MISSISSIPPI LEGISLATURE

REGULAR SESSION 2002

By: Senator(s) Burton

To: Public Health and Welfare; Appropriations

COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 2691

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

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

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

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

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

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

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

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

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

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

(c) (i) Before being granted paid educational leave, each applicant shall enter into a contract with the state health institution, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon which the paid educational leave shall be granted to him. The contract shall include such terms and provisions necessary to carry out the full purpose and intent of this section. The form of such contract shall be prepared and approved by the Attorney General of this state, and shall be signed by the executive director of the respective state health institution and the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.
(ii) The state health institution shall have the authority to cancel any contract made between it and any recipient for paid educational leave upon such cause being deemed sufficient by the executive director of such institution.

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

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

(v) A finding by the sponsoring agency of a default by the recipient shall be a finding of unprofessional conduct and therefore a basis for the revocation of the professional license which was obtained through the educational leave program. Further, a finding by the sponsoring agency of a default by the recipient shall be grounds for suspension of any
professional license until he has made arrangements satisfactory
to the sponsoring agency for repaying the educational loan or
meeting the obligations of the loan repayment program. Further, a
finding by the sponsoring agency of a default by the recipient
shall be grounds for revocation of any license, certificate,
permit, credential, registration or any other authorization issued
by a licensing entity that allows a person to engage in a
business, occupation or profession to operate a motor vehicle, to
sell alcoholic beverages or to hunt and fish. The procedure for
hearing and appeal shall be the same as set forth in this section
for a finding of default.

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

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

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

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

(x) Appeals from a finding of default by the
sponsoring agency shall be to the Circuit Court of Hinds County.
Actions taken by a licensing entity in revoking a license when
required by this section are not actions from which an appeal may
be taken under the general licensing and disciplinary provisions
applicable to the licensing agency.
(xi) Rules and regulations governing hearing and other applicable matters shall be promulgated by the sponsoring agency.

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

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

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

   (i) The recipient shall fulfill his or her obligation under the contract with the State of Mississippi by working as a health care professional defined in Section 37-101-287 or as a licensed practical nurse in a state health institution; a recipient sponsored by a health institution under the supervision of the Mississippi Department of Mental Health may fulfill his or her obligation under the contract with the State of Mississippi at another health institution under the supervision of the Mississippi Department of Mental Health with prior written approval of the Director of the Department of Mental Health institution with which he or she originally contracted for educational leave. * * * The total compensation that the recipient was paid while on educational leave shall be considered...
as unconditionally earned per year pro rata for each year of service as such health care professional in his or her respective state health institution under the educational leave contract.

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

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

(iv) The issuance and renewal of the professional license required to work as a health care professional as defined in Section 37-101-285 for which the educational leave was granted shall be contingent upon the repayment of the total compensation that the recipient received while on paid educational leave. No
license shall be granted until a contract for repayment is
executed. No license shall be renewed without proof of an
existing contract which is not in default. Failure to meet the
terms of an educational loan contract shall be grounds for
revocation of the professional license which was earned through
the paid educational leave compensation granted under this
section. Any person who receives any amount of paid educational
leave compensation while in school and subsequently receives a
professional license shall be deemed to have earned said
professional license through paid educational leave.

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

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

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

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

(b) Has been convicted of felony, or a crime involving
moral turpitude or has had accepted by a court a plea of nolo
contendere to a felony or a crime involving moral turpitude (a
certified copy of the judgment of the court of competent
jurisdiction of the conviction or pleas shall be prima facie
evidence of the conviction);
(c) Has negligently or willfully acted in a manner inconsistent with the health or safety of the persons under the licensee's care;

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

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

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

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

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

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

(j) Has engaged in any other conduct, whether of the same or of a different character from that specified in this chapter, that would constitute a crime as defined in Title 97 of the Mississippi Code of 1972, as now or hereafter amended, and
that relates to the person's employment as a registered nurse or licensed practical nurse;

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

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

(m) Has violated any provision of this chapter.

(2) Notwithstanding any provision of this chapter:

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

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

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

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

(b) Administering a reprimand;

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

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

(e) Requiring the disciplinee to submit to care, counseling or treatment by persons and/or agencies approved or designated by the board as a condition for initial, continued or
renewed licensure or other authorization to practice nursing or practical nursing;

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

(g) Requiring the disciplinee to practice under the supervision of a registered nurse for a specified period of time; or

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

(4) In addition to the grounds specified in subsection (1) of this section, the board may suspend the license or privilege to practice 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 or privilege to practice for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license or privilege to practice suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license or privilege to practice 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 3. Section 73-23-59, Mississippi Code of 1972, is amended as follows:

73-23-59. (1) Licensees subject to this chapter shall conduct their activities, services and practice in accordance with this chapter and any rules promulgated pursuant hereto. Licensees may be subject to the exercise of the disciplinary sanction enumerated in Section 73-23-64 if the board finds that a licensee is guilty of any of the following:
(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 that 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 that 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 physical therapist or physical therapist assistant due to:
   (i) Failure to keep abreast of current professional theory or practice; *
   (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 that 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 physical therapy as authorized by this chapter;

(r) For applying or offering to apply physical 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 physical therapy, other than upon the referral of a licensed physician, dentist, osteopath, podiatrist, chiropractor or nurse practitioner; or for acting as a physical therapist assistant other than under the direct, on-site supervision of a licensed physical therapist;

(s) Violations of the current codes of conduct for physical therapists and physical therapy assistants adopted by the American Physical Therapy Association;
(t) Violations of any rules or regulations promulgated under 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.

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

(4) Notwithstanding any provision of this chapter:

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

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

(5) In addition to the reasons specified in subsection (1) of this section, the board may 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 4. Section 73-24-24, Mississippi Code of 1972, is amended as follows:

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

(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 that 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 that 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 an occupational therapist or occupational therapist assistant due to:

(i) Failure to keep abreast of current professional theory or practice; * * *
(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) Addition or severe dependency upon alcohol or other drugs that 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 occupational therapy as authorized by this chapter;

(r) For practice or activities considered to be unprofessional conduct as defined by the rules and regulations;
(s) Violations of the current codes of conduct for occupational therapists and occupational therapy assistants adopted by the American Occupational Therapy Association;

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

(2) Notwithstanding any provision of this chapter:

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

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

(3) 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.

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

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

73-31-21. (1) The board, by an affirmative vote of at least four (4) of its seven (7) members, shall withhold, deny, revoke or suspend any license issued or applied for in accordance with the provisions of this chapter, or otherwise discipline a licensed psychologist, upon proof that the applicant or licensed psychologist:
(a) Has violated the current code of ethics of the American Psychological Association or other codes of ethical standards adopted by the board; or

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

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

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

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

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

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

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

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

(2) Notwithstanding any provision of this chapter:

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

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

(3) Notice shall be effected by registered mail or personal
service setting forth the particular reasons for the proposed
action and fixing a date not less than thirty (30) days nor more
than sixty (60) days from the date of the mailing or the service,
at which time the applicant or licentiate shall be given an
opportunity for a prompt and fair hearing. For the purpose of the
hearing the board, acting by and through its executive secretary,
may subpoena persons and papers on its own behalf and on behalf of
the applicant or licentiate, may administer oaths and may take
testimony. That testimony, when properly transcribed, together
with the papers and exhibits, shall be admissible in evidence for
or against the applicant or licentiate. At the hearing applicant
or licentiate may appear by counsel and personally in his own
behalf. Any person sworn and examined by a witness in the hearing
shall not be held to answer criminally, nor shall any papers or
documents produced by the witness be competent evidence in any
criminal proceedings against the witness other than for perjury in
delivering his evidence. On the basis of any such hearing, or
upon default of applicant or licentiate, the board shall make a
determination specifying its findings of fact and conclusions of
law. A copy of that determination shall be sent by registered
mail or served personally upon the applicant or licentiate. The
decision of the board denying, revoking or suspending the license
shall become final thirty (30) days after so mailed or served
unless within that period the licentiate appeals the decision to
the chancery court, under the provisions hereof, and the proceedings in chancery shall be conducted as other matters coming before the court. All proceedings and evidence, together with exhibits, presented at the hearing before the board if there is an appeal shall be admissible in evidence in the court.

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

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

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

(7) Suspension by the board of the license of a psychologist shall be for a period not exceeding one (1) year. At the end of this period the board shall reevaluate the suspension, and shall either reinstate or revoke the license. A person whose license
has been revoked under the provisions of this section may reapply for license after more than two (2) years have elapsed from the date the denial or revocation is legally effective.

(8) In addition to the reasons specified in subsection (1) of this section, the board may 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. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. 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.

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

SECTION 6. Section 73-38-27, Mississippi Code of 1972, is 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 that has endangered or is likely to endanger the health, welfare or safety of the public. That unprofessional conduct may result from:
(a) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(b) Being guilty of unprofessional conduct as defined by the rules established by the board;

(c) Being convicted of a felony in any court of the United States if the acts for which he is convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a speech-language pathologist or audiologist;

(d) Violating any lawful order, rule or regulation rendered or adopted by the board;

(e) Violating any provisions of this chapter.

(2) Notwithstanding any provision of this chapter:

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

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

(3) The board may deny an application for, or suspend, revoke or impose probationary conditions upon a license upon recommendations of the council made after a hearing as provided in this chapter. One (1) year from the date of revocation of a license under this section, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for the reinstatement.

(4) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, made to a charge of a felony or of any
offense involving moral turpitude is a conviction within the meaning of this section. After due notice and administrative hearing, the license of the person so convicted shall be suspended or revoked or the board shall decline to issue a license when:

(a) The time for appeal has elapsed;
(b) The judgment of conviction has been affirmed on appeal; or
(c) An order granting probation has been made suspending the imposition of sentence, without regard to a subsequent order allowing the withdrawal of a guilty plea and the substitution therefor of a not guilty plea, or the setting aside of a guilty verdict, or the dismissal of the acquisition, information or indictment.

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

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

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

(8) Any person taking an appeal shall post a satisfactory bond in the amount of Two Hundred Dollars ($200.00) for payment of any cost that may be adjudged against him.
In addition to the reasons specified in subsection (1) of this section, the board may 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. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-15 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. 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 7. This act shall take effect and be in force from and after July 1, 2002.