) The person's license shall remain suspended until
280 he or she has made arrangements satisfactory to the lender for
281 repaying the educational loan or meeting the obligation of the
282 scholarship or loan repayment program.

283 (3) When the board finds any person unqualified because of
284 any of the grounds set forth in subsection (1) of this section, it
285 may enter an order imposing one or more of the following
286 penalties:

287 (a) Denying application for a license or other
288 authorization to practice nursing or practical nursing;

289 (b) Administering a reprimand;

290 (c) Suspending or restricting the license or other
291 authorization to practice as a registered nurse or licensed
292 practical nurse for up to two (2) years without review;

293 (d) Revoking the license or other authorization to
294 practice nursing or practical nursing;

295 (e) Requiring the discipline to submit to care,
296 counseling or treatment by persons and/or agencies approved or
297 designated by the board as a condition for initial, continued or



298 renewed licensure or other authorization to practice nursing or
299 practical nursing;

300 (f) Requiring the discipline to participate in a
301 program of education prescribed by the board as a condition for
302 initial, continued or renewed licensure or other authorization to
303 practice;

304 (g) Requiring the discipline to practice under the
305 supervision of a registered nurse for a specified period of time;
306 or

307 (h) Imposing a fine not to exceed Five Hundred Dollars
308 (\$500.00).

309 (4) In addition to the grounds specified in subsection (1)
310 of this section, the board may suspend the license or privilege to
311 practice of any licensee for being out of compliance with an order
312 for support, as defined in Section 93-11-153. The procedure for
313 suspension of a license or privilege to practice for being out of
314 compliance with an order for support, and the procedure for the
315 reissuance or reinstatement of a license or privilege to practice
316 suspended for that purpose, and the payment of any fees for the
317 reissuance or reinstatement of a license or privilege to practice
318 suspended for that purpose, shall be governed by Section 93-11-157
319 or 93-11-163, as the case may be. If there is any conflict
320 between any provision of Section 93-11-157 or 93-11-163 and any
321 provision of this chapter, the provisions of Section 93-11-157 or
322 93-11-163, as the case may be, shall control.

323 **SECTION 3.** Section 73-23-59, Mississippi Code of 1972, is
324 amended as follows:

325 73-23-59. (1) Licensees subject to this chapter shall
326 conduct their activities, services and practice in accordance with
327 this chapter and any rules promulgated pursuant hereto. Licensees
328 may be subject to the exercise of the disciplinary sanction
329 enumerated in Section 73-23-64 if the board finds that a licensee
330 is guilty of any of the following:



- 331 (a) Negligence in the practice or performance of
332 professional services or activities;
- 333 (b) Engaging in dishonorable, unethical or
334 unprofessional conduct of a character likely to deceive, defraud
335 or harm the public in the course of professional services or
336 activities;
- 337 (c) Perpetrating or cooperating in fraud or material
338 deception in obtaining or renewing a license or attempting the
339 same;
- 340 (d) Being convicted of any crime that has a substantial
341 relationship to the licensee's activities and services or an
342 essential element of which is misstatement, fraud or dishonesty;
- 343 (e) Being convicted of any crime that is a felony under
344 the laws of this state or the United States;
- 345 (f) Engaging in or permitting the performance of
346 unacceptable services personally or by others working under the
347 licensee's supervision due to the licensee's deliberate or
348 negligent act or acts or failure to act, regardless of whether
349 actual damage or damages to the public is established;
- 350 (g) Continued practice although the licensee has become
351 unfit to practice as a physical therapist or physical therapist
352 assistant due to:
- 353 (i) Failure to keep abreast of current
354 professional theory or practice; * * *
- 355 (ii) Physical or mental disability; the entry of
356 an order or judgment by a court of competent jurisdiction that a
357 licensee is in need of mental treatment or is incompetent shall
358 constitute mental disability; or
- 359 (iii) Addiction or severe dependency upon alcohol
360 or other drugs that may endanger the public by impairing the
361 licensee's ability to practice;
- 362 (h) Having disciplinary action taken against the
363 licensee's license in another state;



364 (i) Making differential, detrimental treatment against
365 any person because of race, color, creed, sex, religion or
366 national origin;

367 (j) Engaging in lewd conduct in connection with
368 professional services or activities;

369 (k) Engaging in false or misleading advertising;

370 (l) Contracting, assisting or permitting unlicensed
371 persons to perform services for which a license is required under
372 this chapter;

373 (m) Violation of any probation requirements placed on a
374 license by the board;

375 (n) Revealing confidential information except as may be
376 required by law;

377 (o) Failing to inform clients of the fact that the
378 client no longer needs the services or professional assistance of
379 the licensee;

380 (p) Charging excessive or unreasonable fees or engaging
381 in unreasonable collection practices;

382 (q) For treating or attempting to treat ailments or
383 other health conditions of human beings other than by physical
384 therapy as authorized by this chapter;

385 (r) For applying or offering to apply physical therapy,
386 exclusive of initial evaluation or screening and exclusive of
387 education or consultation for the prevention of physical and
388 mental disability within the scope of physical therapy, other than
389 upon the referral of a licensed physician, dentist, osteopath,
390 podiatrist, chiropractor or nurse practitioner; or for acting as a
391 physical therapist assistant other than under the direct, on-site
392 supervision of a licensed physical therapist;

393 (s) Violations of the current codes of conduct for
394 physical therapists and physical therapy assistants adopted by the
395 American Physical Therapy Association;



396 (t) Violations of any rules or regulations promulgated
397 under this chapter.

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

402 (3) Failure to comply with a board order to submit to a
403 physical or mental examination shall render a licensee subject to
404 the summary suspension procedures described in Section 73-23-64.

405 (4) Notwithstanding any provision of this chapter:

406 (a) The board shall suspend the license of any person
407 who defaults on or fails to comply with the requirements of a
408 state educational loan, service conditional scholarship or loan
409 repayment program obligation under which the person obtained any
410 of the education necessary to qualify for a license under this
411 chapter; and

412 (b) The person's license shall remain suspended until
413 he or she has made arrangements satisfactory to the lender for
414 repaying the educational loan or meeting the obligations of the
415 scholarship or loan repayment program.

416 (5) In addition to the reasons specified in subsection (1)
417 of this section, the board may suspend the license of any licensee
418 for being out of compliance with an order for support, as defined
419 in Section 93-11-153. The procedure for suspension of a license
420 for being out of compliance with an order for support, and the
421 procedure for the reissuance or reinstatement of a license
422 suspended for that purpose, and the payment of any fees for the
423 reissuance or reinstatement of a license suspended for that
424 purpose, shall be governed by Section 93-11-157 or 93-11-163, as
425 the case may be. If there is any conflict between any provision
426 of Section 93-11-157 or 93-11-163 and any provision of this
427 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
428 case may be, shall control.



429 **SECTION 4.** Section 73-24-24, Mississippi Code of 1972, is
430 amended as follows:

431 73-24-24. (1) Licensees subject to this chapter shall
432 conduct their activities, services and practice in accordance with
433 this chapter and any rules promulgated pursuant hereto. Licenses
434 may be subject to the exercise of the disciplinary sanction
435 enumerated in Section 73-24-25 if the board finds that a licensee
436 is guilty of any of the following:

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

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

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

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

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

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

456 (g) Continued practice although the licensee has become
457 unfit to practice as an occupational therapist or occupational
458 therapist assistant due to:

459 (i) Failure to keep abreast of current
460 professional theory or practice; * * *



461 (ii) Physical or mental disability; the entry of
462 an order or judgment by a court of competent jurisdiction that a
463 licensee is in need of mental treatment or is incompetent shall
464 constitute mental disability; or

465 (iii) Addition or severe dependency upon alcohol
466 or other drugs that may endanger the public by impairing the
467 licensee's ability to practice;

468 (h) Having disciplinary action taken against the
469 licensee's license in another state;

470 (i) Making differential, detrimental treatment against
471 any person because of race, color, creed, sex, religion or
472 national origin;

473 (j) Engaging in lewd conduct in connection with
474 professional services or activities;

475 (k) Engaging in false or misleading advertising;

476 (l) Contracting, assisting or permitting unlicensed
477 persons to perform services for which a license is required under
478 this chapter;

479 (m) Violation of any probation requirements placed on a
480 license by the board;

481 (n) Revealing confidential information except as may be
482 required by law;

483 (o) Failing to inform clients of the fact that the
484 client no longer needs the services or professional assistance of
485 the licensee;

486 (p) Charging excessive or unreasonable fees or engaging
487 in unreasonable collection practices;

488 (q) For treating or attempting to treat ailments or
489 other health conditions of human beings other than by occupational
490 therapy as authorized by this chapter;

491 (r) For practice or activities considered to be
492 unprofessional conduct as defined by the rules and regulations;



493 (s) Violations of the current codes of conduct for
494 occupational therapists and occupational therapy assistants
495 adopted by the American Occupational Therapy Association;

496 (t) Violations of any rules or regulations promulgated
497 under this chapter.

498 (2) Notwithstanding any provision of this chapter:

499 (a) The board shall suspend the license of any person
500 who defaults on or fails to comply with the requirements of a
501 state educational loan, service conditional scholarship or loan
502 repayment program obligation under which the person obtained any
503 of the education necessary to qualify for a license under this
504 chapter; and

505 (b) The person's license shall remain suspended until
506 he or she has made arrangements satisfactory to the lender for
507 repaying the educational loan or meeting the obligations of the
508 scholarship or loan repayment program.

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

513 (4) Failure to comply with a board order to submit to a
514 physical or mental examination shall render a licensee subject to
515 the summary suspension procedures described in Section 73-24-25.

516 **SECTION 5.** Section 73-31-21, Mississippi Code of 1972, is
517 amended as follows:

518 73-31-21. (1) The board, by an affirmative vote of at least
519 four (4) of its seven (7) members, shall withhold, deny, revoke or
520 suspend any license issued or applied for in accordance with the
521 provisions of this chapter, or otherwise discipline a licensed
522 psychologist, upon proof that the applicant or licensed
523 psychologist:



524 (a) Has violated the current code of ethics of the
525 American Psychological Association or other codes of ethical
526 standards adopted by the board; or

527 (b) Has been convicted of a felony or any offense
528 involving moral turpitude, the record of conviction being
529 conclusive evidence thereof; or

530 (c) Is using any narcotic or any alcoholic beverage to
531 an extent or in a manner dangerous to any other person or the
532 public, or to an extent that the use impairs his ability to
533 perform the work of a professional psychologist with safety to the
534 public; or

535 (d) Has impersonated another person holding a
536 psychologist license or allowed another person to use his license;
537 or

538 (e) Has used fraud or deception in applying for a
539 license or in taking an examination provided for in this chapter;
540 or

541 (f) Has accepted commissions or rebates or other forms
542 of remuneration for referring clients to other professional
543 persons; or

544 (g) Has allowed his name or license issued under this
545 chapter to be used in connection with any person or persons who
546 perform psychological services outside of the area of their
547 training, experience or competence; or

548 (h) Is legally adjudicated mentally incompetent, the
549 record of the adjudication being conclusive evidence thereof; or

550 (i) Has willfully or negligently violated any of the
551 provisions of this chapter. The board may recover from any person
552 disciplined under this chapter, the costs of investigation,
553 prosecution, and adjudication of the disciplinary action.

554 (2) Notwithstanding any provision of this chapter:

555 (a) The board shall suspend the license of any person
556 who defaults on or fails to comply with the requirements of a



557 state educational loan, service conditional scholarship or loan
558 repayment program obligation under which the person obtained any
559 of the education necessary to qualify for a license under this
560 chapter; and

561 (b) The person's license shall remain suspended until
562 he or she has made arrangements satisfactory to the lender for
563 repaying the educational loan or meeting the obligations of the
564 scholarship or loan repayment program.

565 (3) Notice shall be effected by registered mail or personal
566 service setting forth the particular reasons for the proposed
567 action and fixing a date not less than thirty (30) days nor more
568 than sixty (60) days from the date of the mailing or the service,
569 at which time the applicant or licentiate shall be given an
570 opportunity for a prompt and fair hearing. For the purpose of the
571 hearing the board, acting by and through its executive secretary,
572 may subpoena persons and papers on its own behalf and on behalf of
573 the applicant or licentiate, may administer oaths and may take
574 testimony. That testimony, when properly transcribed, together
575 with the papers and exhibits, shall be admissible in evidence for
576 or against the applicant or licentiate. At the hearing applicant
577 or licentiate may appear by counsel and personally in his own
578 behalf. Any person sworn and examined by a witness in the hearing
579 shall not be held to answer criminally, nor shall any papers or
580 documents produced by the witness be competent evidence in any
581 criminal proceedings against the witness other than for perjury in
582 delivering his evidence. On the basis of any such hearing, or
583 upon default of applicant or licentiate, the board shall make a
584 determination specifying its findings of fact and conclusions of
585 law. A copy of that determination shall be sent by registered
586 mail or served personally upon the applicant or licentiate. The
587 decision of the board denying, revoking or suspending the license
588 shall become final thirty (30) days after so mailed or served
589 unless within that period the licentiate appeals the decision to



590 the chancery court, under the provisions hereof, and the
591 proceedings in chancery shall be conducted as other matters coming
592 before the court. All proceedings and evidence, together with
593 exhibits, presented at the hearing before the board if there is an
594 appeal shall be admissible in evidence in the court.

595 (4) The board may subpoena persons and papers on its own
596 behalf and on behalf of the respondent, may administer oaths and
597 may compel the testimony of witnesses. It may issue commissions
598 to take testimony, and testimony so taken and sworn to shall be
599 admissible in evidence for and against the respondent. The board
600 shall be entitled to the assistance of the chancery court or the
601 chancellor in vacation, which, on petition by the board, shall
602 issue ancillary subpoenas and petitions and may punish as for
603 contempt of court if there is noncompliance therewith.

604 (5) Every order and judgment of the board shall take effect
605 immediately on its promulgation unless the board in the order or
606 judgment fixes a probationary period for applicant or licentiate.
607 The order and judgment shall continue in effect unless upon appeal
608 the court by proper order or decree terminates it earlier. The
609 board may make public its order and judgments in such manner and
610 form as it deems proper. It shall, in event of the suspension or
611 revocation of a license, direct the clerk of the circuit court of
612 the county in which that license was recorded to cancel the
613 record.

614 (6) Nothing in this section shall be construed as limiting
615 or revoking the authority of any court or of any licensing or
616 registering officer or board, other than the Mississippi Board of
617 Psychology, to suspend, revoke and reinstate licenses and to
618 cancel registrations under the provisions of Section 41-29-311.

619 (7) Suspension by the board of the license of a psychologist
620 shall be for a period not exceeding one (1) year. At the end of
621 this period the board shall reevaluate the suspension, and shall
622 either reinstate or revoke the license. A person whose license



623 has been revoked under the provisions of this section may reapply
624 for license after more than two (2) years have elapsed from the
625 date the denial or revocation is legally effective.

626 (8) In addition to the reasons specified in subsection (1)
627 of this section, the board may suspend the license of any licensee
628 for being out of compliance with an order for support, as defined
629 in Section 93-11-153. The procedure for suspension of a license
630 for being out of compliance with an order for support, and the
631 procedure for the reissuance or reinstatement of a license
632 suspended for that purpose, and the payment of any fees for the
633 reissuance or reinstatement of a license suspended for that
634 purpose, shall be governed by Section 93-11-157. Actions taken by
635 the board in suspending a license when required by Section
636 93-11-157 or 93-11-163 are not actions from which an appeal may be
637 taken under this section. Any appeal of a license suspension that
638 is required by Section 93-11-157 or 93-11-163 shall be taken in
639 accordance with the appeal procedure specified in Section
640 93-11-157 or 93-11-163, as the case may be, rather than the
641 procedure specified in this section. If there is any conflict
642 between any provision of Section 93-11-157 or 93-11-163 and any
643 provision of this chapter, the provisions of Section 93-11-157 or
644 93-11-163, as the case may be, shall control.

645 (9) This section shall stand repealed from and after July 1,
646 2011.

647 **SECTION 6.** Section 73-38-27, Mississippi Code of 1972, is
648 amended as follows:

649 73-38-27. (1) The board may refuse to issue or renew a
650 license, or may suspend or revoke a license where the licensee or
651 applicant for license has been guilty of unprofessional conduct
652 that has endangered or is likely to endanger the health, welfare
653 or safety of the public. That unprofessional conduct may result
654 from:



655 (a) Obtaining a license by means of fraud,
656 misrepresentation or concealment of material facts;
657 (b) Being guilty of unprofessional conduct as defined
658 by the rules established by the board;
659 (c) Being convicted of a felony in any court of the
660 United States if the acts for which he is convicted are found by
661 the board to have a direct bearing on whether he should be
662 entrusted to serve the public in the capacity of a speech-language
663 pathologist or audiologist;
664 (d) Violating any lawful order, rule or regulation
665 rendered or adopted by the board;
666 (e) Violating any provisions of this chapter.
667 (2) Notwithstanding any provision of this chapter:
668 (a) The board shall suspend the license of any person
669 who defaults on or fails to comply with the requirements of a
670 state educational loan, service conditional scholarship or loan
671 repayment program obligation under which the person obtained any
672 of the education necessary to qualify for a license under this
673 chapter; and
674 (b) The person's license shall remain suspended until
675 he or she has made arrangements satisfactory to the lender for
676 repaying the educational loan or meeting the obligations of the
677 scholarship or loan repayment program.
678 (3) The board may deny an application for, or suspend,
679 revoke or impose probationary conditions upon a license upon
680 recommendations of the council made after a hearing as provided in
681 this chapter. One (1) year from the date of revocation of a
682 license under this section, application may be made to the board
683 for reinstatement. The board shall have discretion to accept or
684 reject an application for reinstatement and may require an
685 examination for the reinstatement.
686 (4) A plea or verdict of guilty, or a conviction following a
687 plea of nolo contendere, made to a charge of a felony or of any



688 offense involving moral turpitude is a conviction within the
689 meaning of this section. After due notice and administrative
690 hearing, the license of the person so convicted shall be suspended
691 or revoked or the board shall decline to issue a license when:

692 (a) The time for appeal has elapsed;

693 (b) The judgment of conviction has been affirmed on
694 appeal; or

695 (c) An order granting probation has been made
696 suspending the imposition of sentence, without regard to a
697 subsequent order allowing the withdrawal of a guilty plea and the
698 substitution therefor of a not guilty plea, or the setting aside
699 of a guilty verdict, or the dismissal of the acquisition,
700 information or indictment.

701 (5) Within thirty (30) days after any order or act of the
702 board, any person aggrieved thereby may appeal to the chancery
703 court of the county where the person resides.

704 (6) Notice of appeals shall be filed in the office of the
705 clerk of the court, who shall issue a writ of certiorari directed
706 to the board, commanding it within ten (10) days after service
707 thereof to certify to the court its entire record in the matter in
708 which the appeal has been taken. The appeal shall thereupon be
709 heard in the due course by the court, and the court shall review
710 the record and make its determination of the cause between the
711 parties.

712 (7) Any order, rule or decision of the board shall not take
713 effect until after the time of appeal in the * * * court has
714 expired. If an appeal is taken by a defendant, the appeal shall
715 not act as a supersedeas, and the court shall enter its decision
716 promptly.

717 (8) Any person taking an appeal shall post a satisfactory
718 bond in the amount of Two Hundred Dollars (\$200.00) for payment of
719 any cost that may be adjudged against him.



720 (9) In addition to the reasons specified in subsection (1)
721 of this section, the board may suspend the license of any licensee
722 for being out of compliance with an order for support, as defined
723 in Section 93-11-153. The procedure for suspension of a license
724 for being out of compliance with an order for support, and the
725 procedure for the reissuance or reinstatement of a license
726 suspended for that purpose, and the payment of any fees for the
727 reissuance or reinstatement of a license suspended for that
728 purpose, shall be governed by Section 93-11-157 or 93-11-163, as
729 the case may be. Actions taken by the board in suspending a
730 license when required by Section 93-11-157 or 93-11-163 are not
731 actions from which an appeal may be taken under this section. Any
732 appeal of a license suspension that is required by Section
733 93-11-15 or 93-11-163 shall be taken in accordance with the appeal
734 procedure specified in Section 93-11-157 or 93-11-163, as the case
735 may be, rather than the procedure specified in this section. If
736 there is any conflict between any provision of Section 93-11-157
737 or 93-11-163 and any provision of this chapter, the provisions of
738 Section 93-11-157 or 93-11-163, as the case may be, shall control.

739 **SECTION 7.** This act shall take effect and be in force from
740 and after July 1, 2002.

