

By: Representative Holland

To: Public Health and Welfare

HOUSE BILL NO. 720

1 AN ACT TO REQUIRE LICENSED HEALTH CARE PROVIDERS, AS A
 2 CONDITION OF RECEIPT OF THEIR LICENSES, TO BE MEDICAID PROVIDERS
 3 AND PROVIDE THE SAME HEALTH CARE SERVICES TO MEDICAID RECIPIENTS
 4 THAT THEY CUSTOMARILY PROVIDE TO PERSONS WHO ARE NOT MEDICAID
 5 RECIPIENTS; TO DIRECT THE LICENSING AGENCIES FOR HEALTH CARE
 6 PROVIDERS WHO DO NOT COMPLY WITH THIS ACT TO SUSPEND OR REVOKE THE
 7 LICENSES OF THOSE HEALTH CARE PROVIDERS UNTIL THEY AGREE TO COMPLY
 8 WITH THIS ACT; TO DIRECT THE DIVISION OF MEDICAID TO ADOPT
 9 REGULATIONS TO ENSURE THAT HEALTH CARE PROVIDERS ACTUALLY PROVIDE
 10 HEALTH CARE SERVICES TO MEDICAID RECIPIENTS TO THE SAME EXTENT AS
 11 THEY PROVIDE THOSE SERVICES TO PERSONS WHO ARE NOT MEDICAID
 12 RECIPIENTS; TO AMEND SECTIONS 73-6-19, 73-9-61, 73-15-29,
 13 73-19-23, 73-21-97, 73-23-59, 73-24-24, 73-25-29, 73-26-5,
 14 73-27-13, 73-31-21, 73-38-27 AND 73-57-31, MISSISSIPPI CODE OF
 15 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED
 16 PURPOSES.

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

18 **SECTION 1.** (1) As used in this section, the following
 19 terms shall have the following meanings:

20 (a) "Health care provider" means an individual who
 21 provides health care services in the ordinary course of the
 22 practice of a profession. This term includes, but is not limited
 23 to, physicians, osteopaths, podiatrists, dentists, optometrists,
 24 chiropractors, pharmacists, nurses, psychologists, physician
 25 assistants, physical therapists, occupational therapists,
 26 respiratory therapists, speech pathologists and audiologists.

27 (b) "License" means a license, registration or
 28 certification from an agency or department of the State of
 29 Mississippi to practice as a health care provider.

30 (2) Any health care provider who holds a license that is
 31 issued or renewed on or after July 1, 2003, shall, as a condition
 32 of receipt of that license, be a Medicaid provider and provide to
 33 Medicaid recipients any health care services within the scope of
 34 practice of the health care provider that are covered Medicaid



35 services and that the health care provider customarily provides to
36 persons who are not Medicaid recipients.

37 (3) The licensing agency for any health care provider who
38 fails to comply with the provisions of subsection (2) of this
39 section, after a hearing under the laws applicable to the agency,
40 shall suspend or revoke the license of the health care provider
41 until such time as the health care provider agrees to comply with
42 the provisions of subsection (2) of this section.

43 (4) The Division of Medicaid shall adopt regulations to
44 ensure that health care providers who are subject to the
45 provisions of this section actually provide health care services
46 to Medicaid recipients to the same extent as they provide those
47 services to persons who are not Medicaid recipients.

48 **SECTION 2.** Section 73-6-19, Mississippi Code of 1972, is
49 amended as follows:

50 73-6-19. (1) The board shall refuse to grant a certificate
51 of licensure to any applicant or may cancel, revoke or suspend the
52 certificate upon the finding of any of the following facts
53 regarding the applicant or licensed practitioner:

54 (a) Failure to comply with the rules and regulations
55 adopted by the State Board of Chiropractic Examiners;

56 (b) Violation of any of the provisions of this chapter
57 or any of the rules and regulations of the State Board of Health
58 pursuant to this chapter with regard to the operation and use of
59 x-rays;

60 (c) Fraud or deceit in obtaining a license;

61 (d) Addiction to the use of alcohol, narcotic drugs, or
62 anything which would seriously interfere with the competent
63 performance of his professional duties;

64 (e) Conviction by a court of competent jurisdiction of
65 a felony, other than manslaughter or any violation of the United
66 States Revenue Code;

67 (f) Unprofessional and unethical conduct;



68 (g) Contraction of a contagious disease which may be
69 carried for a prolonged period;

70 (h) Failure to report to the Mississippi Department of
71 Human Services or the county attorney any case wherein there are
72 reasonable grounds to believe that a child has been abused by its
73 parent or person responsible for such child's welfare;

74 (i) Advising a patient to use drugs, prescribing or
75 providing drugs for a patient, or advising a patient not to use a
76 drug prescribed by a licensed physician or dentist;

77 (j) Professional incompetency in the practice of
78 chiropractic;

79 (k) Having disciplinary action taken by his peers
80 within any professional chiropractic association or society;

81 (l) Offering to accept or accepting payment for
82 services rendered by assignment from any third-party payor after
83 offering to accept or accepting whatever the third-party payor
84 covers as payment in full, if the effect of the offering or
85 acceptance is to eliminate or give the impression of eliminating
86 the need for payment by an insured of any required deductions
87 applicable in the policy of the insured;

88 (m) Associating his practice with any chiropractor who
89 does not hold a valid chiropractic license in Mississippi, or
90 teach chiropractic manipulation to nonqualified persons under
91 Section 73-6-13;

92 (n) Failure to make payment on chiropractic student
93 loans; * * *

94 (o) Failure to follow record keeping requirements
95 prescribed in Section 73-6-18; or

96 (p) Failure to comply with the provisions of Section 1
97 of this act.

98 (2) Any holder of such certificate or any applicant therefor
99 against whom is preferred any of the designated charges shall be
100 furnished a copy of the complaint and shall receive a formal



101 hearing in Jackson, Mississippi, before the board, at which time
102 he may be represented by counsel and examine witnesses. The board
103 is authorized to administer oaths as may be necessary for the
104 proper conduct of any such hearing. In addition, the board is
105 authorized and empowered to issue subpoenas for the attendance of
106 witnesses and the production of books and papers. The process
107 issued by the board shall extend to all parts of the state. Where
108 in any proceeding before the board any witness shall fail or
109 refuse to attend upon subpoena issued by the board, shall refuse
110 to testify, or shall refuse to produce any books and papers, the
111 production of which is called for by the subpoena, the attendance
112 of such witness and the giving of his testimony and the production
113 of the books and papers shall be enforced by any court of
114 competent jurisdiction of this state in the manner provided for
115 the enforcement of attendance and testimony of witnesses in civil
116 cases in the courts of this state.

117 (3) In addition to any other investigators the board
118 employs, the board shall appoint one or more licensed
119 chiropractors to act for the board in investigating the conduct
120 relating to the competency of a chiropractor, whenever
121 disciplinary action is being considered for professional
122 incompetence and unprofessional conduct.

123 (4) Whenever the board finds any person unqualified to
124 practice chiropractic because of any of the grounds set forth in
125 subsection (1) of this section, after a hearing has been conducted
126 as prescribed by this section, the board may enter an order
127 imposing one or more of the following:

128 (a) Deny his application for a license or other
129 authorization to practice chiropractic;

130 (b) Administer a public or private reprimand;

131 (c) Suspend, limit or restrict his license or other
132 authorization to practice chiropractic for up to five (5) years;



133 (d) Revoke or cancel his license or other authorization
134 to practice chiropractic;

135 (e) Require him to submit to care, counseling or
136 treatment by physicians or chiropractors designated by the board,
137 as a condition for initial, continued or renewal of licensure or
138 other authorization to practice chiropractic;

139 (f) Require him to participate in a program of
140 education prescribed by the board; or

141 (g) Require him to practice under the direction of a
142 chiropractor designated by the board for a specified period of
143 time.

144 (5) Any person whose application for a license or whose
145 license to practice chiropractic has been cancelled, revoked or
146 suspended by the board within thirty (30) days from the date of
147 such final decision shall have the right of a de novo appeal to
148 the circuit court of his county of residence or the Circuit Court
149 of the First Judicial District of Hinds County, Mississippi. If
150 there is an appeal, such appeal may, in the discretion of and on
151 motion to the circuit court, act as a supersedeas. The circuit
152 court shall dispose of the appeal and enter its decision promptly.
153 The hearing on the appeal may, in the discretion of the circuit
154 judge, be tried in vacation. Either party shall have the right of
155 appeal to the Supreme Court as provided by law from any decision
156 of the circuit court.

157 (6) In a proceeding conducted under this section by the
158 board for the revocation, suspension or cancellation of a license
159 to practice chiropractic, after a hearing has been conducted as
160 prescribed by this section, the board shall have the power and
161 authority for the grounds stated in subsection (1) of this
162 section, with the exception of paragraph (c) thereof, to assess
163 and levy upon any person licensed to practice chiropractic in the
164 state a monetary penalty in lieu of such revocation, suspension or
165 cancellation, as follows:



166 (a) For the first violation, a monetary penalty of not
167 less than Five Hundred Dollars (\$500.00) nor more than One
168 Thousand Dollars (\$1,000.00) for each violation.

169 (b) For the second and each subsequent violation, a
170 monetary penalty of not less than One Thousand Dollars (\$1,000.00)
171 nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for
172 each violation.

173 The power and authority of the board to assess and levy such
174 monetary penalties under this section shall not be affected or
175 diminished by any other proceeding, civil or criminal, concerning
176 the same violation or violations. A licensee shall have the right
177 of appeal from the assessment and levy of a monetary penalty as
178 provided in this section to the circuit court under the same
179 conditions as a right of appeal is provided for in this section
180 for appeals from an adverse ruling, or order, or decision of the
181 board. Any monetary penalty assessed and levied under this
182 section shall not take effect until after the time for appeal has
183 expired, and an appeal of the assessment and levy of such a
184 monetary penalty shall act as a supersedeas.

185 (7) In addition to the grounds specified in subsection (1)
186 of this section, the board shall be authorized to suspend the
187 license of any licensee for being out of compliance with an order
188 for support, as defined in Section 93-11-153. The procedure for
189 suspension of a license for being out of compliance with an order
190 for support, and the procedure for the reissuance or reinstatement
191 of a license suspended for that purpose, and the payment of any
192 fees for the reissuance or reinstatement of a license suspended
193 for that purpose, shall be governed by Section 93-11-157 or
194 93-11-163, as the case may be. Actions taken by the board in
195 suspending a license when required by Section 93-11-157 or
196 93-11-163 are not actions from which an appeal may be taken under
197 this section. Any appeal of a license suspension that is required
198 by Section 93-11-157 or 93-11-163 shall be taken in accordance



199 with the appeal procedure specified in Section 93-11-157 or
200 93-11-163, as the case may be, rather than the procedure specified
201 in this section. If there is any conflict between any provision
202 of Section 93-11-157 or 93-11-163 and any provision of this
203 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
204 case may be, shall control.

205 **SECTION 3.** Section 73-9-61, Mississippi Code of 1972, is
206 amended as follows:

207 73-9-61. (1) Upon satisfactory proof, and in accordance
208 with statutory provisions elsewhere set out for such hearings and
209 protecting the rights of the accused as well as the public, the
210 State Board of Dental Examiners may deny the issuance or renewal
211 of a license or may revoke or suspend the license of any licensed
212 dentist or dental hygienist practicing in the State of
213 Mississippi, or take any other action in relation to the license
214 as the board may deem proper under the circumstances, for any of
215 the following reasons:

216 (a) Misrepresentation in obtaining a license, or
217 attempting to obtain, obtaining, attempting to renew or renewing a
218 license or professional credential by making any material
219 misrepresentation, including the signing in his or her
220 professional capacity any certificate that is known to be false at
221 the time he or she makes or signs the certificate.

222 (b) Willful violation of any of the rules or
223 regulations duly promulgated by the board, or of any of the rules
224 or regulations duly promulgated by the appropriate dental
225 licensure agency of another state or jurisdiction.

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



231 (d) Administering, dispensing or prescribing any
232 prescriptive medication or drug outside the course of legitimate
233 professional dental practice.

234 (e) Being convicted or found guilty of or entering a
235 plea of nolo contendere to, regardless of adjudication, a
236 violation of any federal or state law regulating the possession,
237 distribution or use of any narcotic drug or any drug considered a
238 controlled substance under state or federal law, a certified copy
239 of the conviction order or judgment rendered by the trial court
240 being prima facie evidence thereof, notwithstanding the pendency
241 of any appeal.

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

244 (g) Being convicted or found guilty of or entering a
245 plea of nolo contendere to, regardless of adjudication, a crime in
246 any jurisdiction that relates to the practice of dentistry or
247 dental hygiene, a certified copy of the conviction order or
248 judgment rendered by the trial court being prima facie evidence
249 thereof, notwithstanding the pendency of any appeal.

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

255 (i) Delegating professional responsibilities to a
256 person who is not qualified by training, experience or licensure
257 to perform them.

258 (j) The refusal of a licensing authority of another
259 state or jurisdiction to issue or renew a license, permit or
260 certificate to practice dentistry or dental hygiene in that
261 jurisdiction or the revocation, suspension or other restriction
262 imposed on a license, permit or certificate issued by the
263 licensing authority that prevents or restricts practice in that



264 jurisdiction, a certified copy of the disciplinary order or action
265 taken by the other state or jurisdiction being prima facie
266 evidence thereof, notwithstanding the pendency of any appeal.

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

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

274 (i) Committing any crime involving moral
275 turpitude.

276 (ii) Practicing deceit or other fraud upon the
277 public.

278 (iii) Practicing dentistry or dental hygiene under
279 a false or assumed name.

280 (iv) Advertising that is false, deceptive or
281 misleading.

282 (v) Announcing a specialized practice shall be
283 considered advertising that tends to deceive or mislead the public
284 unless the dentist announcing as a specialist conforms to other
285 statutory provisions and the duly promulgated rules or regulations
286 of the board pertaining to practice of dentistry in the State of
287 Mississippi.

288 (m) Failure to provide and maintain reasonable sanitary
289 facilities and conditions or failure to follow board rules
290 regarding infection control.

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

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



296 (ii) Conduct of a licensee that is intended to
297 intimidate, coerce, influence or trick any person employed by or
298 for the licensee in a dental practice or educational setting for
299 the purpose of engaging in sexual activity or activity intended
300 for the sexual gratification of the licensee.

301 (o) Violation of a lawful order of the board previously
302 entered in a disciplinary or licensure hearing; failure to
303 cooperate with any lawful request or investigation by the board;
304 or failure to comply with a lawfully issued subpoena of the board.

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

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

310 (r) Failure to comply with the provisions of Section 1
311 of this act.

312 (2) In lieu of revocation of a license as provided for
313 above, the board may suspend the license of the offending dentist
314 or dental hygienist, suspend the sedation permit of the offending
315 dentist, or take any other action in relation to his or her
316 license as the board may deem proper under the circumstances.

317 (3) When a license to practice dentistry or dental hygiene
318 is revoked or suspended by the board, the board may, in its
319 discretion, stay the revocation or suspension and simultaneously
320 place the licensee on probation upon the condition that the
321 licensee shall not violate the laws of the State of Mississippi
322 pertaining to the practice of dentistry or dental hygiene and
323 shall not violate the rules and regulations of the board and shall
324 not violate any terms in relation to his or her license as may be
325 set by the board.

326 (4) In a proceeding conducted under this section by the
327 board for the denial, revocation or suspension of a license to
328 practice dentistry or dental hygiene, the board shall have the



329 power and authority for the grounds stated for that denial,
330 revocation or suspension, and in addition thereto or in lieu of
331 that denial, revocation or suspension may assess and levy upon any
332 person licensed to practice dentistry or dental hygiene in the
333 State of Mississippi, a monetary penalty, as follows:

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

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

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

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

354 (5) The power and authority of the board to assess and levy
355 monetary penalties under this section shall not be affected or
356 diminished by any other proceeding, civil or criminal, concerning
357 the same violation or violations except as provided in this
358 section.

359 (6) A licensee shall have the right of appeal from the
360 assessment and levy of a monetary penalty as provided in this
361 section under the same conditions as a right of appeal is provided



362 elsewhere for appeals from an adverse ruling, order or decision of
363 the board.

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

368 (8) A monetary penalty assessed and levied under this
369 section shall be paid to the board by the licensee upon the
370 expiration of the period allowed for appeal of those penalties
371 under this section or may be paid sooner if the licensee elects.
372 With the exception of subsection (4)(d) of this section, monetary
373 penalties collected by the board under this section shall be
374 deposited to the credit of the General Fund of the State Treasury.
375 Any monies collected by the board under subsection (4)(d) of this
376 section shall be deposited into the special fund operating account
377 of the board.

378 (9) When payment of a monetary penalty assessed and levied
379 by the board against a licensee in accordance with this section is
380 not paid by the licensee when due under this section, the board
381 shall have power to institute and maintain proceedings in its name
382 for enforcement of payment in the chancery court of the county and
383 judicial district of residence of the licensee, and if the
384 licensee is a nonresident of the State of Mississippi, the
385 proceedings shall be in the Chancery Court of the First Judicial
386 District of Hinds County, Mississippi.

387 (10) In addition to the reasons specified in subsection (1)
388 of this section, the board shall be authorized to suspend the
389 license of any licensee for being out of compliance with an order
390 for support, as defined in Section 93-11-153. The procedure for
391 suspension of a license for being out of compliance with an order
392 for support, and the procedure for the reissuance or reinstatement
393 of a license suspended for that purpose, and the payment of any
394 fees for the reissuance or reinstatement of a license suspended



395 for that purpose, shall be governed by Section 93-11-157 or
396 93-11-163, as the case may be. If there is any conflict between
397 any provision of Section 93-11-157 or 93-11-163 and any provision
398 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
399 as the case may be, shall control.

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

404 **SECTION 4.** Section 73-15-29, Mississippi Code of 1972, is
405 amended as follows:

406 73-15-29. (1) The board shall have power to revoke, suspend
407 or refuse to renew any license issued by the board, or to revoke
408 or suspend any privilege to practice, or to deny an application
409 for a license, or to fine, place on probation and/or discipline a
410 licensee, in any manner specified in this chapter, upon proof that
411 such person:

412 (a) Has committed fraud or deceit in securing or
413 attempting to secure such license;

414 (b) Has been convicted of felony, or a crime involving
415 moral turpitude or has had accepted by a court a plea of nolo
416 contendere to a felony or a crime involving moral turpitude (a
417 certified copy of the judgment of the court of competent
418 jurisdiction of such conviction or pleas shall be prima facie
419 evidence of such conviction);

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

423 (d) Has had a license or privilege to practice as a
424 registered nurse or a licensed practical nurse suspended or
425 revoked in any jurisdiction, has voluntarily surrendered such
426 license or privilege to practice in any jurisdiction, has been
427 placed on probation as a registered nurse or licensed practical



428 nurse in any jurisdiction or has been placed under a disciplinary
429 order(s) in any manner as a registered nurse or licensed practical
430 nurse in any jurisdiction, (a certified copy of the order of
431 suspension, revocation, probation or disciplinary action shall be
432 prima facie evidence of such action);

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

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

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

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

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

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

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

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

459 (m) Has failed to comply with the provisions of Section
460 1 of this act; or



461 (n) Has violated any provision of this chapter.

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

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

468 (b) Administering a reprimand;

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

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

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

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

483 (g) Requiring the discipline to practice under the
484 supervision of a registered nurse for a specified period of time;
485 or

486 (h) Imposing a fine not to exceed Five Hundred Dollars
487 (\$500.00).

488 (3) In addition to the grounds specified in subsection (1)
489 of this section, the board shall be authorized to suspend the
490 license or privilege to practice of any licensee for being out of
491 compliance with an order for support, as defined in Section
492 93-11-153. The procedure for suspension of a license or privilege
493 to practice for being out of compliance with an order for support,



494 and the procedure for the reissuance or reinstatement of a license
495 or privilege to practice suspended for that purpose, and the
496 payment of any fees for the reissuance or reinstatement of a
497 license or privilege to practice suspended for that purpose, shall
498 be governed by Section 93-11-157 or 93-11-163, as the case may be.
499 If there is any conflict between any provision of Section
500 93-11-157 or 93-11-163 and any provision of this chapter, the
501 provisions of Section 93-11-157 or 93-11-163, as the case may be,
502 shall control.

503 **SECTION 5.** Section 73-19-23, Mississippi Code of 1972, is
504 amended as follows:

505 73-19-23. (1) The board shall refuse to grant a certificate
506 of licensure to any applicant and may cancel, revoke or suspend
507 the operation of any certificate by it granted for any or all of
508 the following reasons * * *: unprofessional and unethical conduct
509 or the conviction of a crime involving moral turpitude, habitual
510 intemperance in the use of ardent spirits, or stimulants,
511 narcotics, or any other substance which impairs the intellect and
512 judgment to such an extent as to incapacitate one for the
513 performance of the duties of an optometrist. The certificate of
514 licensure of any person can be revoked for violating any section
515 of this chapter.

516 (2) The board shall further be authorized to take
517 disciplinary action against a licensee for any unlawful acts which
518 shall include violations of regulations promulgated by the board,
519 as well as the following acts:

520 (a) Fraud or misrepresentation in applying for or
521 procuring an optometric license or in connection with applying for
522 or procuring periodic renewal of an optometric license.

523 (b) Cheating on or attempting to subvert the optometric
524 licensing examination(s).



525 (c) The conviction of a felony in this state or any
526 other jurisdiction, or the entry of guilty or nolo contendere plea
527 to a felony charge.

528 (d) The conviction of a felony as defined by federal
529 law, or the entry of a guilty or nolo contendere plea to a felony
530 charge.

531 (e) Conduct likely to deceive, defraud or harm the
532 public.

533 (f) Making a false or misleading statement regarding
534 his or her skill or the efficacy or value of the medicine, device,
535 treatment or remedy prescribed by him or her or used at his or her
536 direction in the treatment of any disease or other condition.

537 (g) Willfully or negligently violating the
538 confidentiality between doctor and patient, except as required by
539 law.

540 (h) Negligence or gross incompetence in the practice of
541 optometry as determined by the board.

542 (i) Being found mentally incompetent or insane by any
543 court of competent jurisdiction.

544 (j) The use of any false, fraudulent, deceptive or
545 misleading statement in any document connected with the practice
546 of optometry.

547 (k) Aiding or abetting the practice of optometry by an
548 unlicensed, incompetent or impaired person.

549 (l) Commission of any act of sexual abuse, misconduct
550 or exploitation related to the licensee's practice of optometry.

551 (m) Being addicted or habituated to a drug or
552 intoxicant.

553 (n) Violating any state or federal law or regulation
554 relating to a drug legally classified as a controlled substance.

555 (o) Obtaining any fee by fraud, deceit or
556 misrepresentation.



557 (p) Disciplinary action of another state or
558 jurisdiction against a licensee or other authorization to practice
559 optometry based upon acts or conduct by the licensee similar to
560 acts or conduct which would constitute grounds for action as
561 defined in this chapter, a certified copy of the record of the
562 action taken by the other state or jurisdiction being conclusive
563 evidence thereof.

564 (q) Failure to report to the board the relocation of
565 his or her office in or out of the jurisdiction, or to furnish
566 floor plans as required by regulation.

567 (r) Violation of any provision(s) of the Optometry
568 Practice Act or the rules and regulations of the board or of an
569 action, stipulation or agreement of the board.

570 (s) To advertise in a manner that tends to deceive,
571 mislead or defraud the public.

572 (t) The designation of any person licensed under this
573 chapter, other than by the terms "optometrist," "Doctor of
574 Optometry" or "O.D."

575 (u) To knowingly submit or cause to be submitted any
576 misleading, deceptive or fraudulent representation on a claim
577 form, bill or statement.

578 (v) To practice or attempt to practice optometry while
579 his or her license is suspended.

580 (w) Failure to comply with the provisions of Section 1
581 of this act.

582 (3) Any person who is holder of a certificate of licensure
583 or who is an applicant for examination for a certificate of
584 licensure, against whom is preferred any charges, shall be
585 furnished by the board with a copy of the complaint and shall have
586 a hearing in Jackson, Mississippi, before the board, at which
587 hearing he may be represented by counsel. At such hearing
588 witnesses may be examined for and against the accused respecting
589 the * * * charges, and the hearing orders or appeals will be



590 conducted according to the procedure now provided in Section
591 73-25-27. The suspension of a certificate of licensure, by reason
592 of the use of stimulants or narcotics may be removed when the
593 holder thereof shall have been adjudged by the * * * board to be
594 cured and capable of practicing optometry.

595 (4) In addition to the reasons specified in subsections (1)
596 and (2) of this section, the board shall be authorized to suspend
597 the license of any licensee for being out of compliance with an
598 order for support, as defined in Section 93-11-153. The procedure
599 for suspension of a license for being out of compliance with an
600 order for support, and the procedure for the reissuance or
601 reinstatement of a license suspended for that purpose, and the
602 payment of any fees for the reissuance or reinstatement of a
603 license suspended for that purpose, shall be governed by Section
604 93-11-157 or 93-11-163, as the case may be. If there is any
605 conflict between any provision of Section 93-11-157 or 93-11-163
606 and any provision of this chapter, the provisions of Section 93-
607 11-157 or 93-11-163, as the case may be, shall control.

608 **SECTION 6.** Section 73-21-97, Mississippi Code of 1972, is
609 amended as follows:

610 73-21-97. (1) The board may refuse to issue or renew, or
611 may suspend, reprimand, revoke or restrict the license,
612 registration or permit of any person upon one or more of the
613 following grounds:

614 (a) Unprofessional conduct as defined by the rules and
615 regulations of the board;

616 (b) Incapacity of a nature that prevents a pharmacist
617 from engaging in the practice of pharmacy with reasonable skill,
618 confidence and safety to the public;

619 (c) Being found guilty by a court of competent
620 jurisdiction of one or more of the following:

621 (i) A felony;



622 (ii) Any act involving moral turpitude or gross
623 immorality; or

624 (iii) Violation of pharmacy or drug laws of this
625 state or rules or regulations pertaining thereto, or of statutes,
626 rules or regulations of any other state or the federal government;

627 (d) Fraud or intentional misrepresentation by a
628 licensee or permit holder in securing the issuance or renewal of a
629 license or permit;

630 (e) Engaging or aiding and abetting an individual to
631 engage in the practice of pharmacy without a license;

632 (f) Violation of any of the provisions of this chapter
633 or rules or regulations adopted pursuant to this chapter;

634 (g) Failure to comply with lawful orders of the board;

635 (h) Negligently or willfully acting in a manner
636 inconsistent with the health or safety of the public;

637 (i) Addiction to or dependence on alcohol or controlled
638 substances or the unauthorized use or possession of controlled
639 substances;

640 (j) Misappropriation of any prescription drug;

641 (k) Being found guilty by the licensing agency in
642 another state of violating the statutes, rules or regulations of
643 that jurisdiction; * * *

644 (l) The unlawful or unauthorized possession of a
645 controlled substance; or

646 (m) Failure to comply with the provisions of Section 1
647 of this act.

648 (2) In lieu of suspension, revocation or restriction of a
649 license as provided for above, the board may warn or reprimand the
650 offending pharmacist.

651 (3) In addition to the grounds specified in subsection (1)
652 of this section, the board shall be authorized to suspend the
653 license, registration or permit of any person for being out of
654 compliance with an order for support, as defined in Section



655 93-11-153. The procedure for suspension of a license,
656 registration or permit for being out of compliance with an order
657 for support, and the procedure for the reissuance or reinstatement
658 of a license, registration or permit suspended for that purpose,
659 and the payment of any fees for the reissuance or reinstatement of
660 a license, registration or permit suspended for that purpose,
661 shall be governed by Section 93-11-157 or 93-11-163, as the case
662 may be. If there is any conflict between any provision of Section
663 93-11-157 or 93-11-163 and any provision of this chapter, the
664 provisions of Section 93-11-157 or 93-11-163, as the case may be,
665 shall control.

666 **SECTION 7.** Section 73-23-59, Mississippi Code of 1972, is
667 amended as follows:

668 73-23-59. (1) Licensees subject to this chapter shall
669 conduct their activities, services and practice in accordance with
670 this chapter and any rules promulgated pursuant hereto. Licensees
671 may be subject to the exercise of the disciplinary sanction
672 enumerated in Section 73-23-64 if the board finds that a licensee
673 is guilty of any of the following:

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

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

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

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



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

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

694 (g) Continued practice although the licensee has become
695 unfit to practice as a physical therapist or physical therapist
696 assistant due to: (i) failure to keep abreast of current
697 professional theory or practice; or (ii) physical or mental
698 disability; the entry of an order or judgment by a court of
699 competent jurisdiction that a licensee is in need of mental
700 treatment or is incompetent shall constitute mental disability; or
701 (iii) addiction or severe dependency upon alcohol or other drugs
702 which may endanger the public by impairing the licensee's ability
703 to practice;

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

706 (i) Making differential, detrimental treatment against
707 any person because of race, color, creed, sex, religion or
708 national origin;

709 (j) Engaging in lewd conduct in connection with
710 professional services or activities;

711 (k) Engaging in false or misleading advertising;

712 (l) Contracting, assisting or permitting unlicensed
713 persons to perform services for which a license is required under
714 this chapter;

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

717 (n) Revealing confidential information except as may be
718 required by law;



719 (o) Failing to inform clients of the fact that the
720 client no longer needs the services or professional assistance of
721 the licensee;

722 (p) Charging excessive or unreasonable fees or engaging
723 in unreasonable collection practices;

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

727 (r) For applying or offering to apply physical therapy,
728 exclusive of initial evaluation or screening and exclusive of
729 education or consultation for the prevention of physical and
730 mental disability within the scope of physical therapy, other than
731 upon the referral of a licensed physician, dentist, osteopath,
732 podiatrist, chiropractor or nurse practitioner; or for acting as a
733 physical therapist assistant other than under the direct, on-site
734 supervision of a licensed physical therapist;

735 (s) Violations of the current codes of conduct for
736 physical therapists and physical therapy assistants adopted by the
737 American Physical Therapy Association;

738 (t) Failure to comply with the provisions of Section 1
739 of this act;

740 (u) Violations of any rules or regulations promulgated
741 pursuant to this chapter.

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

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

749 (4) In addition to the reasons specified in subsection (1)
750 of this section, the board shall be authorized to suspend the
751 license of any licensee for being out of compliance with an order



752 for support, as defined in Section 93-11-153. The procedure for
753 suspension of a license for being out of compliance with an order
754 for support, and the procedure for the reissuance or reinstatement
755 of a license suspended for that purpose, and the payment of any
756 fees for the reissuance or reinstatement of a license suspended
757 for that purpose, shall be governed by Section 93-11-157 or
758 93-11-163, as the case may be. If there is any conflict between
759 any provision of Section 93-11-157 or 93-11-163 and any provision
760 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
761 as the case may be, shall control.

762 **SECTION 8.** Section 73-24-24, Mississippi Code of 1972, is
763 amended as follows:

764 73-24-24. (1) Licensees subject to this chapter shall
765 conduct their activities, services and practice in accordance with
766 this chapter and any rules promulgated pursuant hereto. Licenses
767 may be subject to the exercise of the disciplinary sanction
768 enumerated in Section 73-24-25 if the board finds that a licensee
769 is guilty of any of the following:

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

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

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

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

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



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

790 (g) Continued practice although the licensee has become
791 unfit to practice as an occupational therapist or occupational
792 therapist assistant due to: (i) failure to keep abreast of
793 current professional theory or practice; or (ii) physical or
794 mental disability; the entry of an order or judgment by a court of
795 competent jurisdiction that a licensee is in need of mental
796 treatment or is incompetent shall constitute mental disability; or
797 (iii) addiction or severe dependency upon alcohol or other drugs
798 which may endanger the public by impairing the licensee's ability
799 to practice;

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

802 (i) Making differential, detrimental treatment against
803 any person because of race, color, creed, sex, religion or
804 national origin;

805 (j) Engaging in lewd conduct in connection with
806 professional services or activities;

807 (k) Engaging in false or misleading advertising;

808 (l) Contracting, assisting or permitting unlicensed
809 persons to perform services for which a license is required under
810 this chapter;

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

813 (n) Revealing confidential information except as may be
814 required by law;

815 (o) Failing to inform clients of the fact that the
816 client no longer needs the services or professional assistance of
817 the licensee;



818 (p) Charging excessive or unreasonable fees or engaging
819 in unreasonable collection practices;

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

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

825 (s) Violations of the current codes of conduct for
826 occupational therapists and occupational therapy assistants
827 adopted by the American Occupational Therapy Association;

828 (t) Failure to comply with the provisions of Section 1
829 of this act;

830 (u) Violations of any rules or regulations promulgated
831 pursuant to this chapter.

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

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

839 **SECTION 9.** Section 73-25-29, Mississippi Code of 1972, is
840 amended as follows:

841 73-25-29. The grounds for the nonissuance, suspension,
842 revocation or restriction of a license or the denial of
843 reinstatement or renewal of a license are:

844 (a) Habitual personal use of narcotic drugs, or any
845 other drug having addiction-forming or addiction-sustaining
846 liability.

847 (b) Habitual use of intoxicating liquors, or any
848 beverage, to an extent which affects professional competency.

849 (c) Administering, dispensing or prescribing any
850 narcotic drug, or any other drug having addiction-forming or



851 addiction-sustaining liability otherwise than in the course of
852 legitimate professional practice.

853 (d) Conviction of violation of any federal or state law
854 regulating the possession, distribution or use of any narcotic
855 drug or any drug considered a controlled substance under state or
856 federal law, a certified copy of the conviction order or judgment
857 rendered by the trial court being prima facie evidence thereof,
858 notwithstanding the pendency of any appeal.

859 (e) Procuring, or attempting to procure, or aiding in,
860 an abortion that is not medically indicated.

861 (f) Conviction of a felony or misdemeanor involving
862 moral turpitude, a certified copy of the conviction order or
863 judgment rendered by the trial court being prima facie evidence
864 thereof, notwithstanding the pendency of any appeal.

865 (g) Obtaining or attempting to obtain a license by
866 fraud or deception.

867 (h) Unprofessional conduct, which includes, but is not
868 limited to:

869 (i) Practicing medicine under a false or assumed
870 name or impersonating another practitioner, living or dead.

871 (ii) Knowingly performing any act which in any way
872 assists an unlicensed person to practice medicine.

873 (iii) Making or willfully causing to be made any
874 flamboyant claims concerning the licensee's professional
875 excellence.

876 (iv) Being guilty of any dishonorable or unethical
877 conduct likely to deceive, defraud or harm the public.

878 (v) Obtaining a fee as personal compensation or
879 gain from a person on fraudulent representation a disease or
880 injury condition generally considered incurable by competent
881 medical authority in the light of current scientific knowledge and
882 practice can be cured or offering, undertaking, attempting or



883 agreeing to cure or treat the same by a secret method, which he
884 refuses to divulge to the board upon request.

885 (vi) Use of any false, fraudulent or forged
886 statement or document, or the use of any fraudulent, deceitful,
887 dishonest or immoral practice in connection with any of the
888 licensing requirements, including the signing in his professional
889 capacity any certificate that is known to be false at the time he
890 makes or signs such certificate.

891 (vii) Failing to identify a physician's school of
892 practice in all professional uses of his name by use of his earned
893 degree or a description of his school of practice.

894 (i) The refusal of a licensing authority of another
895 state or jurisdiction to issue or renew a license, permit or
896 certificate to practice medicine in that jurisdiction or the
897 revocation, suspension or other restriction imposed on a license,
898 permit or certificate issued by such licensing authority which
899 prevents or restricts practice in that jurisdiction, a certified
900 copy of the disciplinary order or action taken by the other state
901 or jurisdiction being prima facie evidence thereof,
902 notwithstanding the pendency of any appeal.

903 (j) Surrender of a license or authorization to practice
904 medicine in another state or jurisdiction or surrender of
905 membership on any medical staff or in any medical or professional
906 association or society while under disciplinary investigation by
907 any of those authorities or bodies for acts or conduct similar to
908 acts or conduct which would constitute grounds for action as
909 defined in this section.

910 (k) Final sanctions imposed by the United States
911 Department of Health and Human Services, Office of Inspector
912 General or any successor federal agency or office, based upon a
913 finding of incompetency, gross misconduct or failure to meet
914 professionally recognized standards of health care; a certified
915 copy of the notice of final sanction being prima facie evidence



916 thereof. As used in this paragraph, the term "final sanction"
917 means the written notice to a physician from the United States
918 Department of Health and Human Services, Officer of Inspector
919 General or any successor federal agency or office, which
920 implements the exclusion.

921 (l) Failure to furnish the board, its investigators or
922 representatives information legally requested by the board.

923 (m) Failure to comply with the provisions of Section 1
924 of this act.

925 (n) Violation of any provision(s) of the Medical
926 Practice Act or the rules and regulations of the board or of any
927 order, stipulation or agreement with the board.

928 In addition to the grounds specified above, the board shall
929 be authorized to suspend the license of any licensee for being out
930 of compliance with an order for support, as defined in Section
931 93-11-153. The procedure for suspension of a license for being
932 out of compliance with an order for support, and the procedure for
933 the reissuance or reinstatement of a license suspended for that
934 purpose, and the payment of any fees for the reissuance or
935 reinstatement of a license suspended for that purpose, shall be
936 governed by Section 93-11-157 or 93-11-163, as the case may be.
937 If there is any conflict between any provision of Section
938 93-11-157 or 93-11-163 and any provision of this chapter, the
939 provisions of Section 93-11-157 or 93-11-163, as the case may be,
940 shall control.

941 **SECTION 10.** Section 73-26-5, Mississippi Code of 1972, is
942 amended as follows:

943 73-26-5. (1) The board shall promulgate and publish
944 reasonable rules and regulations necessary to enable it to
945 discharge its functions and to enforce the provisions of law
946 regulating the practice of physician assistants. Those rules
947 shall include, but are not limited to: qualifications for
948 licensure for physician assistants; scope of practice of physician



949 assistants; supervision of physician assistants; identification of
950 physician assistants; grounds for disciplinary actions and
951 discipline of physician assistants; and setting and charging
952 reasonable fees for licensure and license renewals for physician
953 assistants. However, nothing in this chapter or in rules adopted
954 by the board shall authorize physician assistants to administer or
955 monitor general inhaled anesthesia, epidural anesthesia, spinal
956 anesthesia or monitored anesthesia as utilized in surgical
957 procedures.

958 (2) The board shall suspend or revoke the license of a
959 physician assistant who fails to comply with the provisions of
960 Section 1 of this act.

961 (3) If the board appoints a task force or committee to
962 address physician assistant regulation, at least one (1) member of
963 the task force shall be a nurse practitioner who is a member of
964 the Mississippi Board of Nursing or a nurse practitioner appointee
965 selected by the board from a list of three (3) recommendations
966 submitted by the Mississippi Nurses Association, and at least one
967 (1) member shall be a physician assistant selected by the board
968 from a list of three (3) recommendations submitted by the
969 Mississippi Academy of Physician Assistants.

970 **SECTION 11.** Section 73-27-13, Mississippi Code of 1972, is
971 amended as follows:

972 73-27-13. (1) The State Board of Medical Licensure may
973 refuse to issue, suspend, revoke or otherwise restrict any license
974 provided for in this chapter, with the advice of the advisory
975 committee, based upon the following grounds:

976 (a) Habitual personal use of narcotic drugs, or any
977 other drug having addiction-forming or addiction-sustaining
978 liability.

979 (b) Habitual use of intoxicating liquors, or any
980 beverage, to an extent which affects professional competency.



981 (c) Administering, dispensing or prescribing any
982 narcotic drug, or any other drug having addiction-forming or
983 addiction-sustaining liability otherwise than in the course of
984 legitimate professional practice.

985 (d) Conviction of violation of any federal or state law
986 regulating the possession, distribution or use of any narcotic
987 drug or any drug considered a controlled substance under state or
988 federal law.

989 (e) Performing any medical diagnosis or treatment
990 outside the scope of podiatry as defined in Section 73-27-1.

991 (f) Conviction of a felony or misdemeanor involving
992 moral turpitude.

993 (g) Obtaining or attempting to obtain a license by
994 fraud or deception.

995 (h) Unprofessional conduct, which includes, but is not
996 limited to:

997 (i) Practicing medicine under a false or assumed
998 name or impersonating another practitioner, living or dead.

999 (ii) Knowingly performing any act which in any way
1000 assists an unlicensed person to practice podiatry.

1001 (iii) Making or willfully causing to be made any
1002 flamboyant claims concerning the licensee's professional
1003 excellence.

1004 (iv) Being guilty of any dishonorable or unethical
1005 conduct likely to deceive, defraud or harm the public.

1006 (v) Obtaining a fee as personal compensation or
1007 gain from a person on fraudulent representation a disease or
1008 injury condition generally considered incurable by competent
1009 medical authority in the light of current scientific knowledge and
1010 practice can be cured or offering, undertaking, attempting or
1011 agreeing to cure or treat the same by a secret method, which he
1012 refuses to divulge to the board upon request.



1013 (vi) Use of any false, fraudulent or forged
1014 statement or document, or the use of any fraudulent, deceitful,
1015 dishonest or immoral practice in connection with any of the
1016 licensing requirements, including the signing in his professional
1017 capacity any certificate that is known to be false at the time he
1018 makes or signs such certificate.

1019 (vii) Failing to identify a podiatrist's school of
1020 practice in all professional uses of his name by use of his earned
1021 degree or a description of his school of practice.

1022 (i) The refusal of a licensing authority of another
1023 state to issue or renew a license, permit or certificate to
1024 practice podiatry in that state or the revocation, suspension or
1025 other restriction imposed on a license, permit or certificate
1026 issued by such licensing authority which prevents or restricts
1027 practice in that state.

1028 (j) Failure to comply with the provisions of Section 1
1029 of this act.

1030 (2) Upon the nonissuance, suspension or revocation of a
1031 license to practice podiatry, the board may, in its discretion and
1032 with the advice of the advisory committee, reissue a license after
1033 a lapse of six (6) months. No advertising shall be permitted
1034 except regular professional cards.

1035 (3) In its investigation of whether the license of a
1036 podiatrist should be suspended, revoked or otherwise restricted,
1037 the board may inspect patient records in accordance with the
1038 provisions of Section 73-25-28.

1039 (4) In addition to the grounds specified in subsection (1)
1040 of this section, the board shall be authorized to suspend the
1041 license of any licensee for being out of compliance with an order
1042 for support, as defined in Section 93-11-153. The procedure for
1043 suspension of a license for being out of compliance with an order
1044 for support, and the procedure for the reissuance or reinstatement
1045 of a license suspended for that purpose, and the payment of any



1046 fees for the reissuance or reinstatement of a license suspended
1047 for that purpose, shall be governed by Section 93-11-157 or
1048 93-11-163, as the case may be. If there is any conflict between
1049 any provision of Section 93-11-157 or 93-11-163 and any provision
1050 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
1051 as the case may be, shall control.

1052 **SECTION 12.** Section 73-31-21, Mississippi Code of 1972, is
1053 amended as follows:

1054 73-31-21. (1) The board, by an affirmative vote of at least
1055 four (4) of its seven (7) members, shall withhold, deny, revoke or
1056 suspend any license issued or applied for in accordance with the
1057 provisions of this chapter, or otherwise discipline a licensed
1058 psychologist, upon proof that the applicant or licensed
1059 psychologist:

1060 (a) Has violated the current code of ethics of the
1061 American Psychological Association or other codes of ethical
1062 standards adopted by the board; or

1063 (b) Has been convicted of a felony or any offense
1064 involving moral turpitude, the record of conviction being
1065 conclusive evidence thereof; or

1066 (c) Is using any narcotic or any alcoholic beverage to
1067 an extent or in a manner dangerous to any other person or the
1068 public, or to an extent that such use impairs his ability to
1069 perform the work of a professional psychologist with safety to the
1070 public; or

1071 (d) Has impersonated another person holding a
1072 psychologist license or allowed another person to use his license;
1073 or

1074 (e) Has used fraud or deception in applying for a
1075 license or in taking an examination provided for in this chapter;
1076 or



1077 (f) Has accepted commissions or rebates or other forms
1078 of remuneration for referring clients to other professional
1079 persons; or

1080 (g) Has allowed his name or license issued under this
1081 chapter to be used in connection with any person or persons who
1082 perform psychological services outside of the area of their
1083 training, experience or competence; or

1084 (h) Is legally adjudicated mentally incompetent, the
1085 record of such adjudication being conclusive evidence thereof; or

1086 (i) Has willfully or negligently violated any of the
1087 provisions of this chapter. The board may recover from any person
1088 disciplined under this chapter, the costs of investigation,
1089 prosecution, and adjudication of the disciplinary action; or

1090 (j) Has failed to comply with the provisions of Section
1091 1 of this act.

1092 (2) Notice shall be effected by registered mail or personal
1093 service setting forth the particular reasons for the proposed
1094 action and fixing a date not less than thirty (30) days nor more
1095 than sixty (60) days from the date of such mailing or such
1096 service, at which time the applicant or licentiate shall be given
1097 an opportunity for a prompt and fair hearing. For the purpose of
1098 such hearing the board, acting by and through its executive
1099 secretary, may subpoena persons and papers on its own behalf and
1100 on behalf of the applicant or licentiate, may administer oaths and
1101 may take testimony. Such testimony, when properly transcribed,
1102 together with such papers and exhibits, shall be admissible in
1103 evidence for or against the applicant or licentiate. At such
1104 hearing applicant or licentiate may appear by counsel and
1105 personally in his own behalf. Any person sworn and examined by a
1106 witness in such hearing shall not be held to answer criminally,
1107 nor shall any papers or documents produced by such witness be
1108 competent evidence in any criminal proceedings against such
1109 witness other than for perjury in delivering his evidence. On the



1110 basis of any such hearing, or upon default of applicant or
1111 licentiate, the board shall make a determination specifying its
1112 findings of fact and conclusions of law. A copy of such
1113 determination shall be sent by registered mail or served
1114 personally upon the applicant or licentiate. The decision of the
1115 board denying, revoking or suspending the license shall become
1116 final thirty (30) days after so mailed or served unless within
1117 that period the licentiate appeals the decision to the chancery
1118 court, pursuant to the provisions hereof, and the proceedings in
1119 chancery shall be conducted as other matters coming before the
1120 court. All proceedings and evidence, together with exhibits,
1121 presented at such hearing before the board in the event of appeal
1122 shall be admissible in evidence in the court.

1123 (3) The board may subpoena persons and papers on its own
1124 behalf and on behalf of the respondent, may administer oaths and
1125 may compel the testimony of witnesses. It may issue commissions
1126 to take testimony, and testimony so taken and sworn to shall be
1127 admissible in evidence for and against the respondent. The board
1128 shall be entitled to the assistance of the chancery court or the
1129 chancellor in vacation, which, on petition by the board, shall
1130 issue ancillary subpoenas and petitions and may punish as for
1131 contempt of court in the event of noncompliance therewith.

1132 (4) Every order and judgment of the board shall take effect
1133 immediately on its promulgation unless the board in such order or
1134 judgment fixes a probationary period for applicant or licentiate.
1135 Such order and judgment shall continue in effect unless upon
1136 appeal the court by proper order or decree terminates it earlier.
1137 The board may make public its order and judgments in such manner
1138 and form as it deems proper. It shall, in event of the suspension
1139 or revocation of a license, direct the clerk of the circuit court
1140 of the county in which that license was recorded to cancel such
1141 record.



1142 (5) Nothing in this section shall be construed as limiting
1143 or revoking the authority of any court or of any licensing or
1144 registering officer or board, other than the Mississippi Board of
1145 Psychology, to suspend, revoke and reinstate licenses and to
1146 cancel registrations under the provisions of Section 41-29-311.

1147 (6) Suspension by the board of the license of a psychologist
1148 shall be for a period not exceeding one (1) year. At the end of
1149 this period the board shall reevaluate the suspension, and shall
1150 either reinstate or revoke the license. A person whose license
1151 has been revoked under the provisions of this section may reapply
1152 for license after more than two (2) years have elapsed from the
1153 date such denial or revocation is legally effective.

1154 (7) In addition to the reasons specified in subsection (1)
1155 of this section, the board shall be authorized to suspend the
1156 license of any licensee for being out of compliance with an order
1157 for support, as defined in Section 93-11-153. The procedure for
1158 suspension of a license for being out of compliance with an order
1159 for support, and the procedure for the reissuance or reinstatement
1160 of a license suspended for that purpose, and the payment of any
1161 fees for the reissuance or reinstatement of a license suspended
1162 for that purpose, shall be governed by Section 93-11-157. Actions
1163 taken by the board in suspending a license when required by
1164 Section 93-11-157 or 93-11-163 are not actions from which an
1165 appeal may be taken under this section. Any appeal of a license
1166 suspension that is required by Section 93-11-157 or 93-11-163
1167 shall be taken in accordance with the appeal procedure specified
1168 in Section 93-11-157 or 93-11-163, as the case may be, rather than
1169 the procedure specified in this section. If there is any conflict
1170 between any provision of Section 93-11-157 or 93-11-163 and any
1171 provision of this chapter, the provisions of Section 93-11-157 or
1172 93-11-163, as the case may be, shall control.

1173 (8) This section shall stand repealed from and after July 1,
1174 2011.



1175 **SECTION 13.** Section 73-38-27, Mississippi Code of 1972, is
1176 amended as follows:

1177 73-38-27. (1) The board may refuse to issue or renew a
1178 license, or may suspend or revoke a license where the licensee or
1179 applicant for license has been guilty of unprofessional conduct
1180 which has endangered or is likely to endanger the health, welfare
1181 or safety of the public. Such unprofessional conduct may result
1182 from:

1183 (a) Negligence in the practice or performance of
1184 professional services or activities;

1185 (b) Engaging in dishonorable, unethical or
1186 unprofessional conduct of a character likely to deceive, defraud
1187 or harm the public in the course of professional services or
1188 activities;

1189 (c) Perpetrating or cooperating in fraud or material
1190 deception in obtaining or renewing a license or attempting the
1191 same;

1192 (d) Being convicted of any crime which has a
1193 substantial relationship to the licensee's activities and services
1194 or an essential element of which is misstatement, fraud or
1195 dishonesty;

1196 (e) Being convicted of any crime which is a felony
1197 under the laws of this state or the United States;

1198 (f) Engaging in or permitting the performance of
1199 unacceptable services personally or by others working under the
1200 licensee's supervision due to the licensee's deliberate or
1201 negligent act or acts or failure to act, regardless of whether
1202 actual damage or damages to the public is established;

1203 (g) Continued practice although the licensee has become
1204 unfit to practice as a speech-language pathologist or audiologist
1205 due to: (i) failure to keep abreast of current professional
1206 theory or practice; or (ii) physical or mental disability; the
1207 entry of an order or judgment by a court of competent jurisdiction



1208 that a licensee is in need of mental treatment or is incompetent
1209 shall constitute mental disability; or (iii) addiction or severe
1210 dependency upon alcohol or other drugs which may endanger the
1211 public by impairing the licensee's ability to practice;

1212 (h) Having disciplinary action taken against the
1213 licensee's license in another state;

1214 (i) Making differential, detrimental treatment against
1215 any person because of race, color, creed, sex, religion or
1216 national origin;

1217 (j) Engaging in lewd conduct in connection with
1218 professional services or activities;

1219 (k) Engaging in false or misleading advertising;

1220 (l) Contracting, assisting or permitting unlicensed
1221 persons to perform services for which a license is required under
1222 this chapter;

1223 (m) Violation of any probation requirements placed on a
1224 license by the board;

1225 (n) Revealing confidential information except as may be
1226 required by law;

1227 (o) Failing to inform clients of the fact that the
1228 client no longer needs the services or professional assistance of
1229 the licensee;

1230 (p) Charging excessive or unreasonable fees or engaging
1231 in unreasonable collection practices;

1232 (q) For treating or attempting to treat ailments or
1233 other health conditions of human beings other than by speech or
1234 audiology therapy as authorized by this chapter;

1235 (r) For applying or offering to apply speech or
1236 audiology therapy, exclusive of initial evaluation or screening
1237 and exclusive of education or consultation for the prevention of
1238 physical and mental disability within the scope of speech or
1239 audiology therapy, or for acting as a speech-language pathologist
1240 or audiologist, or speech-language pathologist or audiologist aide



1241 other than under the direct, on-site supervision of a licensed
1242 speech-language pathologist or audiologist;

1243 (s) Violations of the current codes of conduct for
1244 speech-language pathologists or audiologists, and speech-language
1245 pathologist or audiologist assistants adopted by the American
1246 Speech-Language-Hearing Association;

1247 (t) Failure to comply with the provisions of Section 1
1248 of this act.

1249 (u) Violations of any rules or regulations promulgated
1250 pursuant to this chapter.

1251 (2) The board may order a licensee to submit to a reasonable
1252 physical or mental examination if the licensee's physical or
1253 mental capacity to practice safely is at issue in a disciplinary
1254 proceeding.

1255 (3) In addition to the reasons specified in subsection (1)
1256 of this section, the board shall be authorized to suspend the
1257 license of any licensee for being out of compliance with an order
1258 for support, as defined in Section 93-11-153. The procedure for
1259 suspension of a license for being out of compliance with an order
1260 for support, and the procedure for the reissuance or reinstatement
1261 of a license suspended for that purpose, and the payment of any
1262 fees for the reissuance or reinstatement of a license suspended
1263 for that purpose, shall be governed by Section 93-11-157 or
1264 93-11-163, as the case may be. If there is any conflict between
1265 any provision of Section 93-11-157 or 93-11-163 and any provision
1266 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
1267 as the case may be, shall control.

1268 **SECTION 14.** Section 73-57-31, Mississippi Code of 1972, is
1269 amended as follows:

1270 73-57-31. (1) The board may revoke, suspend or refuse to
1271 renew any license or permit, or place on probation, or otherwise
1272 reprimand a licensee or permit holder, or deny a license to an
1273 applicant if it finds that person:



1274 (a) Is guilty of fraud or deceit in procuring or
1275 attempting to procure a license or renewal of a license to
1276 practice respiratory care.

1277 (b) Is unfit or incompetent by reason of negligence,
1278 habits or other causes of incompetency.

1279 (c) Is habitually intemperate in the use of alcoholic
1280 beverages.

1281 (d) Is addicted to, or has improperly obtained,
1282 possessed, used or distributed habit-forming drugs or narcotics.

1283 (e) Is guilty of dishonest or unethical conduct.

1284 (f) Has practiced respiratory care after his license or
1285 permit has expired or has been suspended.

1286 (g) Has practiced respiratory care under cover of any
1287 permit or license illegally or fraudulently obtained or issued.

1288 (h) Has failed to comply with the provisions of Section
1289 1 of this act.

1290 (i) Has violated or aided or abetted others in
1291 violation of any provision of this chapter.

1292 (2) In addition to the reasons specified in subsection (1)
1293 of this section, the board shall be authorized to suspend the
1294 license or permit of any licensee or permit holder for being out
1295 of compliance with an order for support, as defined in Section 93-
1296 11-153. The procedure for suspension of a license or permit for
1297 being out of compliance with an order for support, and the
1298 procedure for the reissuance or reinstatement of a license or
1299 permit suspended for that purpose, and the payment of any fees for
1300 the reissuance or reinstatement of a license or permit suspended
1301 for that purpose, shall be governed by Section 93-11-157 or 93-11-
1302 163, as the case may be. If there is any conflict between any
1303 provision of Section 93-11-157 or 93-11-163 and any provision of
1304 this chapter, the provisions of Section 93-11-157 or 93-11-163, as
1305 the case may be, shall control.



1306 **SECTION 15.** This act shall take effect and be in force from
1307 and after July 1, 2003.

