

By: Representative Sanford

To: Judiciary A

HOUSE BILL NO. 1265

1 AN ACT TO PROVIDE THAT A PARTY WHO IS ADVERSELY AFFECTED BY
2 FINAL AGENCY ACTION IS ENTITLED TO JUDICIAL REVIEW; TO PROVIDE
3 THAT A PERSON MAY SEEK JUDICIAL REVIEW IN THE CHANCERY COURT OF
4 THE COUNTY IN WHICH THE APPELLANT RESIDES OR THE CHANCERY COURT OF
5 THE FIRST JUDICIAL DISTRICT OF HINDS COUNTY; TO PROVIDE THAT ALL
6 PROCEEDINGS SHALL BE INSTITUTED BY FILING A NOTICE OF APPEAL OR
7 PETITION FOR REVIEW IN ACCORDANCE WITH THE MISSISSIPPI RULES OF
8 APPELLATE PROCEDURE WITHIN THIRTY DAYS AFTER THE RENDITION OF THE
9 ORDER BEING APPEALED; TO PROVIDE THAT IF THE AGENCY DECISION HAS
10 THE EFFECT OF SUSPENDING OR REVOKING A PROFESSIONAL LICENSE,
11 SUPERSEDEAS SHALL BE GRANTED AS A MATTER OF RIGHT UPON SUCH
12 CONDITIONS AS ARE REASONABLE, UNLESS A COURT, UPON PETITION OF THE
13 AGENCY, DETERMINES THAT A SUPERSEDEAS WOULD CONSTITUTE A PROBABLE
14 DANGER TO THE HEALTH, SAFETY OR WELFARE OF THE STATE; TO PROVIDE
15 THE RELIEF THAT MAY POTENTIALLY BE GRANTED BY THE REVIEWING COURT;
16 TO AMEND SECTIONS 73-1-31, 73-2-16, 73-3-329, 73-4-19, 73-6-19,
17 73-5-27, 73-7-27, 73-9-61, 73-9-65, 73-10-21, 73-11-57, 73-13-37,
18 73-13-93, 73-14-39, 73-15-31, 73-17-15, 73-19-45, 73-19-111,
19 73-21-101, 73-23-63, 73-24-25, 73-25-27, 73-25-95, 73-29-39,
20 73-30-11, 73-31-21, 73-33-11, 73-34-43, 73-35-25, 73-36-33,
21 73-36-36, 73-39-81, 73-42-13, 73-43-14, 73-53-25, 73-55-19,
22 73-57-33, 73-59-13, 73-60-35, 73-61-3, 73-63-49, 73-67-19,
23 73-69-33, 73-71-49, 73-73-33 AND 73-75-19, MISSISSIPPI CODE OF
24 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
25 PURPOSES.

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

27 **SECTION 1.** (1) (a) Notwithstanding any other provision of
28 law to the contrary, a party who is adversely affected by final
29 agency action is entitled to judicial review.



30 (b) A preliminary, procedural or intermediate order of
31 an agency is immediately reviewable if review of the final agency
32 decision would not provide an adequate remedy.

33 (2) Notwithstanding any other provision of law to the
34 contrary, a person aggrieved by an order, judgment or action of an
35 agency may seek judicial review in the chancery court of the
36 county in which the appellant resides or the Chancery Court of the
37 First Judicial District of Hinds County, at the election of the
38 appellant. All proceedings shall be instituted by filing a notice
39 of appeal or petition for review in accordance with the
40 Mississippi Rules of Appellate Procedure within thirty (30) days
41 after the rendition of the order being appealed.

42 (3) Notwithstanding any other provision of law to the
43 contrary, the filing of the petition does not itself stay
44 enforcement of the agency decision, but if the agency decision has
45 the effect of suspending or revoking a professional license,
46 supersedeas shall be granted as a matter of right upon such
47 conditions as are reasonable, unless a court, upon petition of the
48 agency, determines that a supersedeas would constitute a probable
49 danger to the health, safety or welfare of the state. The agency
50 also may grant a stay upon appropriate terms, but, whether or not
51 the action has the effect of suspending or revoking a license, a
52 petition to the agency for a stay is not a prerequisite to a
53 petition to the court for supersedeas. In any event the court



shall specify the conditions, if any, upon which the stay or supersedeas is granted.

(4) Notwithstanding any other provision of law to the contrary, judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with subsection (7) (a).

(5) Notwithstanding any other provision of law to the contrary, the record for judicial review shall be compiled in accordance with the Mississippi Rules of Appellate Procedure.

(6) (a) Notwithstanding any other provision of law to the contrary, the reviewing court's decision may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

- (i) Order agency action required by law;
- (ii) Order agency exercise of discretion when required by law;
- (iii) Set aside agency action;
- (iv) Remand the case for further agency proceedings; or
- (v) decide the rights, privileges, obligations, requirements, or procedures at issue between the parties; and
- (vi) Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.



79 (b) If the court sets aside agency action or remands
80 the case to the agency for further proceedings, it may make such
81 interlocutory order as the court finds necessary to preserve the
82 interests of any party and the public pending further proceedings
83 or agency action.

84 (7) Notwithstanding any other provision of law to the
85 contrary, the court shall remand a case to the agency for further
86 proceedings consistent with the court's decision or set aside
87 agency action, as appropriate, when it finds that:

88 (a) There has been no hearing prior to agency action
89 and the reviewing court finds that the validity of the action
90 depends upon disputed facts;

91 (b) The agency's action depends on any finding of fact
92 that is not supported by competent, substantial evidence in the
93 record of a hearing; however, the court shall not substitute its
94 judgment for that of the agency as to the weight of the evidence
95 on any disputed finding of fact;

96 (c) The fairness of the proceedings or the correctness
97 of the action may have been impaired by a material error in
98 procedure or a failure to follow prescribed procedure;

99 (d) The agency has erroneously interpreted a provision
100 of law and a correct interpretation compels a particular action;
101 or

102 (e) The agency's exercise of discretion was:



(i) Outside the range of discretion delegated to the agency by law;

(ii) Inconsistent with agency rule;

(iii) Inconsistent with officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or

(iv) Otherwise in violation of a constitutional or statutory provision.

However, the court shall not substitute its judgment for that of the agency on an issue of discretion.

(8) Notwithstanding any other provision of law to the contrary, unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

(9) Notwithstanding any other provision of law to the contrary, a petition challenging an agency rule as an invalid exercise of delegated legislative authority shall not be instituted pursuant to this section, unless the sole issue presented by the petition is the constitutionality of a rule and there are no disputed issues of fact.

SECTION 2. Section 73-1-31, Mississippi Code of 1972, is amended as follows:

73-1-31. Within thirty (30) days after entry of a final order or judgment denying or revoking a certificate to practice



128 architecture, whether an initial licensure or renewal, or action
129 of the board as a result of disciplinary proceedings conducted
130 under this section, any person aggrieved thereby may appeal such
131 order, judgment or action either to the chancery court of the
132 county wherein the appellant resides or to the Chancery Court of
133 the First Judicial District of Hinds County, Mississippi, upon
134 giving bond with sufficient security in the amount of Five Hundred
135 Dollars (\$500.00), approved by the clerk of the chancery court and
136 conditioned to pay any costs which may be adjudged against such
137 person. If the appellant is a nonresident of this state, the
138 appeal shall be made to the Chancery Court of the First Judicial
139 District of Hinds County, Mississippi. Such appeal shall act as a
140 supersedeas as provided in Section 1 of this act.

141 Notice of appeal shall be filed in the office of the clerk of
142 the chancery court, who shall issue a writ of certiorari directed
143 to the board commanding it within ten (10) days after service
144 thereof to certify to such court its entire record in the matter
145 in which the appeal has been taken. The content of the briefs
146 shall be in accordance with M.R.A.P. 28 and the briefing schedule
147 shall be in accordance with M.R.A.P. 31 unless the court, in its
148 discretion, directs otherwise. The appeal shall thereupon be
149 heard in due course by the court, and the court shall review the
150 record and make its determination of the cause between the parties
151 within sixty (60) days of the close of briefing.



152 Except as otherwise provided in this section, any order,
153 judgment or decision of the board shall not take effect until
154 after the time for appeal to the court shall have expired. All
155 appeals perfected hereunder shall act as a supersedeas of the
156 order, judgment or action appealed from.

157 Actions taken by the board in suspending a certificate of
158 registration when required by Section 93-11-157 or 93-11-163 are
159 not actions from which an appeal may be taken under this section.
160 Any appeal of a suspension of a certificate that is required by
161 Section 93-11-157 or 93-11-163 shall be taken in accordance with
162 the appeal procedure specified in Section 93-11-157 or 93-11-163,
163 as the case may be, rather than the procedure specified in this
164 section.

165 **SECTION 3.** Section 73-2-16, Mississippi Code of 1972, is
166 amended as follows:

167 73-2-16. (1) The board shall also have the power to revoke,
168 suspend or annul the certificate or registration of a landscape
169 architect or reprimand, censure or otherwise discipline a
170 landscape architect.

171 (2) The board, upon satisfactory proof and in accordance
172 with the provisions of this chapter, may take the disciplinary
173 actions against any registered landscape architect for any of the
174 following reasons:

175 (a) Violating any of the provisions of Sections 73-2-1
176 through 73-2-21 or the implementing bylaws, rules, regulations or



standards of ethics or conduct duly adopted and promulgated by the board pertaining to the practice of landscape architecture;

(b) Fraud, deceit or misrepresentation in obtaining a certificate of registration;

(c) Gross negligence, malpractice, incompetency or misconduct in the practice of landscape architecture;

(d) Any professional misconduct, as defined by the board through bylaws, rules and regulations and standards of conduct and ethics (professional misconduct shall not be defined to include bidding on contracts for a price);

(e) Practicing or offering to practice landscape architecture on an expired license or * * * revocation of a license unless * * * the revocation be abated through probation;

(f) Practicing landscape architecture under an assumed or fictitious name;

(g) Being convicted by any court of a felony, except conviction of culpable negligent manslaughter, in which case the record of conviction shall be conclusive evidence;

(h) Willfully misleading or defrauding any person employing him as a landscape architect by any artifice or false statement;

(i) Having undisclosed financial or personal interest which compromises his obligation to his client;

(j) Obtaining a certificate by fraud or deceit; or

(k) Violating any of the provisions of this chapter.



(3) Any person may prefer charges against any other person for committing any of the acts set forth in subsection (2). Such charges need not be sworn to, may be made upon actual knowledge, or upon information and belief, and shall be filed with the board. In the event any person licensed under Sections 73-2-1 through 73-2-21 is expelled from membership in any Mississippi or national professional landscape architectural society or association, the board shall thereafter cite said person to appear at a hearing before the board and to show cause why disciplinary action should not be taken against that person.

The board shall investigate all charges filed with it and, upon finding reasonable cause to believe that the charges are not frivolous, unfounded or filed in bad faith, may, in its discretion, cause a hearing to be held, at a time and place fixed by the board, regarding the charges and may compel the accused by subpoena to appear before the board to respond to said charges.

No disciplinary action taken hereunder may be taken until the accused has been furnished both a statement of the charges against him and notice of the time and place of the hearing thereof, which shall be personally served on the accused or mailed by registered or certified mail, return receipt requested, to the last known business or residence address of the accused not less than thirty (30) days prior to the date fixed for the hearing.

(4) At any hearing held under the provisions of this section, the board shall have the power to subpoena witnesses and



227 compel their attendance and require the production of any books,
228 papers or documents. The hearing shall be conducted before the
229 full board with the president of the board serving as the
230 presiding judge. Counsel for the board shall present all evidence
231 relating to the charges. All evidence shall be presented under
232 oath, which may be administered by any member of the board, and
233 thereafter the proceedings may, if necessary, be transcribed in
234 full by the court reporter and filed as part of the record in the
235 case. Copies of such transcription may be provided to any party
236 to the proceedings at a cost to be fixed by the board.

237 All witnesses who shall be subpoenaed and who shall appear in
238 any proceedings before the board shall receive the same fees and
239 mileage as allowed by law in judicial civil proceedings, and all
240 such fees shall be taxed as part of the costs of the case.

241 Where in any proceedings before the board any witness shall
242 fail or refuse to attend upon subpoena issued by the board, shall
243 refuse to testify or shall refuse to produce any books and papers,
244 the production of which is called for by the subpoena, the
245 attendance of such witness and the giving of his testimony and the
246 production of the books and papers shall be enforced by any court
247 of competent jurisdiction of this state in the manner provided for
248 the enforcement of attendance and testimony of witnesses in civil
249 cases in the courts of this state.

250 The accused shall have the right to be present at the hearing
251 in person, by counsel or other representative, or both. The



accused shall have the right to present evidence and to examine and cross-examine all witnesses. The board is authorized to continue or recess the hearing as may be necessary.

(5) At the conclusion of the hearing, the board may either decide the issue at that time or take the case under advisement for further deliberation. The board shall render its decision not more than forty-five (45) days after the close of the hearing, and shall forward to the last known business or residence address of the accused by certified or registered mail, return receipt requested, a written statement of the decision of the board.

If a majority of the board finds the accused guilty of the charges filed, the board may: (a) issue a public or private reprimand; (b) suspend or revoke the license of the accused, if the accused is a registrant; or (c) in lieu of or in addition to such reprimand, suspension or revocation, assess and levy upon the guilty party a monetary penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) for each violation.

(6) A monetary penalty assessed and levied under this section shall be paid to the board upon the expiration of the period allowed for appeal of such penalties under this section, or may be paid sooner if the guilty party elects. Money collected by the board under this section shall be deposited to the credit of the board's general operating fund.



276 When payment of a monetary penalty assessed and levied by the
277 board in accordance with this section is not paid when due, the
278 board shall have the power to institute and maintain proceedings
279 in its name for enforcement of payment in the chancery court of
280 the county and judicial district of the residence of the guilty
281 party and if the guilty party be a nonresident of the State of
282 Mississippi, such proceedings shall be in the Chancery Court of
283 the First Judicial District of Hinds County, Mississippi.

284 (7) When the board has taken a disciplinary action under
285 this section, the board may, in its discretion, stay such action
286 and place the guilty party on probation for a period not to exceed
287 one (1) year upon the condition that the guilty party shall not
288 further violate either the law of the State of Mississippi
289 pertaining to the practice of landscape architecture or the
290 bylaws, rules and regulations, or standards of conduct and ethics
291 promulgated by the board.

292 (8) The board, in its discretion, may assess and tax any
293 part or all of the costs of any disciplinary proceedings conducted
294 under this section against the accused, if the accused is found
295 guilty of the charges.

296 (9) The power and authority of the board to assess and levy
297 the monetary penalties provided for in this section shall not be
298 affected or diminished by any other proceeding, civil or criminal,
299 concerning the same violation or violations except as provided in
300 this section.



301 (10) The board, for sufficient cause, may reissue a revoked
302 license of registration whenever a majority of the board members
303 vote to do so but in no event shall a revoked license be issued
304 within two (2) years of the revocation. A new license of
305 registration required to replace a revoked, lost, mutilated or
306 destroyed license may be issued, subject to the rules of the
307 board, for a charge not to exceed Twenty-five Dollars (\$25.00).

308 (11) The board may direct the advisory committee to review
309 and investigate any charges brought against any landscape
310 architect under this chapter and to hold the hearings provided for
311 in this section and to make findings of fact and recommendations
312 to the board concerning the disposition of such charges.

313 (12) Nothing herein contained shall preclude the board or
314 advisory committee from initiating proceedings in any case. The
315 advisory committee shall furnish legal advice and assistance to
316 the board whenever such service is requested.

317 (13) In addition to the reasons specified in subsection (2)
318 of this section, the board shall be authorized to suspend the
319 license of any licensee for being out of compliance with an order
320 for support, as defined in Section 93-11-153. The procedure for
321 suspension of a license for being out of compliance with an order
322 for support, and the procedure for the reissuance or reinstatement
323 of a license suspended for that purpose, and the payment of any
324 fees for the reissuance or reinstatement of a license suspended
325 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 73-3-329, Mississippi Code of 1972, is amended as follows:

73-3-329. (1) The entire record of the proceeding of the complaint tribunal shall be filed with the clerk of the court within thirty (30) days after the conclusion of the hearing or within such additional time as the clerk, on motion therefor, may allow. Such appeal shall act as a supersedeas as provided in Section 1 of this act.

(2) If no appeal from the judgment of the complaint tribunal is perfected within thirty (30) days from the date of said judgment, the judgment of the complaint tribunal shall be final.

(3) Either the attorney or The Mississippi Bar shall have the right to an appeal to the court, which appeal shall be perfected within thirty (30) days of the date of the judgment of the complaint tribunal by the aggrieved party filing a notice of appeal with the clerk of the court.

(4) The record on appeal shall consist of the formal complaint, all other pleadings, the transcript of the testimony and the written opinion and judgment of the complaint tribunal.

(5) On appeal, the court may review all of the evidence and the law and the findings and conclusions of the complaint tribunal



and it may make such findings and conclusions and render such order as it may find to be appropriate based upon the whole record.

(6) The rules of practice and procedure for the filing of briefs and oral arguments governing appeals from the chancery or circuit courts of Mississippi shall apply to and govern appeals from the judgment of the complaint tribunals; provided, however, whenever possible, the court shall advance and expedite the cause on its docket.

(7) Actions taken by the Supreme Court in suspending an attorney from the practice of law 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 the suspension of an attorney from the practice of law 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.

SECTION 5. Section 73-4-19, Mississippi Code of 1972, is amended as follows:

73-4-19. (1) The commission may, upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any



375 auctioneer or auction firm, or any person who holds himself out as
376 an auctioneer or auction firm.

377 (2) Any person desiring to make a complaint against a
378 licensee shall submit a complaint to the commission in verified
379 form as prescribed by the commission. Upon receipt of a properly
380 verified complaint, the commission shall send a copy of the
381 complaint to the affected licensee by certified mail, and the
382 licensee shall make answer to the complaint in writing within
383 twenty (20) days after receipt of the complaint. The licensee
384 shall mail a copy of his response to the commission and the
385 complainant. Upon receipt of the licensee's response or lapse of
386 twenty (20) days, the commission shall make investigation of the
387 underlying allegations of the complaint, and upon a finding of
388 probable cause that a violation of this chapter has occurred, the
389 commission shall order a hearing for the licensee to appear and
390 show cause why he should not be disciplined for a violation of
391 this chapter.

392 (3) (a) All hearings held pursuant to this chapter shall be
393 held at the offices of the commission. The commission, for good
394 cause shown, may order that a hearing be held in another location
395 convenient to all parties.

396 (b) The commission shall give the complainant and the
397 affected licensee * * * thirty (30) days' notice of any hearing
398 upon a complaint. Such notice shall be by United States certified
399 mail.



400 (c) Any party appearing before the commission may be
401 accompanied by counsel.

402 (d) The commission or its executive director shall have
403 the right to subpoena witnesses and documents as they deem
404 necessary for the proper conduct of the hearing. The commission
405 shall not entertain a motion for a continuance for failure of a
406 witness to appear unless such witness shall have been duly
407 subpoenaed.

408 (e) (i) Before commencing a hearing, the chairman of
409 the commission shall determine if all parties are present and
410 ready to proceed. If the complainant fails to attend a hearing
411 without good cause shown, the complaint shall be dismissed
412 summarily and all fees and expenses of convening the hearing shall
413 be assessed to, and paid by, the complainant. If any affected
414 licensee fails to appear for a hearing without good cause shown,
415 such licensee shall be presumed to have waived his right to appear
416 and be heard.

417 (ii) Upon the chairman's determination that all
418 parties are ready to proceed, the chairman shall call the hearing
419 to order and the complainant and the licensee may give opening
420 statements. At the request of any party, the chairman shall order
421 the sequestration of nonparty witnesses. The complainant shall
422 then present his complaint through sworn testimony and the
423 production of physical evidence. The licensee, any counsel and
424 any member of the commission may ask questions of witnesses.



425 (iii) The licensee shall then present his case in
426 rebuttal with equal right of cross-examination of the parties. At
427 the completion of the evidence, all parties may give closing
428 statements.

429 (iv) At the conclusion of testimony and argument,
430 the commission may go into closed session for deliberation.

431 (v) At the conclusion of deliberations, the
432 commission may announce the commission's decision in an open
433 session, and shall notify the parties of its decision by mail
434 within ten (10) days after the commission reaches its decision.

435 (4) Service of notice to the party shall be considered to
436 have been given if the notice was personally served on the
437 licensee, applicant or complainant or if the notice was sent by
438 certified United States mail to the licensee, applicant or
439 complainant to that party's last known address of record with the
440 board.

441 (5) No person whose license has been revoked hereunder may
442 apply for a new license for a period of at least five (5) years.
443 A person whose license has been denied, suspended or revoked may
444 not apply in that person's name or in any other manner within the
445 period during which the order of denial, suspension or revocation
446 is in effect, and no firm, partnership or corporation in which any
447 person whose license has been denied, suspended or revoked has a
448 substantial interest or exercises management responsibility or
449 control may be licensed during the period. The procedure for the



reissuance of a license that is for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(6) Any civil or monetary penalty, fine or other costs imposed by the commission under this chapter shall become due and payable within the time allowed by the commission for payment thereof. Failure of the licensee or party to pay all penalties or fines so assessed as ordered by the commission shall, unless an appeal is taken and perfected within the time and in the manner provided in this chapter, result in an automatic revocation of such licensee's license. In addition, if any amounts assessed against a party by final order of the commission become otherwise uncollectible or payment is in default, and if all the right to appeal has passed, the order of the commission containing the amount of money assessed by the commission may be filed with the appropriate clerk of the court in the county in which the licensee or party is located. The order shall constitute a judgment and the filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

(7) The commission may also assess and levy upon any licensee or applicant for licensure the costs incurred or expended by the commission in the investigation and prosecution of any



475 licensure or disciplinary action, including, but not limited to,
476 the cost of process service, court reports, expert witness,
477 investigators and attorney fees.

478 (8) Except as otherwise provided in Section 1 of this act,
479 the commission may, upon its own motion, summarily suspend a
480 license when the interest, health, safety or welfare of the public
481 is at risk, such as in the event of a potential loss of consigned
482 items or potential loss of funds. Except as otherwise provided in
483 Section 1 of this act, if the commission suspends summarily a
484 license under the provisions of this subsection, a hearing must
485 begin within * * * thirty (30) days after such suspension begins,
486 unless continued at the request of the licensee.

487 (9) Except as otherwise provided in Section 1 of this act,
488 any person aggrieved by an action of the commission may file an
489 appeal of such action in the * * * Chancery Court of Hinds County.
490 Any appeal must be accompanied by an attested copy of the record
491 of the hearing before the commission. An appeal must, however, be
492 filed with the Chancery Court of the First Judicial District of
493 Hinds County, Mississippi, within thirty (30) days immediately
494 following the date of the commission's decision, unless the court,
495 for good cause shown, extends the time. Appeals may be taken to
496 the Mississippi Supreme Court as provided by law from any final
497 judgment of the chancery court. If the board appeals from any
498 judgment of the chancery court, no bond shall be required of it in
499 order to perfect its appeal. Any actions taken by the commission



500 in suspending a license when required by Section 93-11-157 or
501 93-11-163 are not actions from which an appeal may be taken under
502 this section. Any appeal of a license suspension that is required
503 by Section 93-11-157 or 93-11-163 shall be taken in accordance
504 with the appeal procedure specified in Section 93-11-157 or
505 93-11-163, as the case may be, rather than the procedure specified
506 in this section.

507 (10) If any licensee is indicted in this or any other state
508 for forgery, embezzlement, obtaining money under false pretenses,
509 extortion, criminal conspiracy to defraud or other offense, and a
510 certified copy of the indictment is filed with the commission or
511 other proper evidence is given to it, the commission may, in its
512 discretion, suspend the license issued to the licensee pending
513 trial of the charges.

514 (11) If the revocation or suspension of a license issued to
515 any member of a partnership, or to any officer of an association,
516 corporation or organization to whom an auction license has been
517 issued, the license issued to the partnership, association,
518 corporation or organization shall be revoked by the commission
519 unless, within a time fixed by the commission, the connection of
520 the member of the partnership is severed and his interest in the
521 partnership and his share in its activities brought to an end, or
522 the officer of the association, corporation or organization is
523 discharged and has no further participation in its activities.



(12) Nothing in this section shall be deemed as an exclusive remedy or prevent or proscribe any person's right to petition a court of law or equity for redress of a grievance against a licensee or any other entity.

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

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

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

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

(c) Fraud or deceit in obtaining a license;

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

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

(f) Unprofessional and unethical conduct;



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

550 (h) Failure to report to the Mississippi Department of
551 Human Services or the county attorney any case wherein there are
552 reasonable grounds to believe that a child or vulnerable adult has
553 been abused by its parent or person responsible for such person's
554 welfare;

555 (i) Advising a patient to use drugs, prescribing or
556 providing drugs for a patient, or advising a patient not to use a
557 drug prescribed by a licensed physician or dentist;

558 (j) Professional incompetency in the practice of
559 chiropractic;

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

562 (l) Offering to accept or accepting payment for
563 services rendered by assignment from any third-party payor after
564 offering to accept or accepting whatever the third-party payor
565 covers as payment in full, if the effect of the offering or
566 acceptance is to eliminate or give the impression of eliminating
567 the need for payment by an insured of any required deductions
568 applicable in the policy of the insured;

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



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

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

(p) If the practitioner is certified to provide animal chiropractic treatment, failure to follow guidelines approved by the Mississippi Board of Veterinary Medicine; or

(q) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

(2) Any holder of such certificate or any applicant therefor against whom is preferred any of the designated charges shall be furnished a copy of the complaint and shall receive a formal hearing in Jackson, Mississippi, before the board, at which time he may be represented by counsel and examine witnesses. The board is authorized to administer oaths as may be necessary for the proper conduct of any such hearing. In addition, the board is authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers. The process issued by the board shall extend to all parts of the state. Where in any proceeding before the board any witness shall fail or refuse to attend upon subpoena issued by the board, shall refuse to testify, or shall refuse to produce any books and papers, the production of which is called for by the subpoena, the attendance



598 of such witness and the giving of his testimony and the production
599 of the books and papers shall be enforced by any court of
600 competent jurisdiction of this state in the manner provided for
601 the enforcement of attendance and testimony of witnesses in civil
602 cases in the courts of this state.

603 (3) In addition to any other investigators the board
604 employs, the board shall appoint one or more licensed
605 chiropractors to act for the board in investigating the conduct
606 relating to the competency of a chiropractor, whenever
607 disciplinary action is being considered for professional
608 incompetence and unprofessional conduct.

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

614 (a) Deny his application for a license or other
615 authorization to practice chiropractic;

616 (b) Administer a public or private reprimand;

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

619 (d) Revoke or cancel his license or other authorization
620 to practice chiropractic;

621 (e) Require him to submit to care, counseling or
622 treatment by physicians or chiropractors designated by the board,



as a condition for initial, continued or renewal of licensure or other authorization to practice chiropractic;

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

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

(5) Any person whose application for a license or whose license to practice chiropractic has been cancelled, revoked or suspended by the board within thirty (30) days from the date of such final decision shall have the right of a de novo appeal to the * * * court of his county of residence or the * * * Chancery Court of the First Judicial District of Hinds County, Mississippi. Except as otherwise provided in Section 1 of this act, if there is an appeal, such appeal may, in the discretion of and on motion to the * * * chancery court, act as a supersedeas. The * * * chancery court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may, in the discretion of the * * * chancery judge, be tried in vacation. Either party shall have the right of appeal to the Supreme Court as provided by law from any decision of the * * * chancery court.

(6) In a proceeding conducted under this section by the board for the revocation, suspension or cancellation of a license to practice chiropractic, after a hearing has been conducted as prescribed by this section, the board shall have the power and



648 authority for the grounds stated in subsection (1) of this
649 section, with the exception of paragraph (c) thereof, to assess
650 and levy upon any person licensed to practice chiropractic in the
651 state a monetary penalty in lieu of such revocation, suspension or
652 cancellation, as follows:

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

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

660 The power and authority of the board to assess and levy such
661 monetary penalties under this section shall not be affected or
662 diminished by any other proceeding, civil or criminal, concerning
663 the same violation or violations. A licensee shall have the right
664 of appeal from the assessment and levy of a monetary penalty as
665 provided in this section to the * * * chancery court under the
666 same conditions as a right of appeal is provided for in this
667 section for appeals from an adverse ruling, or order, or decision
668 of the board. Any monetary penalty assessed and levied under this
669 section shall not take effect until after the time for appeal has
670 expired, and an appeal of the assessment and levy of such a
671 monetary penalty shall act as a supersedeas.



672 (7) In addition to the grounds specified in subsection (1)
673 of this section, the board shall be authorized to suspend the
674 license of any licensee for being out of compliance with an order
675 for support, as defined in Section 93-11-153. The procedure for
676 suspension of a license for being out of compliance with an order
677 for support, and the procedure for the reissuance or reinstatement
678 of a license suspended for that purpose, and the payment of any
679 fees for the reissuance or reinstatement of a license suspended
680 for that purpose, shall be governed by Section 93-11-157 or
681 93-11-163, as the case may be. Actions taken by the board in
682 suspending a license when required by Section 93-11-157 or
683 93-11-163 are not actions from which an appeal may be taken under
684 this section. Any appeal of a license suspension that is required
685 by Section 93-11-157 or 93-11-163 shall be taken in accordance
686 with the appeal procedure specified in Section 93-11-157 or
687 93-11-163, as the case may be, rather than the procedure specified
688 in this section. If there is any conflict between any provision
689 of Section 93-11-157 or 93-11-163 and any provision of this
690 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
691 case may be, shall control.

692 **SECTION 7.** Section 73-5-27, Mississippi Code of 1972, is
693 amended as follows:

694 73-5-27. Except as otherwise provided in Section 1 of this
695 act, the Board of Barber Examiners may neither refuse to suspend
696 or revoke, nor revoke or suspend any certificate of registration



697 as a registered barber or barber instructor, for any of the causes
698 enumerated in this chapter, unless the holder of such certificate
699 has been given at least * * * thirty (30) days' notice, in writing
700 by registered mail, signed by the President and Secretary of the
701 Board of Barber Examiners, setting forth the charges against such
702 holder of such certificate and naming the time and place for a
703 hearing upon the charge or charges, and a public hearing thereof
704 by the Board of Barber Examiners. The person shall return a
705 written response within ten (10) business days acknowledging
706 receipt of the letter and confirmation of attendance at the board
707 hearing no later than the close of business of the tenth day.

708 Upon the hearing of any such charge or charges the board may
709 issue all subpoenas for all necessary witnesses for and against
710 the accused, and require their attendance upon such hearing, may
711 administer oaths, and may procure by process the production of all
712 necessary books and papers, bearing or touching upon such charges
713 against the accused.

714 **SECTION 8.** Section 73-7-27, Mississippi Code of 1972, is
715 amended as follows:

716 73-7-27. (1) Any complaint may be filed with the board by a
717 member or agent of the board or by any person charging any
718 licensee of the board with the commission of any of the offenses
719 enumerated in subsection (2) of this section. Such complaint
720 shall be in writing, signed by the accuser or accusers, and
721 verified under oath, and such complaints shall be investigated as



722 set forth in Section 73-7-7. If, after the investigation, the
723 board through its administrative review agents determines that
724 there is not substantial justification to believe that the accused
725 licensee has committed any of the offenses enumerated, it may
726 dismiss the complaint or may prepare a formal complaint proceeding
727 against the licensee as hereinafter provided. When used with
728 reference to any complaint filed against a licensee herein, the
729 term "not substantial justification" means a complaint that is
730 frivolous, groundless in fact or law, or vexatious, as determined
731 by unanimous vote of the board. In the event of a dismissal, the
732 person filing the accusation and the accused licensee shall be
733 given written notice of the board's determination. If the board
734 determines there is reasonable cause to believe the accused has
735 committed any of those offenses, the secretary of the board shall
736 give written notice of such determination to the accused licensee
737 and set a day for a hearing as provided in subsection (3) of this
738 section.

739 (2) The board shall have the power to revoke, suspend or
740 refuse to issue or renew any license or certificate provided for
741 in this chapter, and to fine, place on probation and/or otherwise
742 discipline a student or licensee or holder of a certificate, upon
743 proof that such person: (a) has not complied with or has violated
744 any of the rules and regulations promulgated by the board; (b) has
745 not complied with or has violated any of the sections of this
746 chapter; (c) has committed fraud or dishonest conduct in the



taking of the examination herein provided for; (d) has been convicted of a felony; (e) has committed grossly unprofessional or dishonest conduct; (f) is addicted to the excessive use of intoxicating liquors or to the use of drugs to such an extent as to render him or her unfit to practice in any of the practices or occupations set forth in this chapter; (g) has advertised by means of knowingly false or deceptive statements; or (h) has failed to display the license or certificate issued to him or her as provided for in this chapter; or (i) has been convicted of violating any of the provisions of this chapter. Except as otherwise provided in Section 1 of this act, a conviction of violating any of the provisions of this chapter shall be grounds for automatic suspension of the license or certificate of such person.

(3) Except as otherwise provided in Section 1 of this act, the board shall not revoke, suspend or refuse to issue or renew any license or certificate, or fine, place on probation or otherwise discipline any person in a disciplinary matter except after a hearing of which the applicant or licensee or holder of the certificate affected shall be given at least * * * thirty (30) days' notice in writing, specifying the reason or reasons for denying the applicant a license or certificate of registration, or in the case of any other disciplinary action, the offense or offenses of which the licensee or holder of a certificate of registration is charged. Such notice may be served by mailing a



copy thereof by United States first-class certified mail, postage prepaid, to the last-known residence or business address of such applicant, licensee or holder of a certificate. The hearing on such charges shall be at such time and place as the board may prescribe.

(4) At such hearings, all witnesses shall be sworn by a member of the board, and stenographic notes of the proceedings shall be taken. Any party to the proceedings desiring it shall be furnished with a copy of such stenographic notes upon payment to the board of such fees as it shall prescribe, not exceeding, however, the actual costs of transcription.

(5) The board is hereby authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers. The process issued by the board shall extend to all parts of the state and such process shall be served by any person designated by the board for such service. The person serving such process shall receive such compensation as may be allowed by the board, not to exceed the fee prescribed by law for similar services. All witnesses who shall be subpoenaed, and who shall appear in any proceedings before the board, shall receive the same fees and mileage as allowed by law.

(6) Where in any proceeding before the board any witness shall fail or refuse to attend upon subpoena issued by the board, shall refuse to testify, or shall refuse to produce any books and papers, the production of which is called for by the subpoena, the



attendance of such witness and the giving of his testimony and the production of the books and papers shall be enforced by any court of competent jurisdiction of this state, in the same manner as are enforced for the attendance and testimony of witnesses in civil cases in the courts of this state.

(7) The board shall conduct the hearing in an orderly and continuous manner, granting continuances only when the ends of justice may be served. The board shall, within sixty (60) days after conclusion of the hearing, reduce its decision to writing and forward an attested true copy thereof to the last-known residence or business address of such applicant, licensee or holder of a certificate, by way of United States first-class certified mail, postage prepaid. Such applicant, licensee, holder of a certificate, or person aggrieved shall have the right of appeal from an adverse ruling, or order, or decision of the board to the Chancery Court of the First Judicial District of Hinds County, Mississippi, upon forwarding notice of appeal to the board within thirty (30) days after the decision of the board is mailed in the manner here contemplated. An appeal will not be allowed in the event notice of appeal, together with the appeal bond hereinafter required, shall not have been forwarded to the board within the thirty-day period. Appeal shall be to the Chancery Court of the First Judicial District of Hinds County, Mississippi. The appeal shall thereupon be heard in due course by the court which shall review the record and make its determination thereon.



822 (8) The appellant shall, together with the notice of appeal,
823 forward to and post with the board a satisfactory bond in the
824 amount of Five Hundred Dollars (\$500.00) for the payment of any
825 costs which may be adjudged against him.

826 (9) In the event of an appeal, the court shall dispose of
827 the appeal and enter its decision promptly. The hearing on the
828 appeal may, in the discretion of the chancellor, be tried in
829 vacation. Except as otherwise provided in Section 1 of this act,
830 if there is an appeal, such appeal may, in the discretion of and
831 on motion to the chancery court, act as a supersedeas. However,
832 any fine imposed by the board under the provisions of this chapter
833 shall not take effect until after the time for appeal has expired,
834 and an appeal of the imposition of such a fine shall act as a
835 supersedeas.

836 (10) Any fine imposed by the board upon a licensee or holder
837 of a certificate shall be in accordance with the following
838 schedule:

839 (a) For the first violation, a fine of not less than
840 Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00)
841 for each violation.

842 (b) For the second and each subsequent violation, a
843 fine of not less than One Hundred Dollars (\$100.00) nor more than
844 Four Hundred Dollars (\$400.00) for each violation.

845 The power and authority of the board to impose such fines
846 under this section shall not be affected or diminished by any



847 other proceeding, civil or criminal, concerning the same violation
848 or violations.

849 (11) In addition to the reasons specified in subsection (2)
850 of this section, the board shall be authorized to suspend the
851 license of any licensee for being out of compliance with an order
852 for support, as defined in Section 93-11-153. The procedure for
853 suspension of a license for being out of compliance with an order
854 for support, and the procedure for the reissuance or reinstatement
855 of a license suspended for that purpose, and the payment of any
856 fees for the reissuance or reinstatement of a license suspended
857 for that purpose, shall be governed by Section 93-11-157 or
858 93-11-163, as the case may be. Actions taken by the board in
859 suspending a license when required by Section 93-11-157 or
860 93-11-163 are not actions from which an appeal may be taken under
861 this section. Any appeal of a license suspension that is required
862 by Section 93-11-157 or 93-11-163 shall be taken in accordance
863 with the appeal procedure specified in Section 93-11-157 or
864 93-11-163, as the case may be, rather than the procedure specified
865 in this section. If there is any conflict between any provision
866 of Section 93-11-157 or 93-11-163 and any provision of this
867 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
868 case may be, shall control.

869 **SECTION 9.** Section 73-9-61, Mississippi Code of 1972, is
870 amended as follows:



871 73-9-61. (1) Upon satisfactory proof, and in accordance
872 with the provisions of Section 1 of this act and statutory
873 provisions elsewhere set out for such hearings and protecting the
874 rights of the accused as well as the public, the State Board of
875 Dental Examiners may deny the issuance or renewal of a license or
876 may revoke or suspend the license of any licensed dentist or
877 dental hygienist practicing in the State of Mississippi, or take
878 any other action in relation to the license as the board may deem
879 proper under the circumstances, for any of the following reasons:

880 (a) Misrepresentation in obtaining a license, or
881 attempting to obtain, obtaining, attempting to renew or renewing a
882 license or professional credential by making any material
883 misrepresentation, including the signing in his or her
884 professional capacity any certificate that is known to be false at
885 the time he or she makes or signs the certificate.

886 (b) Willful violation of any of the rules or
887 regulations duly promulgated by the board, or of any of the rules
888 or regulations duly promulgated by the appropriate dental
889 licensure agency of another state or jurisdiction.

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



895 (d) Administering, dispensing or prescribing any
896 prescriptive medication or drug outside the course of legitimate
897 professional dental practice.

898 (e) Being convicted or found guilty of or entering a
899 plea of nolo contendere to, regardless of adjudication, a
900 violation of any federal or state law regulating the possession,
901 distribution or use of any narcotic drug or any drug considered a
902 controlled substance under state or federal law, a certified copy
903 of the conviction order or judgment rendered by the trial court
904 being prima facie evidence thereof, notwithstanding the pendency
905 of any appeal.

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

908 (g) Being convicted or found guilty of or entering a
909 plea of nolo contendere to, regardless of adjudication, a crime in
910 any jurisdiction that relates to the practice of dentistry or
911 dental hygiene, a certified copy of the conviction order or
912 judgment rendered by the trial court being prima facie evidence
913 thereof, notwithstanding the pendency of any appeal.

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



919 (i) Delegating professional responsibilities to a
920 person who is not qualified by training, experience or licensure
921 to perform them.

922 (j) The refusal of a licensing authority of another
923 state or jurisdiction to issue or renew a license, permit or
924 certificate to practice dentistry or dental hygiene in that
925 jurisdiction or the revocation, suspension or other restriction
926 imposed on a license, permit or certificate issued by the
927 licensing authority that prevents or restricts practice in that
928 jurisdiction, a certified copy of the disciplinary order or action
929 taken by the other state or jurisdiction being prima facie
930 evidence thereof, notwithstanding the pendency of any appeal.

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

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

938 (i) Committing any crime involving moral
939 turpitude.

940 (ii) Practicing deceit or other fraud upon the
941 public.

942 (iii) Practicing dentistry or dental hygiene under
943 a false or assumed name.



944 (iv) Advertising that is false, deceptive or
945 misleading.

946 (v) Announcing a specialized practice shall be
947 considered advertising that tends to deceive or mislead the public
948 unless the dentist announcing as a specialist conforms to other
949 statutory provisions and the duly promulgated rules or regulations
950 of the board pertaining to practice of dentistry in the State of
951 Mississippi.

952 (m) Failure to provide and maintain reasonable sanitary
953 facilities and conditions or failure to follow board rules
954 regarding infection control.

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

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

960 (ii) Conduct of a licensee that is intended to
961 intimidate, coerce, influence or trick any person employed by or
962 for the licensee in a dental practice or educational setting for
963 the purpose of engaging in sexual activity or activity intended
964 for the sexual gratification of the licensee.

965 (o) Violation of a lawful order of the board previously
966 entered in a disciplinary or licensure hearing; failure to
967 cooperate with any lawful request or investigation by the board;
968 or failure to comply with a lawfully issued subpoena of the board.



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

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

(r) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2025.

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

(3) Except as otherwise provided in Section 1 of this act, when a license to practice dentistry or dental hygiene is revoked or suspended by the board, the board may, in its discretion, stay the revocation or suspension and simultaneously place the licensee on probation upon the condition that the licensee shall not violate the laws of the State of Mississippi pertaining to the practice of dentistry or dental hygiene and shall not violate the rules and regulations of the board and shall not violate any terms in relation to his or her license as may be set by the board.

(4) In a proceeding conducted under this section by the board for the denial, revocation or suspension of a license to



994 practice dentistry or dental hygiene, the board shall have the
995 power and authority for the grounds stated for that denial,
996 revocation or suspension, and in addition thereto or in lieu of
997 that denial, revocation or suspension may assess and levy upon any
998 person licensed to practice dentistry or dental hygiene in the
999 State of Mississippi, a monetary penalty, as follows:

1000 (a) For the first violation of any of * * * paragraph
1001 (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of
1002 subsection (1) of this section, a monetary penalty of not less
1003 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
1004 (\$500.00).

1005 (b) For the second violation of any of * * * paragraph
1006 (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of
1007 subsection (1) of this section, a monetary penalty of not less
1008 than One Hundred Dollars (\$100.00) nor more than One Thousand
1009 Dollars (\$1,000.00).

1010 (c) For the third and any subsequent violation of any
1011 of * * * paragraph (a), (b), (c), (d), (f), (i), (l), (m), (n),
1012 (o) or (q) of subsection (1) of this section, a monetary penalty
1013 of not less than Five Hundred Dollars (\$500.00) and not more than
1014 Five Thousand Dollars (\$5,000.00).

1015 (d) For any violation of any of * * * paragraphs (a)
1016 through (q) of subsection (1) of this section, those reasonable
1017 costs that are expended by the board in the investigation and
1018 conduct of a proceeding for licensure revocation or suspension,



1019 including, but not limited to, the cost of process service, court
1020 reporters, expert witnesses and investigators.

1021 (5) The power and authority of the board to assess and levy
1022 monetary penalties under this section shall not be affected or
1023 diminished by any other proceeding, civil or criminal, concerning
1024 the same violation or violations except as provided in this
1025 section.

1026 (6) A licensee shall have the right of appeal from the
1027 assessment and levy of a monetary penalty as provided in this
1028 section under the same conditions as a right of appeal is provided
1029 elsewhere for appeals from an adverse ruling, order or decision of
1030 the board.

1031 (7) Any monetary penalty assessed and levied under this
1032 section shall not take effect until after the time for appeal has
1033 expired. Except as otherwise provided in Section 1 of this act,
1034 in the event of an appeal, the appeal shall act as a supersedeas.

1035 (8) A monetary penalty assessed and levied under this
1036 section shall be paid to the board by the licensee upon the
1037 expiration of the period allowed for appeal of those penalties
1038 under this section or may be paid sooner if the licensee elects.
1039 With the exception of subsection (4)(d) of this section, monetary
1040 penalties collected by the board under this section shall be
1041 deposited to the credit of the General Fund of the State Treasury.
1042 Any monies collected by the board under subsection (4)(d) of this



1043 section shall be deposited into the special fund operating account
1044 of the board.

1045 (9) When payment of a monetary penalty assessed and levied
1046 by the board against a licensee in accordance with this section is
1047 not paid by the licensee when due under this section, the board
1048 shall have power to institute and maintain proceedings in its name
1049 for enforcement of payment in the chancery court of the county and
1050 judicial district of residence of the licensee, and if the
1051 licensee is a nonresident of the State of Mississippi, the
1052 proceedings shall be in the Chancery Court of the First Judicial
1053 District of Hinds County, Mississippi.

1054 (10) In addition to the reasons specified in subsection (1)
1055 of this section, the board shall be authorized to suspend the
1056 license of any licensee for being out of compliance with an order
1057 for support, as defined in Section 93-11-153. The procedure for
1058 suspension of a license for being out of compliance with an order
1059 for support, and the procedure for the reissuance or reinstatement
1060 of a license suspended for that purpose, and the payment of any
1061 fees for the reissuance or reinstatement of a license suspended
1062 for that purpose, shall be governed by Section 93-11-157 or
1063 93-11-163, as the case may be. If there is any conflict between
1064 any provision of Section 93-11-157 or 93-11-163 and any provision
1065 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
1066 as the case may be, shall control.



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

SECTION 10. Section 73-9-65, Mississippi Code of 1972, is amended as follows:

73-9-65. No disciplinary action against a licensee shall be taken until the accused has been furnished a statement of the charges against him or her and a notice of the time and place of hearing thereof. The accused may be present at the hearing in person, by counsel, or both. The board may, for good cause shown, reinstate any license revoked or suspended. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. The right to appeal any disciplinary actions of the board regarding the license of any dentist or dental hygienist is granted. The appeal shall be to the chancery court of the county in which the dentist or dental hygienist resides, except where the dentist or dental hygienist does not reside in the State of Mississippi, in which case the appeal shall be to the Chancery Court of the First Judicial District of Hinds County, Mississippi. The appeal must be taken within thirty (30) days after notice of the action of the board. The appeal is perfected upon filing a notice of appeal, together with a bond in the sum of One Hundred



1092 Dollars (\$100.00), with two (2) sureties, conditioned that if the
1093 action of the board regarding the license is affirmed by the
1094 chancery court the dentist or dental hygienist will pay the costs
1095 of the appeal and the action in the chancery court. Those bonds
1096 shall be approved by the president of the board. In lieu of the
1097 bond, the dentist or dental hygienist may deposit One Hundred
1098 Dollars (\$100.00) with the clerk of the chancery court. Except as
1099 otherwise provided in Section 1 of this act, if there is an
1100 appeal, the appeal may, in the discretion of and on motion to the
1101 chancery court, act as a supersedeas. The chancery court shall
1102 dispose of the appeal and enter its decision promptly. The
1103 hearing on the appeal may, in the discretion of the chancellor, be
1104 tried in vacation. Appeals may be had to the Supreme Court of the
1105 State of Mississippi as provided by law from any final action of
1106 the chancery court. Except as otherwise provided in Section 1 of
1107 this act, no such person shall be allowed to practice dentistry or
1108 dental hygiene or deliver health care services in violation of any
1109 action of the chancery court while any such appeal to the Supreme
1110 Court is pending. All procedural appeal requirements as
1111 enumerated above also shall apply to any other license or permit
1112 issued by the board under this chapter or regulations duly adopted
1113 by the board.

1114 Actions taken by the board in suspending a license when
1115 required by Section 93-11-157 or 93-11-163 are not actions from
1116 which an appeal may be taken under this section. Any appeal of a



1117 license suspension that is required by Section 93-11-157 or
1118 93-11-163 shall be taken in accordance with the appeal procedure
1119 specified in Section 93-11-157 or 93-11-163, as the case may be,
1120 rather than the procedure specified in this section.

1121 **SECTION 11.** Section 73-10-21, Mississippi Code of 1972, is
1122 amended as follows:

1123 73-10-21. (1) Rules, regulations and standards.

1124 (a) The board is empowered, authorized and directed to
1125 adopt, amend, promulgate and enforce such rules, regulations and
1126 standards governing dietitians as may be necessary to further the
1127 accomplishment of the purpose of the governing law, and in so
1128 doing shall utilize as the basis thereof the corresponding
1129 recommendations of the advisory council. The rules, regulations
1130 and minimum standards for licensing of dietitians may be amended
1131 by the board as deemed necessary. In so doing, the board shall
1132 utilize as the basis thereof the corresponding recommendations of
1133 the advisory council.

1134 (b) The board shall publish and disseminate to all
1135 licensees, in appropriate manner, the licensure standards
1136 prescribed by this chapter, any amendments thereto, and such rules
1137 and regulations as the board may adopt under the authority vested
1138 by Section 73-38-13, within sixty (60) days of their adoption.

1139 (2) The board shall adopt a code of ethics for dietitians
1140 using as the basis thereof the ADA "Code of Ethics for the
1141 Profession of Dietetics."



1142 (3) Issuance and renewal of licenses.

1143 (a) The board shall issue a license to any person who
1144 meets the requirements of this chapter upon payment of the license
1145 fee prescribed.

1146 (b) Except as provided in Section 33-1-39, licenses
1147 under this chapter shall be valid for two (2) calendar years and
1148 shall be subject to renewal and shall expire unless renewed in the
1149 manner prescribed by the rules and regulations of the board, upon
1150 the payment of a biennial renewal fee to be set at the discretion
1151 of the board, but not to exceed One Hundred Dollars (\$100.00), and
1152 the presentation of evidence satisfactory to the board that the
1153 licensee has met such continuing education requirements as the
1154 board may require. Any increase in the fee charged by the board
1155 under this paragraph shall be in accordance with the provisions of
1156 Section 41-3-65. An applicant for license renewal shall
1157 demonstrate to the board evidence of satisfactory completion of
1158 the continuing education requirements established by the American
1159 Dietetic Association and/or other continuing education
1160 requirements as may be required by the board.

1161 (c) The board may provide for the late renewal of a
1162 license upon the payment of a late fee in accordance with its
1163 rules and regulations, but no such late renewal of a license may
1164 be granted more than one (1) year after its expiration. Any
1165 increase in the fee charged by the board under this paragraph
1166 shall be in accordance with the provisions of Section 41-3-65.



1167 (d) Except as otherwise provided in Section 1 of this
1168 act, a suspended license shall be subject to expiration and may be
1169 renewed as provided in this section, but such renewal shall not
1170 entitle the licensee, while the license remains suspended and
1171 until it is reinstated, to engage in the licensed activity, or in
1172 any other conduct or activity in violation of the order of
1173 judgment by which the license was suspended. If a license revoked
1174 on disciplinary grounds is reinstated, the licensee, as a
1175 condition of reinstatement, shall pay the renewal fee and any late
1176 fee that may be applicable.

1177 (4) Denial or revocation of license.

1178 (a) The board may deny or refuse to renew a license, or
1179 suspend or revoke a license, or issue orders to cease or desist
1180 from certain conduct, or issue warnings or reprimands where the
1181 licensee or applicant for license has been convicted of unlawful
1182 conduct or has demonstrated unprofessional conduct which has
1183 endangered or is likely to endanger the health, welfare or safety
1184 of the public. Such conduct includes:

1185 (i) Obtaining a license by means of fraud,
1186 misrepresentation or concealment of material facts;

1187 (ii) Being guilty of unprofessional conduct as
1188 defined by the rules and established by the board or violating the
1189 Code of Ethics of the American Dietetic Association;

1190 (iii) Being convicted of a crime in any court
1191 other than a misdemeanor;



1192 (iv) Violating any lawful order, rule or
1193 regulation rendered or adopted by the board; or
1194 (v) Violating any provision of this chapter.
1195 (b) Such denial, refusal to renew, suspension,
1196 revocation, order to cease and desist from designated conduct, or
1197 warning or reprimand may be ordered by the board in a decision
1198 made after a hearing in the manner provided by the rules and
1199 regulations adopted by the board. One (1) year from the date of
1200 the revocation of a license, application may be made to the board
1201 for reinstatement. The board shall have discretion to accept or
1202 reject an application for reinstatement and may, but shall not be
1203 required to, hold a hearing to consider such reinstatement.
1204 (c) In addition to the reasons specified in paragraph
1205 (a) of this subsection (4), the board shall be authorized to
1206 suspend the license of any licensee for being out of compliance
1207 with an order for support, as defined in Section 93-11-153. The
1208 procedure for suspension of a license for being out of compliance
1209 with an order for support, and the procedure for the reissuance or
1210 reinstatement of a license suspended for that purpose, and the
1211 payment of any fees for the reissuance or reinstatement of a
1212 license suspended for that purpose, shall be governed by Section
1213 93-11-157 or 93-11-163, as the case may be. If there is any
1214 conflict between any provision of Section 93-11-157 or 93-11-163
1215 and any provision of this chapter, the provisions of Section
1216 93-11-157 or 93-11-163, as the case may be, shall control.



1217 (5) Establish fees.

1218 (a) A person licensed under this chapter shall pay to
1219 the board a fee, not to exceed One Hundred Dollars (\$100.00), to
1220 be set by the board for the issuance of a license.

1221 (b) Such fees shall be set in such an amount as to
1222 reimburse the state to the extent feasible for the cost of the
1223 services rendered.

1224 (c) Any increase in the fee charged by the board under
1225 this subsection shall be in accordance with the provisions of
1226 Section 41-3-65.

1227 (6) Collect funds.

1228 (a) The administration of the provisions of this
1229 chapter shall be financed from income accruing from fees, licenses
1230 and other charges assessed and collected by the board in
1231 administering this chapter.

1232 (b) The board shall receive and account for all funds
1233 received and shall keep such funds in a separate fund.

1234 (c) Funds collected under the provisions of this
1235 chapter shall be used solely for the expenses of the advisory
1236 council and the board to administer the provisions of this
1237 chapter. Such funds shall be subject to audit by the State
1238 Auditor.

1239 (d) Members of the advisory council shall receive no
1240 compensation for services performed on the council, but may be
1241 reimbursed for necessary and actual expenses incurred in



connection with attendance at meetings of the council or for authorized business of the council from funds made available for such purpose, as provided in Section 25-3-41.

(7) Receive and process complaints.

(a) The board shall have full authority to investigate and evaluate each and every applicant applying for a license to practice dietetics, with the advice of the advisory council.

(b) The board shall have the authority to issue subpoenas, examine witnesses and administer oaths, and shall, at its discretion, investigate allegations or practices violating the provisions of this chapter, and in so doing shall have power to seek injunctive relief to prohibit any person from providing professional dietetic services as defined in Section 73-10-3(1)(j) without being licensed as provided herein.

(8) A license certificate issued by the board is the property of the board and must be surrendered on demand.

SECTION 12. Section 73-11-57, Mississippi Code of 1972, is amended as follows:

73-11-57. (1) The board, upon satisfactory proof at proper hearing and in accordance with the provisions of this chapter and the regulations of the board, may suspend, revoke, or refuse to issue or renew any license under this chapter, reprimand or place the holder of a license on a term of probation, and/or take any other action in relation to a license as the board may deem proper under the circumstances upon any of the following grounds:



1267 (a) The employment of fraud or deception in applying
1268 for a license or in passing the examination provided for in this
1269 chapter;

1270 (b) The erroneous issuance of a license to any person;

1271 (c) The conviction of a felony by any court in this
1272 state or any federal court or by the court of any other state or
1273 territory of the United States; having been convicted of or pled
1274 guilty to a felony in the courts of this state or any other state,
1275 territory or country which would prevent a person from holding
1276 elected office. Conviction, as used in this paragraph, shall
1277 include a deferred conviction, deferred prosecution, deferred
1278 sentence, finding or verdict of guilt, an admission of guilty, or
1279 a plea of nolo contendere;

1280 (d) The practice of embalming under a false name or
1281 without a license for the practice of funeral service;

1282 (e) The impersonation of another funeral service or
1283 funeral directing licensee;

1284 (f) The permitting of a person other than a funeral
1285 service or funeral directing licensee to make arrangements for a
1286 funeral and/or form of disposition;

1287 (g) Violation of any provision of this chapter or any
1288 rule or regulation of the board;

1289 (h) Having had a license for the practice of funeral
1290 service or funeral directing suspended or revoked in any
1291 jurisdiction, having voluntarily surrendered his license in any



1292 jurisdiction, having been placed on probation in any jurisdiction,
1293 having been placed under disciplinary order(s) or other
1294 restriction in any manner for funeral directing and/or funeral
1295 service, or operating a funeral establishment (a certified copy of
1296 the order of suspension, revocation, probation or disciplinary
1297 action shall be prima facie evidence of such action);

1298 (i) Solicitation of dead human bodies by the licensee,
1299 his agents, assistants or employees, whether such solicitation
1300 occurs after death or when death is imminent; if the person
1301 solicited has made known a desire not to receive the
1302 communication, or if the solicitation involves coercion, duress or
1303 harassment, or if the solicitation takes place at the residence of
1304 the client or prospective client and is uninvited by the client or
1305 prospective client and has not been previously agreed to by the
1306 client or prospective client; however, this shall not be deemed to
1307 prohibit general advertising;

1308 (j) Employment directly or indirectly of any
1309 apprentice, agent, assistant, employee, or other person, on a
1310 part-time or full-time basis or on commission, for the purpose of
1311 calling upon individuals or institutions by whose influence dead
1312 human bodies may be turned over to a particular funeral
1313 establishment;

1314 (k) Failure to give full cooperation to the board
1315 and/or its designees, agents or other representatives in the



1316 performance of official duties of the board. Such failure to
1317 cooperate includes, but is not limited to:

1318 (i) Not furnishing any relevant papers or
1319 documents requested by or for the board;

1320 (ii) Not furnishing, in writing, an adequate
1321 explanation covering the matter contained in a complaint filed
1322 with the board;

1323 (iii) Not responding without cause to subpoenas
1324 issued by the board, whether or not the licensee is the party
1325 charged in any proceeding before the board;

1326 (iv) Not reasonably providing access, as directed
1327 by the board for its authorized agents or representatives seeking
1328 to perform reviews or inspections at facilities or places utilized
1329 by the license holder in the practice of funeral service or
1330 funeral directing and/or in performing any other activity
1331 regulated by the board under this chapter;

1332 (v) Failure to provide information within the
1333 specified time allotted and as required by the board and/or its
1334 representatives or designees;

1335 (vi) Failure to cooperate with the board or its
1336 designees or representatives in the investigation of any alleged
1337 misconduct or interfering with a board investigation by willful
1338 misrepresentation of facts;



1339 (vii) Deceiving or attempting to deceive the board
1340 regarding any matter under investigation, including altering or
1341 destroying any records; and

1342 (viii) Failure, without good cause, to cooperate
1343 with any request by the board to appear before it;

1344 (1) Knowingly performing any act that in any way
1345 assists an unlicensed person to practice funeral service or
1346 funeral directing;

1347 (m) Knowingly making a false statement on death
1348 certificates;

1349 (n) Conviction of a crime involving moral turpitude;

1350 (o) Violating any statute, ordinance, rule or
1351 regulation of the state or any of its boards, agencies or
1352 political subdivisions affecting the registration of deaths or the
1353 handling, custody, care or transportation of dead human bodies; or

1354 (p) Unprofessional conduct in the practice of funeral
1355 service or funeral directing which includes, but is not limited
1356 to:

1357 (i) Retaining a dead human body for the payment of
1358 a fee for the performance of services that are not authorized;

1359 (ii) Knowingly performing any act which in any way
1360 assists an unlicensed person to practice funeral service or
1361 funeral directing;

1362 (iii) Being guilty of any dishonorable conduct
1363 likely to deceive, defraud or harm the public;



1364 (iv) Any act or omission in the practice of
1365 funeral service or directing which constitutes dishonesty, fraud
1366 or misrepresentation with the intent to benefit the licensee,
1367 another person or funeral establishment, or with the intent to
1368 substantially injure another person, licensee or funeral
1369 establishment; or

1370 (v) Any act or conduct, whether the same or of a
1371 different character than specified above, which constitutes or
1372 demonstrates bad faith, incompetency or untrustworthiness; or
1373 dishonest, fraudulent or improper dealing; or any other violation
1374 of the provisions of this chapter, the rules and regulations
1375 established by the board or any rule or regulation promulgated by
1376 the Federal Trade Commission relative to the practice of funeral
1377 service or funeral directing.

1378 (2) Any person, including a member of the board, may
1379 initiate a complaint against a licensee of the board by filing
1380 with the board a written complaint on a form prescribed by the
1381 board.

1382 (a) Upon receipt of a properly verified complaint, the
1383 board shall send a copy of the complaint to the affected licensee
1384 by certified mail to the address of such licensee appearing of
1385 record with the board. The licensee shall answer the complaint in
1386 writing within * * * thirty (30) days after receipt of the
1387 complaint. The licensee shall mail a copy of his, her or its
1388 response to the board and the complainant. Upon receipt of the



1389 licensee's response or lapse of * * * thirty (30) days, the board
1390 is authorized to investigate a complaint that appears to show the
1391 existence of any of the causes or grounds for disciplinary action
1392 as provided in Section 73-11-57. Upon finding reasonable cause to
1393 believe that the charges are not frivolous, unfounded or filed in
1394 bad faith, the board may, in its discretion, cause a hearing to be
1395 held, at a time and place fixed by the board, regarding the
1396 charges that a violation of this chapter has occurred. The board
1397 shall order a hearing for the licensee to appear and show cause
1398 why he/she should not be disciplined for a violation of this
1399 chapter.

1400 (b) The board shall give the complainant and the
1401 affected licensee * * * thirty (30) days' notice of any hearing
1402 upon a complaint. Such notice shall be by United States certified
1403 mail.

1404 (c) Any party appearing before the board may be
1405 accompanied by counsel.

1406 (d) Before commencing a hearing, the chairman or
1407 designee of the board shall determine if all parties are present
1408 and ready to proceed. If the complainant fails to attend a
1409 hearing without good cause shown, the complaint shall be dismissed
1410 summarily and all fees and expenses of convening the hearing shall
1411 be assessed to, and paid by, the complainant. If any affected
1412 licensee fails to appear for a hearing without good cause shown,



1413 such licensee shall be presumed to have waived his right to appear
1414 before the board and be heard.

1415 (e) Upon the chair's determination that all parties are
1416 ready to proceed, the chair or designee shall call the hearing to
1417 order and the complainant and the licensee may give opening
1418 statements. The board may order the sequestration of nonparty
1419 witnesses.

1420 (f) The complainant shall then present his, her or its
1421 complaint. The licensee, any counsel and any member or designee
1422 of the board may ask questions of witnesses.

1423 (g) The licensee shall then present his, her or its
1424 case in rebuttal. The complainant, any counsel and any member or
1425 designee of the board may ask questions of witnesses.

1426 (h) At the completion of the evidence, all parties may
1427 give closing statements.

1428 (i) At the conclusion of the hearing, the board may
1429 either decide the issue at that time or take the case under
1430 advisement for further deliberation. The board shall render its
1431 decision not more than ninety (90) days after the close of the
1432 hearing and shall forward the decision to the last-known business
1433 or residence address of the parties.

1434 (3) The board, on its own motion, may file a formal
1435 complaint against a licensee.

1436 (4) Except as otherwise provided in Section 1 of this act,
1437 the board may temporarily suspend a license under this chapter



1438 without any hearing, simultaneously with the institution of
1439 proceedings under this section, if it finds that the evidence in
1440 support of the board's determination is clear, competent and
1441 unequivocal and that the licensee's continuation in practice would
1442 constitute an imminent danger to public health and safety.

1443 (5) The board may, upon satisfactory proof that the
1444 applicant or licensee has been guilty of any of the offenses above
1445 enumerated, take the action authorized by this section against an
1446 applicant or licensee of the board upon a majority vote of the
1447 board members, after a hearing thereon. The board is vested with
1448 full power and authority to hold and conduct such hearings, compel
1449 the attendance of witnesses and the production of books, records
1450 and documents, issue subpoenas therefor, administer oaths, examine
1451 witnesses, and do all things necessary to properly conduct such
1452 hearings. The board may waive the necessity of a hearing if the
1453 person accused of a violation admits that he has been guilty of
1454 such offense. Any person who has been refused a license or whose
1455 license has been revoked or suspended may, within thirty (30) days
1456 after the decision of the board, file with the board a written
1457 notice stating that he feels himself aggrieved by such decision
1458 and may appeal therefrom to the * * * chancery court of the county
1459 and judicial district of residence of the person, or if the person
1460 is a nonresident of the State of Mississippi, to the * * *
1461 Chancery Court of the First Judicial District of Hinds County.
1462 The * * * chancery court shall determine the action of the board



1463 was in accord or consistent with law, or was arbitrary,
1464 unwarranted or an abuse of discretion. The appeal shall be
1465 perfected upon filing notice of the appeal with the * * * chancery
1466 court and by the prepayment of all costs, including the cost of
1467 the preparation of the record of the proceedings by the board. An
1468 appeal from the * * * chancery court judgment or decree may be
1469 reviewed by the Supreme Court as is provided by law for other
1470 appeals. * * *

1471 (6) In addition to any other power that it has, the board
1472 may, upon finding that an applicant or licensee has committed any
1473 of the violations listed in Section 73-11-57(1), impose a monetary
1474 penalty as follows:

1475 (a) For the first violation of any of the subparagraphs
1476 of subsection (1) of this section, a monetary penalty of not more
1477 than Five Hundred Dollars (\$500.00).

1478 (b) For the second violation of any of the
1479 subparagraphs of subsection (1) of this section, a monetary
1480 penalty of not more than One Thousand Dollars (\$1,000.00).

1481 (c) For the third and any subsequent violation of any
1482 of the subparagraphs of subsection (1) of this section, a monetary
1483 penalty of not more than Five Thousand Dollars (\$5,000.00).

1484 (d) For any violation of any of the subparagraphs of
1485 subsection (1) of this section, those reasonable costs that are
1486 expended by the board in the investigation and conduct of a
1487 proceeding for licensure revocation or suspension, including, but



1488 not limited to, the cost of process service, court reporters,
1489 expert witnesses and investigators.

1490 (7) The power and authority of the board to assess and levy
1491 such monetary penalties hereunder shall not be affected or
1492 diminished by any other proceeding, civil or criminal, concerning
1493 the same violation or violations except as provided in this
1494 section.

1495 (8) A licensee shall have the right of appeal from the
1496 assessment and levy of a monetary penalty as provided in this
1497 section under the same conditions as a right of appeal is provided
1498 elsewhere for appeals from an adverse ruling, order or decision of
1499 the board.

1500 (9) Any monetary penalty assessed and levied under this
1501 section shall not take effect until after the time for appeal
1502 shall have expired.

1503 (10) A monetary penalty assessed and levied under this
1504 section shall be paid to the board by the licensee upon the
1505 expiration of the period allowed for appeal of such penalties
1506 under this section or may be paid sooner if the licensee elects.

1507 With the exception of subsection (5)(d) of this section,
1508 monetary penalties collected by the board under this section shall
1509 be deposited in the State Treasury to the credit of the State
1510 Board of Funeral Service. Any monies collected by the board under
1511 subsection (5)(d) of this section shall be deposited into the
1512 special fund operating account of the board.



1513 (11) When payment of a monetary penalty assessed and levied
1514 by the board against a licensee in accordance with this section is
1515 not paid by the licensee when due under this section, the board
1516 shall have power to institute and maintain proceedings in its name
1517 for enforcement of payment in the chancery court of the county and
1518 judicial district of residence of the licensee, or if the licensee
1519 is a nonresident of the State of Mississippi, in the Chancery
1520 Court of the First Judicial District of Hinds County, Mississippi.

1521 (12) In any administrative or judicial proceeding in which
1522 the board prevails, the board shall have the right to recover
1523 reasonable attorney fees.

1524 (13) In addition to the reasons specified in subsection (1)
1525 of this section, the board shall be authorized to suspend the
1526 license of any licensee for being out of compliance with an order
1527 for support, as defined in Section 93-11-153. The procedure for
1528 suspension of a license for being out of compliance with an order
1529 for support, and the procedure for the reissuance or reinstatement
1530 of a license suspended for that purpose, and the payment of any
1531 fees for the reissuance or reinstatement of a license suspended
1532 for that purpose, shall be governed by Section 93-11-157 or
1533 93-11-163, as the case may be. Actions taken by the board in
1534 suspending a license when required by Section 93-11-157 or
1535 93-11-163 are not actions from which an appeal may be taken under
1536 this section. Any appeal of a license suspension that is required
1537 by Section 93-11-157 or 93-11-163 shall be taken in accordance



1538 with the appeal procedure specified in Section 93-11-157 or
1539 93-11-163, as the case may be, rather than the procedure specified
1540 in this section. If there is any conflict between any provision
1541 of Section 93-11-157 or 93-11-163 and any provision of this
1542 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
1543 case may be, shall control.

1544 **SECTION 13.** Section 73-13-37, Mississippi Code of 1972, is
1545 amended as follows:

1546 73-13-37. (1) The board, upon satisfactory proof and in
1547 accordance with the provisions of this chapter and the
1548 implementing regulations of the board pertaining thereto, is
1549 authorized to take the disciplinary actions provided for
1550 hereinafter against any person or firm practicing engineering or
1551 surveying, including nonregistrants, for any of the following
1552 reasons:

1553 (a) Violating any of the provisions of Sections 73-13-1
1554 through 73-13-45 or the implementing bylaws, rules, regulations,
1555 or standards of ethics or conduct duly adopted and promulgated by
1556 the board pertaining to the practice of engineering;

1557 (b) Fraud, deceit or misrepresentation in obtaining a
1558 certificate of licensure;

1559 (c) Gross negligence, malpractice or incompetency;

1560 (d) Any professional misconduct, as defined by the
1561 board through bylaws, rules and regulations, and standards of
1562 conduct and ethics;



1563 (e) Practicing or offering to practice engineering on
1564 an expired certificate or while under suspension or revocation of
1565 certificate unless said suspension or revocation be abated through
1566 probation, as provided for hereinafter; or

1567 (f) Addiction to or dependence on alcohol or other
1568 habit-forming drugs or being an habitual user of alcohol,
1569 narcotics, barbiturates, amphetamines, hallucinogens, or other
1570 drugs having similar effect.

1571 (2) Any person may prefer charges against any other person
1572 practicing engineering or surveying, including nonlicensees, for
1573 committing any of the acts set forth in subsection (1). Such
1574 charges shall be sworn to, either upon actual knowledge or upon
1575 information and belief, and shall be filed with the board. In the
1576 event any person certified under Sections 73-13-1 through 73-13-45
1577 is expelled from membership in any Mississippi professional
1578 engineering society or association, the board shall thereafter
1579 cite said person to appear at a hearing before the board and to
1580 show cause why disciplinary action should not be taken against
1581 him.

1582 The board shall investigate all charges filed with it and,
1583 upon finding reasonable cause to believe that the charges are not
1584 frivolous, unfounded or filed in bad faith, may, in its
1585 discretion, cause a hearing to be held, at a time and place fixed
1586 by the board, regarding the charges and may compel the accused by
1587 subpoena to appear before the board to respond to said charges.



1588 No disciplinary action taken hereunder may be taken until the
1589 accused has been furnished both a statement of the charges against
1590 him and notice of the time and place of the hearing thereof, which
1591 shall be personally served on or mailed by registered or certified
1592 mail, return receipt requested, to the last-known business or
1593 residence address of the accused not less than thirty (30) days
1594 prior to the date fixed for the hearing.

1595 Notice on a firm shall be had by notice on the principal or
1596 officer designated by the firm as having management or supervision
1597 of the engineering/surveying practice, or on the registered agent
1598 in the case of a corporation not domiciled in Mississippi.

1599 (3) At any hearing held hereunder, the board shall have the
1600 power to subpoena witnesses and compel their attendance and may
1601 also require the production of books, papers, documents, etc., as
1602 provided elsewhere in this chapter. The board is authorized to
1603 designate or secure a hearing officer to conduct the hearing. All
1604 evidence shall be presented under oath, which may be administered
1605 by any member of the board, and thereafter the proceedings may, if
1606 necessary, be transcribed in full by the court reporter and filed
1607 as part of the record in the case. Copies of such transcriptions
1608 may be provided to any party to the proceedings at a cost to be
1609 fixed by the board.

1610 All witnesses who shall be subpoenaed and who shall appear in
1611 any proceedings before the board shall receive the same fees and



1612 mileage as allowed by law in judicial civil proceedings, and all
1613 such fees shall be taxed as part of the costs in the case.

1614 Where in any proceeding before the board any witness shall
1615 fail or refuse to attend upon subpoena issued by the board, shall
1616 refuse to testify or shall refuse to produce any books and papers,
1617 the production of which is called for by the subpoena, the
1618 attendance of such witness and the giving of his testimony and the
1619 production of the books and papers shall be enforced by any court
1620 of competent jurisdiction of this state in the manner provided for
1621 the enforcement of attendance and testimony of witnesses in civil
1622 cases in the courts of this state.

1623 The accused shall have the right to be present at the hearing
1624 in person, by counsel or other representative, or both. The board
1625 is authorized to continue or recess the hearing as may be
1626 necessary.

1627 (4) At the conclusion of the hearing, the board may either
1628 decide the issue at that time or take the case under advisement
1629 for further deliberation. The board shall render its decision not
1630 more than ninety (90) days after the close of the hearing, and
1631 shall forward to the last-known business or residence address of
1632 the accused, by certified or registered mail, return receipt
1633 requested, a written statement of the decision of the board.

1634 If a majority of the board finds the accused guilty of the
1635 charges filed, the board may: (a) issue a public or private
1636 reprimand; (b) require the guilty party to complete a course or



1637 courses, approved by the board, in ethics or other appropriate
1638 subjects; (c) suspend or revoke the certificate of the accused, if
1639 the accused is a licensee; and/or (d) in lieu of or in addition to
1640 such reprimand, course completion, suspension or revocation,
1641 assess and levy upon the guilty party a monetary penalty of not
1642 less than One Hundred Dollars (\$100.00) nor more than Five
1643 Thousand Dollars (\$5,000.00) for each violation.

1644 (5) A monetary penalty assessed and levied under this
1645 section shall be paid to the board upon the expiration of the
1646 period allowed for appeal of such penalties under this section, or
1647 may be paid sooner if the guilty party elects. Money collected by
1648 the board under this section shall be deposited to the credit of
1649 the board's special fund in the State Treasury.

1650 When payment of a monetary penalty assessed and levied by the
1651 board in accordance with this section is not paid when due, the
1652 board shall have the power to institute and maintain proceedings
1653 in its name for enforcement of payment in the chancery court of
1654 the county and judicial district of residence of the guilty party
1655 and if the guilty party be a nonresident of the State of
1656 Mississippi, such proceedings shall be in the Chancery Court of
1657 the First Judicial District of Hinds County, Mississippi.

1658 (6) When the board has taken a disciplinary action under
1659 this section, the board may, in its discretion, stay such action
1660 and place the guilty party on probation for a period not to exceed
1661 one (1) year upon the condition that the guilty party shall not



1662 further violate either the laws of the State of Mississippi
1663 pertaining to the practice of engineering or the bylaws, rules and
1664 regulations, or standards of conduct and ethics promulgated by the
1665 board.

1666 (7) The board, in its discretion, may assess and tax any
1667 part or all of the costs of any disciplinary proceedings conducted
1668 under this section against either the accused, the charging party,
1669 or both, as it may elect.

1670 (8) The power and authority of the board to assess and levy
1671 the monetary penalties provided for in this section shall not be
1672 affected or diminished by any other proceeding, civil or criminal,
1673 concerning the same violation or violations except as provided in
1674 this section.

1675 (9) The board, for sufficient cause, may reissue a revoked
1676 certificate of licensure or authority whenever a majority of the
1677 board members vote to do so.

1678 (10) Any person or firm aggrieved by an action of the board
1679 denying or revoking his certificate of licensure or authority or
1680 relicensure as a professional engineer or his certificate of
1681 enrollment as an engineer intern, or who is aggrieved by the
1682 action of the board as a result of disciplinary proceedings
1683 conducted under this section may appeal therefrom to the chancery
1684 court of either the county wherein the appellant resides or the
1685 Chancery Court of the First Judicial District of Hinds County, at
1686 the election of the appellant. If the appellant is a nonresident



of this state, the appeal shall be made to the Chancery Court of the First Judicial District of Hinds County. Such appeal shall be perfected before the board by the filing with the board of a notice of appeal to the chancery court. The court shall require a bond in an amount not to exceed One Thousand Dollars (\$1,000.00) conditioned to pay all costs which may be adjudged against the appellant. The notice of appeal shall be filed not later than thirty (30) days after the decision of the board is forwarded to the guilty party, as provided hereinabove.

Except as otherwise provided in Section 1 of this act, all appeals perfected hereunder shall * * * act as a supersedeas, and shall be made to the chancery court solely upon the record made before the board during the disciplinary hearing. When the appeal shall have been properly perfected as provided herein, the board shall cause the record of the proceedings conducted before it to be compiled, certified and filed with the chancery court. The briefing schedule shall be the same as for appeals to the Supreme Court. The chancery court shall be required to rule on the case within sixty (60) days of the close of briefing. All procedures and penalties provided for in this section shall apply to nonlicensees as well as licensees.

(11) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the certificate of licensure of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The



1712 procedure for suspension of a certificate for being out of
1713 compliance with an order for support, and the procedure for the
1714 reissuance or reinstatement of a certificate suspended for that
1715 purpose, and the payment of any fees for the reissuance or
1716 reinstatement of a certificate suspended for that purpose, shall
1717 be governed by Section 93-11-157 or 93-11-163, as the case may be.
1718 Actions taken by the board in suspending a certificate when
1719 required by Section 93-11-157 or 93-11-163 are not actions from
1720 which an appeal may be taken under this section. Any appeal of a
1721 suspension of a certificate that is required by Section 93-11-157
1722 or 93-11-163 shall be taken in accordance with the appeal
1723 procedure specified in Section 93-11-157 or 93-11-163, as the case
1724 may be, rather than the procedure specified in this section. If
1725 there is any conflict between any provision of Section 93-11-157
1726 or 93-11-163 and any provision of this chapter, the provisions of
1727 Section 93-11-157 or 93-11-163, as the case may be, shall control.

1728 (12) Any board member whose objectivity in a disciplinary
1729 proceeding is impaired shall either recuse himself from sitting as
1730 a member of the board in a formal disciplinary hearing in that
1731 proceeding or be disqualified therefrom. In the event a
1732 disciplinary proceeding is brought against a member or former
1733 member of the board, no member of the board who has served
1734 concurrently with the respondent in the disciplinary proceeding
1735 shall sit as a member of the board in a formal disciplinary
1736 hearing in that proceeding. If, after recusal or disqualification



1737 of board members as provided herein, there does not remain a
1738 quorum of the board to sit for a disciplinary hearing, the board
1739 shall have the power to select, in accordance with duly
1740 promulgated regulations of the board, substitute panel members
1741 from slates of candidates established by the Mississippi
1742 Engineering Society and the Mississippi Association of
1743 Professional Surveyors to the extent necessary to achieve the
1744 number of panel members equivalent to a quorum of the board.
1745 Substitute panel members must meet the qualifications of board
1746 members as provided in Section 73-13-7 and shall receive
1747 compensation as provided for board members in Section 73-13-9.

1748 **SECTION 14.** Section 73-13-93, Mississippi Code of 1972, is
1749 amended as follows:

1750 73-13-93. Any person who may feel aggrieved by an action of
1751 the board denying or revoking his certificate of licensure or
1752 relicensure as a professional surveyor or enrollment as surveyor
1753 intern may appeal therefrom to the chancery court of the county of
1754 residence of such person and, after full hearing, the court shall
1755 make such order sustaining or reversing the action of the board as
1756 to it may seem just and proper. Such appeal shall act as a
1757 supersedeas as provided in Section 1 of this act. However, in
1758 case of a nonresident licensee or applicant, such appeal shall be
1759 taken or made to the Chancery Court of the First Judicial District
1760 of Hinds County, Mississippi.



1761 Actions taken by the board in suspending a certificate of
1762 licensure when required by Section 93-11-157 or 93-11-163 are not
1763 actions from which an appeal may be taken under this section. Any
1764 appeal of a suspension of a certificate that is required by
1765 Section 93-11-157 or 93-11-163 shall be taken in accordance with
1766 the appeal procedure specified in Section 93-11-157 or 93-11-163,
1767 as the case may be, rather than the procedure specified in this
1768 section.

1769 **SECTION 15.** Section 73-14-39, Mississippi Code of 1972, is
1770 amended as follows:

1771 73-14-39. (1) From any revocation, the person charged may,
1772 within thirty (30) days thereof, appeal to the chancery court of
1773 the county of the residence of the licensee.

1774 (2) Notice of appeals shall be filed in the office of the
1775 clerk of the court, who shall issue a writ of certiorari directed
1776 to the board, commanding it within ten (10) days after service
1777 thereof to certify to such court its entire record in the matter
1778 in which the appeal has been taken. The appeal shall thereupon be
1779 heard in the due course by said court without a jury, and the
1780 court shall review the record and make its determination of the
1781 cause between the parties.

1782 (3) Any order, rule or decision of the board shall not take
1783 effect until after the time of appeal in the said court shall have
1784 expired. Except as otherwise provided in Section 1 of this act,
1785 if there is an appeal, such appeal may, in the discretion of and



1786 on motion to the chancery court, act as a supersedeas. The
1787 chancery court shall dispose of the appeal and enter its decision
1788 promptly. The hearing on the appeal may, in the discretion of the
1789 chancellor, be tried in vacation.

1790 (4) Any person taking an appeal shall post a satisfactory
1791 bond in the amount of Two Hundred Dollars (\$200.00) for payment of
1792 any costs which may be adjudged against him.

1793 (5) Actions taken by the board in suspending a certificate
1794 of registration when required by Section 93-11-157 or 93-11-163
1795 are not actions from which an appeal may be taken under this
1796 section. Any appeal of a suspension of a certificate that is
1797 required by Section 93-11-157 or 93-11-163 shall be taken in
1798 accordance with the appeal procedure specified in Section
1799 93-11-157 or 93-11-163, as the case may be, rather than the
1800 procedure specified in this section.

1801 **SECTION 16.** Section 73-15-31, Mississippi Code of 1972, is
1802 amended as follows:

1803 73-15-31. (1) Charges may be brought upon sworn affidavit
1804 filed by the Board of Nursing against any licensee who has
1805 allegedly committed any act in violation of this article that is
1806 grounds for disciplinary action. Upon receiving the sworn
1807 affidavit charging a licensee with an act which is a ground for
1808 disciplinary action under this article, the executive director or
1809 designee of the board shall fix a time and place for a hearing and
1810 shall cause a copy of the specific allegations and charges to be



1811 sent by certified mail or served by personal service of process
1812 together with notice of the time and place fixed for the hearing,
1813 to be served upon the accused at least fifteen (15) days prior
1814 thereto. The accused may waive notice of the hearing in writing
1815 and the board may grant the accused at least one (1) extension of
1816 time, upon the request of the accused. When personal service of
1817 process or service of process by certified mail cannot be
1818 effected, the executive director of the board shall cause to be
1819 published once in each of three (3) successive weeks a notice of
1820 the hearing in the newspapers published in the county in which the
1821 accused last practiced according to the records of the board, or
1822 in the county in which the accused last resided. When publication
1823 of the notice is necessary, the date of the hearing shall not be
1824 less than ten (10) days after the last date of the notice.

1825 (2) The board, acting by and through its executive director,
1826 shall have the power to subpoena persons and compel the production
1827 of any records, including, but not limited to, hospital and
1828 physician's records, papers and other documents, which shall be
1829 served in accordance with law for the Board of Nursing and on
1830 behalf of the accused. The person providing copies shall prepare
1831 them from the original records and shall delete from the copy
1832 provided pursuant to the subpoena the name of the individual by
1833 numbered code, to be retained by the custodian of the records from
1834 which the copies were made. Upon certification of the custodian
1835 that the copies are true and complete except for the individual's



1836 name, they shall be deemed authentic, subject to the right to
1837 inspect the originals for the limited purpose of ascertaining the
1838 accuracy of the copies. No privilege of confidentiality shall
1839 exist with respect to such copies, and no liabilities shall lie
1840 against the board or the custodian for furnishing or using such
1841 copies in accordance with this article.

1842 (3) All records of the investigation and all patient charts,
1843 records, emergency room records or any other document that may
1844 have been copied shall be kept confidential and shall not be
1845 subject to discovery or subpoena. If no disciplinary proceedings
1846 are initiated within a period of five (5) years after the
1847 determination of insufficient cause, then the board shall destroy
1848 all records obtained pursuant to this section.

1849 (4) At the hearings the board shall administer oaths as may
1850 be necessary for the proper conduct of the hearings. The accused
1851 shall have the right to appear either personally or by counsel, or
1852 both, to produce witnesses or evidence in his or her behalf, to
1853 cross-examine witnesses, and to have subpoenas issued by the
1854 board. All disciplinary hearings shall be conducted by a hearing
1855 panel consisting of three (3) members of the board, designated on
1856 a rotating basis by the board. All disciplinary hearings or
1857 appeals before the board and the Attorney General, and/or a
1858 designee thereof, shall not be bound by strict rules of procedure
1859 or by the laws of evidence in the conduct of its proceedings, but
1860 the determination shall be based upon sufficient legal evidence to



sustain it. A final decision by the hearing panel and by the board on appeal shall include findings of fact and conclusions of law, separately stated, of which the accused shall receive a copy.

(5) If the hearing panel determines that probable cause and sufficient legal evidence exist to believe that an applicant does not possess the qualifications required by this article or that an accused has violated any of the provisions of this article, the hearing panel may refuse to issue a license to the applicant, or revoke, suspend, refuse to renew a license, or revoke or suspend the privilege to practice, or otherwise discipline the accused as prescribed in this article.

(6) No previously issued license to practice nursing as a registered nurse or as a licensed practical nurse shall be revoked or suspended until after a hearing conducted pursuant to this article, except where the board finds there is imminent danger to the public health or safety that warrants injunctive relief provided in this article.

(7) A revoked or suspended license may be reissued after one (1) year, in the discretion of the hearing panel. A revoked or suspended privilege to practice may be reinstated after one (1) year, in the discretion of the hearing panel. The denial of an application to renew an existing license shall be treated in all respects as a revocation. The procedure for the reissuance of a license or reinstatement of the privilege to practice that is suspended for being out of compliance with an order for support,



1886 as defined in Section 93-11-153, shall be governed by Section
1887 93-11-157 or 93-11-163, as the case may be.

1888 (8) The hearing panel need not find that the actions that
1889 are grounds for discipline were willful, but it may consider the
1890 same in determining the nature of the disciplinary actions
1891 imposed.

1892 (9) The right to appeal from the action of the hearing panel
1893 to the full membership of the board in denying, revoking,
1894 suspending or refusing to renew any license issued by the board,
1895 or revoking or suspending any privilege to practice, or fining or
1896 otherwise disciplining any person practicing as a registered nurse
1897 or licensed practical nurse, is granted. The appeal must be taken
1898 within thirty (30) days after notice of the action of the hearing
1899 panel in denying, revoking, suspending or refusing to renew the
1900 license, or revoking or suspending the privilege to practice, or
1901 fining or otherwise disciplining the person, and is perfected upon
1902 filing notice of appeal and Fifty Dollars (\$50.00) with the
1903 executive director of the board.

1904 (10) The right to appeal from the action of the board in
1905 affirming the denial, revocation, suspension or refusal to renew
1906 any license issued by the board, or revoking or suspending any
1907 privilege to practice, or fining or otherwise disciplining of any
1908 person practicing as a registered nurse or a licensed practical
1909 nurse, is granted. Such appeal shall be to the chancery court of
1910 the county of the residence of the licensee on the record made,



1911 including a verbatim transcript of the testimony at the hearing.
1912 The appeal must be taken within thirty (30) days after notice of
1913 the action of the board in denying, revoking, suspending or
1914 refusing to renew the license, or revoking or suspending the
1915 privilege to practice, or fining or otherwise disciplining the
1916 person. The appeal is perfected upon filing notice of the appeal,
1917 together with a bond in the sum of One Hundred Dollars (\$100.00),
1918 with two (2) sureties, conditioned that if the action of the board
1919 in denying, revoking, suspending or refusing to renew the license,
1920 or revoking or suspending the privilege to practice, or fining or
1921 otherwise disciplining the person, be affirmed by the chancery
1922 court the nurse will pay the costs of the appeal and the action in
1923 the chancery court. Such bond shall be approved by the president
1924 of the board. In lieu of the bond, the nurse may deposit One
1925 Hundred Dollars (\$100.00) with the clerk of the chancery court.
1926 Appeals may be had to the Supreme Court of the State of
1927 Mississippi as provided by law from any final action of the
1928 chancery court. Except as otherwise provided in Section 1 of this
1929 act, no such person shall be allowed to practice nursing or
1930 deliver health care services in violation of any action of the
1931 chancery court denying, revoking, suspending, restricting or
1932 refusing to renew a license or revoking or suspending the
1933 privilege to practice while any such appeal to the Supreme Court
1934 is pending. Actions taken by the board in suspending a license or
1935 suspending the privilege to practice when required by Section



1936 93-11-157 or 93-11-163 are not actions from which an appeal may be
1937 taken under this section. Any appeal of a license suspension or
1938 suspension of the privilege to practice that is required by
1939 Section 93-11-157 or 93-11-163 shall be taken in accordance with
1940 the appeal procedure specified in Section 93-11-157 or 93-11-163,
1941 as the case may be, rather than the procedure specified in this
1942 section.

1943 (11) Nothing contained in this article shall be construed to
1944 bar any criminal prosecutions for violation of this article or any
1945 regulations promulgated hereunder.

1946 (12) Any member of the board and any witness appearing
1947 before the board shall be immune from suit in any civil action
1948 brought by a licensee who is the subject of a review hearing if
1949 such member or witness acts in good faith within the scope of the
1950 board and has made a reasonable effort to obtain the facts of the
1951 matter as to which the individual acts, and acts in the reasonable
1952 belief that the action taken is warranted by the facts.

1953 (13) Proceedings in progress on July 1, 1998, to deny,
1954 revoke, suspend or refuse to renew any license, or fine or
1955 otherwise discipline a licensee, shall not abate by reason of this
1956 article.

1957 **SECTION 17.** Section 73-17-15, Mississippi Code of 1972, is
1958 amended as follows:

1959 73-17-15. (1) (a) The board is authorized to investigate,
1960 either on the basis of complaints filed with it or on its own



1961 initiative, instances of suspected violations of this chapter of
1962 any nature, including, but not limited to: performing the duties
1963 of a nursing home administrator without a license; the providing
1964 of false information to the board either incident to an
1965 application for a license, incident to a hearing, or otherwise;
1966 maladministration; unethical conduct; incompetence; the conviction
1967 of a licensee of a felony; the misappropriation of funds; or of
1968 any other matter reflecting unfavorably upon the holder of a
1969 license under this chapter or an applicant therefor. On the basis
1970 of information developed during such an investigation, the board
1971 may (i) revoke, suspend, or refuse to renew any license issued by
1972 the board, (ii) deny an application for a license, or (iii)
1973 reprimand, place on probation, and/or take any other action in
1974 relation to a license, as the board may deem proper under the
1975 circumstances. Whenever the results of such an investigation are
1976 filed, the executive director of the board shall set a day for a
1977 hearing and shall notify the licensee that on the day fixed for
1978 hearing he or she may appear and show cause, if any, why his or
1979 her license should not be revoked, suspended, or other action
1980 taken in relation to his or her license. The notice shall be
1981 transmitted to the licensee by certified United States mail to the
1982 address of the licensee appearing of record with the board.

1983 (b) In cases where violations of this chapter have been
1984 substantiated, the board may assess a monetary penalty for those
1985 reasonable costs that are expended by the board in the



1986 investigation and conduct of a proceeding for licensure
1987 revocation, suspension or restriction, including, but not limited
1988 to, the cost of process service, court reporters, expert witnesses
1989 and investigations.

1990 (2) The board, upon finding and determining that any person
1991 represents himself or herself to be a nursing home administrator
1992 or performs any or all of the services, acts or duties of a
1993 nursing home administrator as defined in this chapter without a
1994 license, is authorized to petition the chancery court of the
1995 county in which the unauthorized acts have been, are being or may
1996 be committed, for writ or writs of injunction prohibiting the
1997 unauthorized acts. This provision is supplemental and in addition
1998 to the penal provisions set forth in Section 73-17-13.

1999 (3) Any licensee whose license has been revoked or
2000 suspended, or who has been placed on probation or reprimanded
2001 after a contested hearing, may appeal that action of the board to
2002 the chancery court of the county in which the nursing home
2003 administrator is practicing, which appeal shall not be a de novo
2004 appeal but shall be determined upon an official transcript of the
2005 record of the contested hearing. Appeals to the chancery court
2006 shall be taken within ten (10) days from the date of the board's
2007 order and shall be taken, perfected, heard and determined either
2008 in termtime or in vacation, and the appeals shall be heard and
2009 disposed of promptly by the court. Appeals from the board shall
2010 be taken and perfected by the filing of a bond in the sum of Two



2011 Hundred Fifty Dollars (\$250.00) with two (2) sureties, or with a
2012 surety company qualified to do business in Mississippi as surety,
2013 conditioned to pay the costs of the appeal. The bond shall be
2014 payable to the state and shall be approved by the clerk of the
2015 chancery court. The bond may be enforced in its name as other
2016 judicial bonds filed in the chancery court, and judgment may be
2017 entered upon those bonds and process and execution shall issue
2018 upon those judgments as provided by law in other cases. Upon
2019 approval of the bond by the clerk of the chancery court, the clerk
2020 shall give notice to the board of the appeal from the decision of
2021 the board. It thereupon shall be the duty of the board through
2022 its duly authorized representative to promptly transmit to the
2023 clerk of the chancery court in which the appeal is pending a
2024 certified copy of the order of the board and all documents filed
2025 relating to the board's action against the licensee, together with
2026 a transcript of the testimony, both oral and documentary,
2027 introduced for consideration by the board both in support of and
2028 in opposition to the action, which appeal shall be docketed by the
2029 clerk and shall be determined by the court based upon the record.
2030 Except as otherwise provided in Section 1 of this act, if there is
2031 an appeal, the appeal may, in the discretion of and on motion to
2032 the chancery court, act as a supersedeas. The chancery court
2033 shall dispose of the appeal and enter its decision promptly. The
2034 hearing on the appeal may, in the discretion of the chancellor, be
2035 tried in vacation.



2036 (4) Appeals from the decision of the chancery court may be
2037 taken by either the board or the licensee to the Supreme Court as
2038 in the case of appeals generally from the chancery court to the
2039 Supreme Court.

2040 (5) In addition to the reasons specified in subsection (1)
2041 of this section, the board shall be authorized to suspend the
2042 license of any licensee for being out of compliance with an order
2043 for support, as defined in Section 93-11-153. The procedure for
2044 suspension of a license for being out of compliance with an order
2045 for support, and the procedure for the reissuance or reinstatement
2046 of a license suspended for that purpose, and the payment of any
2047 fees for the reissuance or reinstatement of a license suspended
2048 for that purpose, shall be governed by Section 93-11-157 or
2049 93-11-163, as the case may be. Actions taken by the board in
2050 revoking a license when required by Section 93-11-157 or 93-11-163
2051 are not actions from which an appeal may be taken under this
2052 section. Any appeal of a license suspension that is required by
2053 Section 93-11-157 or 93-11-163 shall be taken in accordance with
2054 the appeal procedure specified in Section 93-11-157 or 93-11-163,
2055 as the case may be, rather than the procedure specified in this
2056 section. If there is any conflict between any provision of
2057 Section 93-11-157 or 93-11-163 and any provision of this chapter,
2058 the provisions of Section 93-11-157 or 93-11-163, as the case may
2059 be, shall control.



2060 **SECTION 18.** Section 73-19-45, Mississippi Code of 1972, is
2061 amended as follows:

2062 73-19-45. (1) The right to appeal from a final action of
2063 the board is hereby granted. Such appeal shall be to the chancery
2064 court of the county of residence of the licensee and shall be on
2065 the record made, including a verbatim transcript of the testimony
2066 at the hearing. The appeal shall be taken within thirty (30) days
2067 after notice of the action of the board. The appeal shall be
2068 perfected upon filing notice of the appeal with the chancery court
2069 and by the prepayment of all costs, including the cost of the
2070 preparation of the record of the proceedings by the board, and the
2071 filing of a bond in the sum of Two Hundred Dollars (\$200.00),
2072 conditioned that if the action of the board be affirmed by the
2073 chancery court, the licensee will pay the costs of the appeal and
2074 the action in the chancery court. A copy of the Notice of Appeal
2075 shall be served upon board counsel.

2076 (2) Except as otherwise provided in Section 1 of this act,
2077 if there is an appeal, such appeal may, in the discretion of and
2078 on motion to the chancery court, act as a supersedeas. The
2079 chancery court shall dispose of the appeal and enter its decision
2080 promptly. The hearing on the appeal may, in the discretion of the
2081 chancellor, be tried in vacation. The scope of review of the
2082 chancery court shall be limited to a review of the record made
2083 before the board to determine if the action of the board is
2084 unlawful for the reason that it was (a) not supported by



substantial evidence, (b) arbitrary or capricious, (c) beyond the power of the board to make, or (d) in violation of some statutory or constitutional right of the appellant. The decision of the chancery court may be appealed to the Supreme Court in the manner provided by the rules of the Supreme Court.

(3) 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.

SECTION 19. Section 73-19-111, Mississippi Code of 1972, is amended as follows:

73-19-111. (1) Any optometrist violating any provision of Sections 73-19-101 through 73-19-109 shall, upon conviction for a first offense, be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) at the discretion of the court, and upon conviction for a second or later offense shall be fined not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned not less than six (6) months nor more than one (1) year at the discretion of the court. Such actions shall be brought by the State Board of Optometry. However, this shall not be construed to prohibit the State Board of Medical Licensure, the State Board of Pharmacy, or



2110 any affected individual from bringing actions against any
2111 optometrist violating any provision of Sections 73-19-101 through
2112 73-19-109.

2113 (2) In addition to the penalties prescribed in subsection
2114 (1), the State Board of Optometry is authorized to suspend or
2115 revoke the optometrist's license to practice optometry for
2116 violating any provision of Sections 73-19-101 through 73-19-109.
2117 Any optometrist may appeal any such suspension or revocation of
2118 his license by the State Board of Optometry to the chancery court
2119 of the county of his residence in the manner prescribed by law.
2120 Such appeal shall act as a supersedeas as provided in Section 1 of
2121 this act.

2122 **SECTION 20.** Section 73-21-101, Mississippi Code of 1972, is
2123 amended as follows:

2124 73-21-101. (1) The right to appeal from the action of the
2125 board in denying, revoking, suspending or refusing to renew any
2126 license, registration or permit issued by the board, or fining or
2127 otherwise disciplining any person is hereby granted. Such appeal
2128 shall be to the chancery court of the county of the residence of
2129 the licensee or permit holder on the record made, including a
2130 verbatim transcript of the testimony at the hearing. The appeal
2131 shall be taken within thirty (30) days after notice of the action
2132 of the board in denying, revoking, suspending or refusing to renew
2133 the license or permit, or fining or otherwise disciplining the
2134 person. The appeal shall be perfected upon filing notice of the



2135 appeal and by the prepayment of all costs, including the cost of
2136 the preparation of the record of the proceedings by the board, and
2137 the filing of a bond in the sum of Two Hundred Dollars (\$200.00),
2138 conditioned that if the action of the board in denying, revoking,
2139 suspending or refusing to renew the license or permit, or fining
2140 or otherwise disciplining the person, be affirmed by the chancery
2141 court, the licensee or permit holder will pay the costs of the
2142 appeal and the action in the chancery court.

2143 (2) Except as otherwise provided in Section 1 of this act,
2144 if there is an appeal, such appeal shall act as a supersedeas.
2145 The chancery court shall dispose of the appeal and enter its
2146 decision promptly. The hearing on the appeal may, in the
2147 discretion of the chancellor, be tried in vacation. The scope of
2148 review of the chancery court shall be limited to a review of the
2149 record made before the board to determine if the action of the
2150 board is unlawful for the reason that it was (a) not supported by
2151 substantial evidence, (b) arbitrary or capricious, (c) beyond the
2152 power of the board to make, or (d) in violation of some statutory
2153 or constitutional right of the appellant. The decision of the
2154 chancery court may be appealed to the Supreme Court in the manner
2155 provided by law.

2156 (3) Actions taken by the board in suspending a license,
2157 registration or permit when required by Section 93-11-157 or
2158 93-11-163 are not actions from which an appeal may be taken under
2159 this section. Any appeal of a suspension of a license,



2160 registration or permit that is required by Section 93-11-157 or
2161 93-11-163 shall be taken in accordance with the appeal procedure
2162 specified in Section 93-11-157 or 93-11-163, as the case may be,
2163 rather than the procedure specified in this section.

2164 **SECTION 21.** Section 73-23-63, Mississippi Code of 1972, is
2165 amended as follows:

2166 73-23-63. (1) Any person whose application for a license is
2167 denied shall be entitled to a hearing before the board if he
2168 submits a written request to the board. Such hearing shall be
2169 conducted at the earliest possible date. The board shall fix a
2170 time and place for the hearing and shall cause a written copy of
2171 the reason for denial of the license, together with a notice of
2172 the time and place fixed for the hearing to be served on the
2173 applicant requesting the hearing. For purposes of the hearing,
2174 the board shall have the power to subpoena persons and compel the
2175 production of records, papers and other documents.

2176 (2) (a) All complaints concerning a licensee's business or
2177 professional practice shall be received by the board. Each
2178 complaint received shall be logged, recording at a minimum the
2179 following information: (i) licensee's name; (ii) name of the
2180 complaining party, if known; (iii) date of complaint; (iv) brief
2181 statement of complaint; and (v) disposition.

2182 (b) Following the investigative process, the board may
2183 file formal charges against the licensee. Such formal complaint
2184 shall, at a minimum, inform the licensee of the facts which are



2185 the basis of the charge and which are specific enough to enable
2186 the licensee to defend against the charges.

2187 (c) Each licensee whose conduct is the subject of a
2188 formal charge which seeks to impose disciplinary action against
2189 the licensee shall be served notice of the formal charge at least
2190 thirty (30) days before the date of the hearing, which hearing
2191 shall be presided over by the board or the board's designee.
2192 Service shall be considered to have been given if the notice was
2193 personally served on the licensee or applicant or if the notice
2194 was sent by certified, United States mail to the licensee's or
2195 applicant's last known address as listed on record with the board.

2196 (d) The notice of the formal charge shall consist at a
2197 minimum of the following information:

2198 (i) The time, place and date of the hearing;

2199 (ii) That the licensee shall appear personally at
2200 the hearing and may be represented by counsel;

2201 (iii) That the licensee shall have the right to
2202 produce witnesses and evidence in the licensee's behalf and shall
2203 have the right to cross-examine adverse witnesses and evidence;

2204 (iv) That the hearing could result in disciplinary
2205 action being taken against the licensee's license;

2206 (v) That rules for the conduct of these hearings
2207 exist and it may be in the licensee's best interest to obtain a
2208 copy;



2209 (vi) That the board or its designee shall preside
2210 at the hearing and following the conclusion of the hearing shall
2211 make findings of facts, conclusions of law and recommendations,
2212 separately stated, to the board as to what disciplinary action, if
2213 any, should be imposed on the licensee;

2214 (vii) The board or its designee shall hear
2215 evidence produced in support of the formal charges and contrary
2216 evidence produced by the licensee. At the conclusion of the
2217 hearing, the board shall issue an order; and

2218 (viii) All proceedings pursuant to this section
2219 are matters of public record and shall be preserved pursuant to
2220 state law.

2221 (3) In addition to other remedies provided by law or in
2222 equity, any applicant or licensee aggrieved by any action of the
2223 board may appeal the action of the board to the chancery court of
2224 the county of his residence, if he be a resident of this state, or
2225 the Chancery Court of the First Judicial District of Hinds County,
2226 Mississippi, if he be a nonresident of this state, and the court
2227 after a hearing may modify, affirm or reverse the judgment of the
2228 board or may remand the case to the board for further proceedings.
2229 An appeal shall be filed within thirty (30) days immediately
2230 following the mailing or delivery to the applicant or licensee of
2231 a copy of the order of judgment of the board, unless the court,
2232 for good cause shown, extends the time. Such appeals shall act as
2233 a supersedeas as provided in Section 1 of this act. Appeals may



2234 be had to the Supreme Court of the State of Mississippi as
2235 provided by law from any final judgment of the chancery court. If
2236 the board appeals from any judgment of the chancery court, no bond
2237 shall be required of it in order to perfect its appeal. Any
2238 appeal of a license suspension that is required by Section
2239 93-11-157 or 93-11-163 shall be taken in accordance with the
2240 appeal procedure specified in Section 93-11-157 or 93-11-163, as
2241 the case may be, rather than the procedure specified in this
2242 section.

2243 **SECTION 22.** Section 73-24-25, Mississippi Code of 1972, is
2244 amended as follows:

2245 73-24-25. (1) Any person whose application for a license is
2246 denied shall be entitled to a hearing before the board if he
2247 submits a written request to the board. Such hearing shall be
2248 conducted at the earliest possible date. A subcommittee of the
2249 council shall attend and may offer relevant evidence at any such
2250 hearing. The board shall fix a time and place for the hearing and
2251 shall cause a written copy of the reason for denial of the
2252 license, together with a notice of the time and place fixed for
2253 the hearing, to be served on the applicant requesting the hearing
2254 and shall serve notice of such hearing on the council. Service of
2255 and notice of the hearing may be given by United States certified
2256 mail, return receipt requested, to the last known address of the
2257 licensee or applicant. For purposes of the hearing, the board,
2258 acting by and through the Executive Director of the State Board of



2259 Health, shall have the power to subpoena persons and compel the
2260 production of records, papers and other documents.

2261 (2) (a) All complaints concerning a licensee's business or
2262 professional practice shall be received by the board. Each
2263 complaint received shall be registered, recording at a minimum the
2264 following information: (i) licensee's name; (ii) name of the
2265 complaining party, if known; (iii) date of complaint; (iv) brief
2266 statement of complaint; and (v) disposition.

2267 (b) Following the investigative process, the board may
2268 file formal charges against the licensee. Such formal complaint,
2269 at a minimum, shall inform the licensee of the facts which are the
2270 basis of the charge and which are specific enough to enable the
2271 licensee to defend against the charges.

2272 (c) Each licensee whose conduct is the subject of a
2273 formal charge which seeks to impose disciplinary action against
2274 the licensee shall be served notice of the formal charge at least
2275 thirty (30) days before the date of the hearing, which hearing
2276 shall be presided over by the board or the board's designee.
2277 Service shall be considered to have been given if the notice was
2278 personally received by the licensee or if the notice was sent by
2279 United States certified mail, return receipt requested, to the
2280 licensee at the licensee's last known address as listed with the
2281 state agency.

2282 (d) The notice of the formal charge shall consist, at a
2283 minimum, of the following information:



2284 (i) The time, place and date of the hearing;
2285 (ii) Notification that the licensee shall appear
2286 personally at the hearing and may be represented by counsel;
2287 (iii) Notification that the licensee shall have
2288 the right to produce witnesses and evidence in his behalf and
2289 shall have the right to cross-examine adverse witnesses and
2290 evidence;
2291 (iv) Notification that the hearing could result in
2292 disciplinary action being taken against the licensee;
2293 (v) Notification that rules for the conduct of the
2294 hearing exist, and it may be in the licensee's best interest to
2295 obtain a copy;
2296 (vi) Notification that the board or its designee
2297 shall preside at the hearing, and following the conclusion of the
2298 hearing, shall make findings of facts, conclusions of law and
2299 recommendations, separately stated, to the board as to what
2300 disciplinary action, if any, should be imposed on the licensee;
2301 (vii) The board or its designee shall hear
2302 evidence produced in support of the formal charges and contrary
2303 evidence produced by the licensee. At the conclusion of the
2304 hearing, the board shall issue an order; and
2305 (viii) All proceedings under this section are
2306 matters of public record and shall be preserved in accordance with
2307 state law.



(3) In addition to other remedies provided by law or in equity, any applicant or licensee aggrieved by any action of the board may appeal the action of the board to the chancery court of the county of his residence if he be a resident of this state, or to the Chancery Court of the First Judicial District of Hinds County, Mississippi, if he be a nonresident of this state. An appeal shall be filed within thirty (30) days immediately following the mailing or delivery to the applicant or licensee of a copy of the order of judgment of the board, unless the court, for good cause shown, extends the time. Such appeal shall act as a supersedeas as provided in Section 1 of this act. The court after a hearing may modify, affirm or reverse the judgment of the board or may remand the case to the board for further proceedings. An appeal from the chancery court may be had to the Supreme Court of the State of Mississippi as provided by law for any final judgment of the chancery court. If the board appeals a judgment of the chancery court, no bond shall be required of it in order to perfect its appeal.

(4) The board may impose any of the following sanctions, singly or in combination, when it finds that a licensee is guilty of any such offense:

- (a) Revoke the license;
- (b) Suspend the license, for any period of time;
- (c) Censure the licensee;



2332 (d) Impose a monetary penalty of not more than Two
2333 Hundred Dollars (\$200.00);

2334 (e) Place a licensee on probationary status and
2335 requiring the licensee to submit to any of the following: (i)
2336 report regularly to the board, or its designee, upon matters which
2337 are the basis of probation; (ii) continue to renew professional
2338 education until a satisfactory degree of skill has been attained
2339 in those areas which are the basis of probation; or (iii) such
2340 other reasonable requirement or restrictions as the board deems
2341 proper;

2342 (f) Refuse to renew a license; or

2343 (g) Revoke probation which has been granted and impose
2344 any other disciplinary action under this subsection when the
2345 requirements of probation have not been fulfilled or have been
2346 violated.

2347 (5) The board summarily may suspend a license under this
2348 chapter without the filing of a formal complaint, notice or a
2349 hearing, if the board finds that the continued practice in the
2350 profession by the licensee would constitute an immediate danger to
2351 the public. If the board summarily suspends a license under the
2352 provisions of this subsection a hearing must be held within * * *
2353 thirty (30) days after suspension begins, unless the hearing date
2354 is continued at the request of the licensee.

2355 (6) Disposition of any formal complaint may be made by
2356 consent order or stipulation between the board and the licensee.



(7) The board may reinstate any licensee to good standing under this chapter if, after hearing, the board is satisfied that the applicant's renewed practice is in the public interest.

(8) The board may seek the counsel of the Occupational Therapy Advisory Council regarding disciplinary actions.

(9) The board shall seek to achieve consistency in the application of the foregoing sanctions, and significant departure from prior decisions involving similar conduct shall be explained by the board.

(10) In addition, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for 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 23. Section 73-25-27, Mississippi Code of 1972, is amended as follows:

73-25-27. The State Board of Medical Licensure after notice and opportunity for a hearing to the licentiate, is authorized to



2382 suspend or revoke for any cause named in this chapter any license
2383 it has issued, or the renewal thereof, that authorizes any person
2384 to practice medicine, osteopathy, or any other method of
2385 preventing, diagnosing, relieving, caring for, or treating, or
2386 curing disease, injury or other bodily condition. The procedure
2387 for suspension of a license for being out of compliance with an
2388 order for support, and the procedure for the reissuance or
2389 reinstatement of a license suspended for that purpose, and the
2390 payment of any fees for the reissuance or reinstatement of a
2391 license suspended for that purpose, shall be governed by Section
2392 93-11-157 or 93-11-163, as the case may be. If there is any
2393 conflict between any provision of Section 93-11-157 or 93-11-163
2394 and any provision of this chapter, the provisions of Section
2395 93-11-157 or 93-11-163, as the case may be, shall control.

2396 The notice shall be effected by registered mail or personal
2397 service setting forth the particular reasons for the proposed
2398 action and fixing a date not less than thirty (30) days or more
2399 than sixty (60) days from the date of the mailing or the service,
2400 at which time the licentiate shall be given an opportunity for a
2401 prompt and fair hearing. For the purpose of the hearing the
2402 board, acting by and through its executive office, may subpoena
2403 persons and papers on its own behalf and on behalf of the
2404 licentiate, including records obtained under Section 73-25-28 and
2405 Section 73-25-83(c), may administer oaths and the testimony when
2406 properly transcribed, together with the papers and exhibits, shall



2407 be admissible in evidence for or against the licentiate. At the
2408 hearing the licentiate may appear by counsel and personally in his
2409 own behalf. Any person sworn and examined as a witness in the
2410 hearing shall not be held to answer criminally, nor shall any
2411 papers or documents produced by the witness be competent evidence
2412 in any criminal proceedings against the witness other than for
2413 perjury in delivering his evidence. The board or its designee, in
2414 the conduct of any hearing, shall not be bound by strict laws or
2415 rules of evidence. The board may adopt rules and discovery and
2416 procedure governing all proceedings before it. On the basis of
2417 any such hearing, or upon default of the licentiate, the board
2418 shall make a determination specifying its findings of fact and
2419 conclusions of law. The board shall make its determination based
2420 upon a preponderance of the evidence.

2421 A copy of the determination shall be sent by registered mail
2422 or served personally upon the licentiate. The decision of the
2423 board revoking or suspending the license shall become final thirty
2424 (30) days after so mailed or served unless within that period the
2425 licentiate appeals the decision to the chancery court, under the
2426 provisions of this section. Such appeal shall act as a
2427 supersedeas as provided in Section 1 of this act. The appeal to
2428 the chancery court shall be based solely on the record made before
2429 the board. A transcript of the proceedings and evidence, together
2430 with exhibits, presented at the hearing before the board in the
2431 event of appeal shall be a part of the record before the chancery



2432 court. The chancery court shall dispose of the appeal and enter
2433 its decision promptly. The hearing on the appeal may, in the
2434 discretion of the chancellor, be tried in vacation. Appeals may
2435 be taken to the Supreme Court of the State of Mississippi as
2436 provided by law from any final action of the chancery court.
2437 Except as otherwise provided in Section 1 of this act, no such
2438 person shall be allowed to practice medicine in violation of any
2439 action of the chancery court affirming, in whole or in part, the
2440 determination of the board, while any such appeal to the Supreme
2441 Court is pending.

2442 For the purpose of conducting investigations, the board,
2443 through its executive director, may issue subpoenas to any
2444 individual, clinic, hospital, pharmacy or other entity having in
2445 its possession papers, documents, medical charts, prescriptions or
2446 any other nonfinancial records. Any such subpoenas issued by the
2447 executive director shall be made pursuant to an order of the board
2448 entered on its minutes, determined on a case-by-case basis.
2449 Investigatory subpoenas, as provided in this section, may be
2450 served either by personal process or by registered mail, and upon
2451 service shall command production of the papers and documents to
2452 the board at the time and place so specified. The board shall be
2453 entitled to the assistance of the chancery court or the chancellor
2454 in vacation, which, on petition by the board, shall issue
2455 ancillary subpoenas and petitions and may punish as for contempt



2456 of court in the event of noncompliance with the subpoenas or
2457 petitions.

2458 For the purpose of conducting hearings, the board through its
2459 executive director may subpoena persons and papers on its own
2460 behalf and on behalf of the respondent, including records obtained
2461 under Section 73-25-28 and Section 73-25-83(c), may administer
2462 oaths, and may compel the testimony of witnesses. Any such
2463 subpoenas issued by the executive director shall be made pursuant
2464 to an order of the board entered on its minutes, determined on a
2465 case-by-case basis. It may issue subpoenas to take testimony, and
2466 testimony so taken and sworn to shall be admissible in evidence
2467 for and against the respondent. The board shall be entitled to
2468 the assistance of the chancery court or the chancellor in
2469 vacation, which, on petition by the board, shall issue ancillary
2470 subpoenas and petitions and may punish as for contempt of court in
2471 the event of noncompliance with the subpoenas or petitions.

2472 Unless the court otherwise decrees, a license that has been
2473 suspended by the board for a stated period of time shall
2474 automatically become valid on the expiration of that period and a
2475 license that has been suspended for an indefinite period shall
2476 become again valid if and when the board so orders, which it may
2477 do on its own motion or on the petition of the respondent. A
2478 license that has been revoked shall not be restored to validity
2479 except: (1) by order of the board based on petition for
2480 reinstatement filed under Section 73-25-32 or (2) by order of the



2481 chancery court or Supreme Court following appeal. Any licentiate
2482 whose license becomes again valid after a period of suspension or
2483 after it has been restored to validity by order of the board or by
2484 an order of the court, shall record it again in the office of the
2485 clerk of the circuit court of the county in which he resides in
2486 conformity with the requirements of Section 73-25-13. Nothing in
2487 this chapter shall be construed as limiting or revoking the
2488 authority of any court or of any licensing or registering officer
2489 or board, other than the State Board of Medical Licensure, to
2490 suspend, revoke and reinstate licenses and to cancel registrations
2491 under the provisions of Section 41-29-311.

2492 **SECTION 24.** Section 73-25-95, Mississippi Code of 1972, is
2493 amended as follows:

2494 73-25-95. Any person against whom disciplinary action is
2495 taken pursuant to Sections 73-25-81 through 73-25-95 shall have
2496 the right of judicial appeal as provided in Section 73-25-27
2497 relating to judicial appeal of board decisions and as provided in
2498 Section 1 of this act. * * *

2499 **SECTION 25.** Section 73-29-39, Mississippi Code of 1972, is
2500 amended as follows:

2501 73-29-39. Any person dissatisfied with the action of the
2502 board in refusing his application or suspending or revoking his
2503 license, or any other action of the board, may appeal the action
2504 of the board by filing a petition within thirty (30) days
2505 thereafter in the * * * chancery court in the county where the



2506 person resides or in the * * * Chancery Court of Hinds County,
2507 Mississippi, and the court is vested with jurisdiction and it
2508 shall be the duty of the court to set the matter for hearing upon
2509 ten (10) days' written notice to the board and the attorney
2510 representing the board. Except as otherwise provided in Section 1
2511 of this act, the court in which the petition of appeal is filed
2512 shall determine whether or not a cancellation or suspension of a
2513 license shall be abated until the hearing shall have been
2514 consummated with final judgment thereon or whether any other
2515 action of the board should be suspended pending hearing, and enter
2516 its order accordingly, which shall be operative when served upon
2517 the board, and the court shall provide the attorney representing
2518 the board with a copy of the petition and order. Except as
2519 otherwise authorized in Section 7-5-39, the board shall be
2520 represented in such appeals by the district or county attorney of
2521 the county or the Attorney General, or any of their assistants.
2522 The board shall initially determine all facts, but the court upon
2523 appeal shall set aside the determination of the board if the
2524 board's determination (1) is not based upon substantial evidence
2525 upon the entire record; (2) is arbitrary or capricious; (3) is in
2526 violation of statutory requirements; or (4) was made without
2527 affording to licensee or applicant due process of law.

2528 Actions taken by the board in suspending a license when
2529 required by Section 93-11-157 or 93-11-163 are not actions from
2530 which an appeal may be taken under this section. Any appeal of a



2531 license suspension that is required by Section 93-11-157 or
2532 93-11-163 shall be taken in accordance with the appeal procedure
2533 specified in Section 93-11-157 or 93-11-163, as the case may be,
2534 rather than the procedure specified in this section.

2535 **SECTION 26.** Section 73-30-11, Mississippi Code of 1972, is
2536 amended as follows:

2537 73-30-11. Following a decision by the board not to license,
2538 the applicant may request a hearing at the next regularly
2539 scheduled meeting of the board. The applicant will be notified of
2540 the decision of the majority of the board members within sixty
2541 (60) days of the hearing. Upon a final decision by the board not
2542 to license, the applicant may (after waiting a period of at least
2543 one (1) year) resubmit the application accompanied by new evidence
2544 and a nonrefundable application fee of One Hundred Dollars
2545 (\$100.00) for reconsideration for licensure.

2546 The applicant may appeal the decision of the board to
2547 the * * * chancery court of the county of the applicant's
2548 residence. If an applicant does not reside in Mississippi, the
2549 applicant may appeal the decision of the board to the Hinds
2550 County * * * Chancery Court. Any appeal to the * * * chancery
2551 court must be taken within thirty (30) days of the date of the
2552 board's decision. Such appeal shall act as a supersedeas as
2553 provided in Section 1 of this act. An appeal of the decision of
2554 the * * * chancery court may be taken to the Mississippi Supreme



2555 Court not later than sixty (60) days from the date of the decision
2556 by the * * * chancery court.

2557 **SECTION 27.** Section 73-31-21, Mississippi Code of 1972, is
2558 amended as follows:

2559 73-31-21. (1) The board, by an affirmative vote of at least
2560 four (4) of its seven (7) members, shall withhold, deny, revoke or
2561 suspend any license issued or applied for in accordance with the
2562 provisions of this chapter, or otherwise discipline a licensed
2563 psychologist, upon proof that the applicant or licensed
2564 psychologist:

2565 (a) Has violated the current code of ethics of the
2566 American Psychological Association or other codes of ethical
2567 standards adopted by the board; or

2568 (b) Has been convicted of a felony or any offense
2569 involving moral turpitude, the record of conviction being
2570 conclusive evidence thereof; or

2571 (c) Is using any substance or any alcoholic beverage to
2572 an extent or in a manner dangerous to any other person or the
2573 public, or to an extent that the use impairs his or her ability to
2574 perform the work of a professional psychologist with safety to the
2575 public; or

2576 (d) Has impersonated another person holding a
2577 psychologist license or allowed another person to use his or her
2578 license; or



2579 (e) Has used fraud or deception in applying for a
2580 license or in taking an examination provided for in this chapter;
2581 or

2582 (f) Has accepted commissions or rebates or other forms
2583 of remuneration for referring clients to other professional
2584 persons; or

2585 (g) Has performed psychological services outside of the
2586 area of his or her training, experience or competence; or

2587 (h) Has allowed his or her name or license issued under
2588 this chapter to be used in connection with any person or persons
2589 who perform psychological services outside of the area of their
2590 training, experience or competence; or

2591 (i) Is legally adjudicated mentally incompetent, the
2592 record of that adjudication being conclusive evidence thereof; or

2593 (j) Has willfully or negligently violated any of the
2594 provisions of this chapter. The board may recover from any person
2595 disciplined under this chapter, the costs of investigation,
2596 prosecution, and adjudication of the disciplinary action.

2597 (2) Notice shall be effected by registered mail or personal
2598 service setting forth the particular reasons for the proposed
2599 action and fixing a date not less than thirty (30) days nor more
2600 than sixty (60) days from the date of the mailing or that service,
2601 at which time the applicant or licensee shall be given an
2602 opportunity for a prompt and fair hearing. For the purpose of the
2603 hearing, the board, acting by and through its executive secretary,



2604 may subpoena persons and papers on its own behalf and on behalf of
2605 the applicant or licensee, may administer oaths and may take
2606 testimony. That testimony, when properly transcribed, together
2607 with the papers and exhibits, shall be admissible in evidence for
2608 or against the applicant or licensee. At the hearing, the
2609 applicant or licensee may appear by counsel and personally in his
2610 or her own behalf. Any person sworn and examined by a witness in
2611 the hearing shall not be held to answer criminally, nor shall any
2612 papers or documents produced by the witness be competent evidence
2613 in any criminal proceedings against the witness other than for
2614 perjury in delivering his or her evidence. On the basis of any
2615 such hearing, or upon default of applicant or licensee, the board
2616 shall make a determination specifying its findings of fact and
2617 conclusions of law. A copy of that determination shall be sent
2618 by registered mail or served personally upon the applicant or
2619 licensee. The decision of the board denying, revoking or
2620 suspending the license shall become final thirty (30) days after
2621 so mailed or served, unless within that period the applicant or
2622 licensee appeals the decision to the chancery court, under the
2623 provisions hereof, and the proceedings in chancery shall be
2624 conducted as other matters coming before the court. All
2625 proceedings and evidence, together with exhibits, presented at the
2626 hearing before the board shall be admissible in evidence in court
2627 in the appeal.



2628 (3) The board may subpoena persons and papers on its own
2629 behalf and on behalf of the respondent, may administer oaths and
2630 may compel the testimony of witnesses. It may issue commissions
2631 to take testimony, and testimony so taken and sworn to shall be
2632 admissible in evidence for and against the respondent. The board
2633 shall be entitled to the assistance of the chancery court or the
2634 chancellor in vacation, which, on petition by the board, shall
2635 issue ancillary subpoenas and petitions and may punish as for
2636 contempt of court in the event of noncompliance therewith.

2637 (4) Except as otherwise provided in Section 1 of this
2638 act, every order and judgment of the board shall take effect
2639 immediately on its promulgation unless the board in the order or
2640 judgment fixes a probationary period for the applicant or
2641 licensee. * * * The board may make public its order and judgments
2642 in any manner and form as it deems proper. It shall, in event of
2643 the suspension or revocation of a license, direct the clerk of the
2644 circuit court of the county in which that license was recorded to
2645 cancel that record.

2646 (5) Nothing in this section shall be construed as limiting
2647 or revoking the authority of any court or of any licensing or
2648 registering officer or board, other than the Mississippi Board of
2649 Psychology, to suspend, revoke and reinstate licenses and to
2650 cancel registrations under the provisions of Section 41-29-311.

2651 (6) Suspension by the board of the license of a psychologist
2652 shall be for a period not exceeding one (1) year. At the end of



2653 this period the board shall reevaluate the suspension, and shall
2654 either reinstate or revoke the license. A person whose license
2655 has been revoked under the provisions of this section may reapply
2656 for a license after more than two (2) years have elapsed from the
2657 date that the denial or revocation is legally effective.

2658 (7) In addition to the reasons specified in subsection (1)
2659 of this section, the board shall be authorized to suspend the
2660 license of any licensee for being out of compliance with an order
2661 for support, as defined in Section 93-11-153. The procedure for
2662 suspension of a license for being out of compliance with an order
2663 for support, and the procedure for the reissuance or reinstatement
2664 of a license suspended for that purpose, and the payment of any
2665 fees for the reissuance or reinstatement of a license suspended
2666 for that purpose, shall be governed by Section 93-11-157. Actions
2667 taken by the board in suspending a license when required by
2668 Section 93-11-157 or 93-11-163 are not actions from which an
2669 appeal may be taken under this section. Any appeal of a license
2670 suspension that is required by Section 93-11-157 or 93-11-163
2671 shall be taken in accordance with the appeal procedure specified
2672 in Section 93-11-157 or 93-11-163, as the case may be, rather than
2673 the procedure specified in this section. If there is any conflict
2674 between any provision of Section 93-11-157 or 93-11-163 and any
2675 provision of this chapter, the provisions of Section 93-11-157 or
2676 93-11-163, as the case may be, shall control.



2677 (8) The board may issue a nondisciplinary, educational
2678 letter to licensees as provided in Section 73-31-7(2)(g). The
2679 board may also direct a psychologist to obtain a formal assessment
2680 of ability to practice safely if there is reason to believe there
2681 may be impairment due to substance abuse or mental incapacity.
2682 Licensees who may be impaired, but who are able to practice
2683 safely, may be required by the board to seek appropriate treatment
2684 and/or supervision. That action by the board in itself will not
2685 be considered disciplinary.

2686 **SECTION 28.** Section 73-33-11, Mississippi Code of 1972, is
2687 amended as follows:

2688 73-33-11. (1) The Mississippi State Board of Public
2689 Accountancy may revoke, suspend, impose a civil penalty or take
2690 other appropriate action with respect to any license, practice
2691 privilege or permit issued pursuant to this chapter for any
2692 unprofessional conduct by the licensee or permit holder, or for
2693 other sufficient cause, provided written notice shall have been
2694 sent by certified mail to the holder thereof at holder's mailing
2695 address of record with the board, * * * thirty (30) days before
2696 any hearing thereon, stating the cause for such contemplated
2697 action and appointing a day and a place for a full hearing thereon
2698 by the board, provided further, no certificate or license be
2699 cancelled or revoked until a hearing shall have been given to the
2700 holder thereof according to law. But, after such hearing, the
2701 board may, in its discretion, take action against any license,



2702 practice privilege or permit issued pursuant to this chapter.
2703 When payment of a civil penalty is assessed and levied by the
2704 board in accordance with this section, such civil penalty shall
2705 not exceed Five Thousand Dollars (\$5,000.00) for each violation
2706 and shall be deposited into the special fund to the credit of the
2707 board.

2708 (2) The members of the board are hereby empowered to sit as
2709 a trial board; to administer oaths (or affirmations); to summon
2710 any witness and to compel his attendance and/or his testimony,
2711 under oath (or affirmation) before the board or for purposes of
2712 deposition during any board authorized investigation; to compel
2713 the production of any book, paper or document by the owner or
2714 custodian thereof to a hearing or for purpose of investigation;
2715 and/or to compel any officer to produce, during investigation or
2716 at the hearing, a copy of any public record (not privileged from
2717 public inspection by law) in his official custody, certified to,
2718 by him. The board shall elect one (1) of its members to serve as
2719 clerk, to issue summons and other processes, and to certify copies
2720 of its records or, the board may delegate such duties to the
2721 executive director.

2722 (3) The accused may appear in person and/or by counsel or,
2723 in the instance of a firm permit holder through its manager and/or
2724 counsel to defend such charges. If the accused does not appear or
2725 answer, judgment may be entered by default, provided the board
2726 finds that proper service was made on the accused.



2727 (4) The minutes of the board shall be recorded in an
2728 appropriate minute book permanently maintained by the board at its
2729 office.

2730 (5) In a proceeding conducted under this section by the
2731 board for disciplinary action, those reasonable costs that are
2732 expended by the board in the investigation and conduct of a
2733 proceeding for discipline, including, but not limited to, the cost
2734 of service of process, court reporters, expert witnesses,
2735 investigators and legal fees may be imposed by the board on the
2736 accused, the charging party or both.

2737 (6) Such costs shall be paid to the board upon the
2738 expiration of the period allowed for appeal of such penalties
2739 under this section, or may be paid sooner if the guilty party
2740 elects. Money collected by the board under this section shall be
2741 deposited to the credit of the board's special fund in the State
2742 Treasury. When payment of a monetary penalty assessed by the
2743 board under this section is not paid when due, the board shall
2744 have the power to institute and maintain proceedings in its name
2745 for enforcement of payment in the Chancery Court of the First
2746 Judicial District of Hinds County, Mississippi, or in the chancery
2747 court of the county where the respondent resides.

2748 (7) In case of a decision adverse to the accused, appeal
2749 shall be made within thirty (30) days from the day on which the
2750 decision is made to the * * * chancery court of the First Judicial
2751 District of Hinds County, Mississippi, or in the * * * chancery



2752 court of the county in which the accused resides. In the case of
2753 a nonresident licensee, the appeal shall be made to the * * *
2754 Chancery Court of the First Judicial District of Hinds County,
2755 Mississippi. Except as otherwise provided in Section 1 of this
2756 act, the order of the board shall not take effect until the
2757 expiration of said thirty (30) days.

2758 (8) In case of an appeal, bond for costs in the * * *
2759 chancery court shall be given as in other cases; and except as
2760 otherwise provided in Section 1 of this act, the order of the
2761 board shall not take effect until such appeal has been finally
2762 disposed of by the court or courts.

2763 (9) The board may, at any time, reinstate a license,
2764 practice privilege or permit if it finds that such reinstatement
2765 is justified.

2766 (10) In addition to the reasons specified in the first
2767 paragraph of this section, the board shall be authorized to
2768 suspend the license of any licensee for being out of compliance
2769 with an order for support, as defined in Section 93-11-153. The
2770 procedure for suspension of a license for being out of compliance
2771 with an order for support, and the procedure for the reissuance or
2772 reinstatement of a license suspended for that purpose, and the
2773 payment of any fees for the reissuance or reinstatement of a
2774 license suspended for that purpose, shall be governed by Section
2775 93-11-157 or 93-11-163, as the case may be. Actions taken by the
2776 board in suspending a license when required by Section 93-11-157



2777 or 93-11-163 are not actions from which an appeal may be taken
2778 under this section. Any appeal of a license suspension that is
2779 required by Section 93-11-157 or 93-11-163 shall be taken in
2780 accordance with the appeal procedure specified in Section
2781 93-11-157 or 93-11-163, as the case may be, rather than the
2782 procedure specified in this section. If there is any conflict
2783 between any provision of Section 93-11-157 or 93-11-163 and any
2784 provision of this chapter, the provisions of Section 93-11-157 or
2785 93-11-163, as the case may be, shall control.

2786 **SECTION 29.** Section 73-34-43, Mississippi Code of 1972, is
2787 amended as follows:

2788 73-34-43. If, at the conclusion of the hearing, the board
2789 determines that a licensed appraiser, licensed certified real
2790 estate appraiser or appraisal management company is guilty of a
2791 violation of any of the provisions of this chapter, it shall
2792 prepare a formal decision that shall contain findings of fact
2793 concerning the appropriate disciplinary action to be taken.

2794 The decision and order of the board shall be final. Any
2795 applicant, licensee, registrant or person aggrieved by a decision
2796 or order of the board shall have the right of appeal from such
2797 adverse order or decision of the board to the * * * chancery court
2798 of the county of residence of the applicant, licensee, registrant
2799 or person, or of the First Judicial District of Hinds County,
2800 within thirty (30) days from the service of notice of the action
2801 of the board upon the parties in interest. Such appeal shall act



2802 as a supersedeas as provided in Section 1 of this act. Notice of
2803 appeals shall be filed in the office of the clerk of the court who
2804 shall issue an order directed to the board commanding it, within
2805 ten (10) days after service thereof, to certify to the court its
2806 entire record in the matter in which the appeal has been taken.
2807 The appeal shall thereupon be heard in due course by the court,
2808 without a jury, which shall review the record and make its
2809 determination of the cause between the parties. To be effective,
2810 an application for review made by an aggrieved party must be filed
2811 within thirty (30) days after the party's receipt of the final
2812 decision and order of the board.

2813 If an application is filed for review of a final decision and
2814 order of the board, the case shall be set for trial within sixty
2815 (60) days from the date of the filing of an answer for the board.
2816 If the court finds that the board has regularly pursued its
2817 authority and has not acted arbitrarily, it shall affirm the
2818 decision and order of the board.

2819 Actions taken by the board in suspending a license when
2820 required by Section 93-11-157 or 93-11-163 are not actions from
2821 which an appeal may be taken under this section. Any appeal of a
2822 license suspension that is required by Section 93-11-157 or
2823 93-11-163 shall be taken in accordance with the appeal procedure
2824 specified in Section 93-11-157 or 93-11-163, as the case may be,
2825 rather than the procedure specified in this section.



2826 **SECTION 30.** Section 73-35-25, Mississippi Code of 1972, is
2827 amended as follows:

2828 73-35-25. (1) Any applicant or licensee or person aggrieved
2829 shall have the right of appeal from any adverse ruling or order or
2830 decision of the commission to the * * * chancery court of the
2831 county of residence of the applicant, licensee or person, or of
2832 the First Judicial District of Hinds County, within thirty (30)
2833 days from the service of notice of the action of the commission
2834 upon the parties in interest.

2835 (2) Notice of appeals shall be filed in the office of the
2836 clerk of the court who shall issue a writ of certiorari directed
2837 to the commission commanding it, within thirty (30) days after
2838 service thereof, to certify to such court its entire record in the
2839 matter in which the appeal has been taken. The appeal shall
2840 thereupon be heard in due course by said court, without a jury,
2841 which shall review the record and make its determination of the
2842 cause between the parties.

2843 (3) Any order, rule or decision of the commission shall not
2844 take effect until after the time for appeal to said court shall
2845 have expired. Except as otherwise provided in Section 1 of this
2846 act, in the event an appeal is taken by a defendant, such appeal
2847 may act, in the discretion of the court, as a supersedeas and the
2848 court shall dispose of said appeal and enter its decision
2849 promptly.



2850 (4) Any person taking an appeal shall post a satisfactory
2851 bond in the amount of Five Hundred Dollars (\$500.00) for the
2852 payment of any costs which may be adjudged against him.

2853 (5) Actions taken by the commission in suspending a license
2854 when required by Section 93-11-157 or 93-11-163 are not actions
2855 from which an appeal may be taken under this section. Any appeal
2856 of a license suspension that is required by Section 93-11-157 or
2857 93-11-163 shall be taken in accordance with the appeal procedure
2858 specified in Section 93-11-157 or 93-11-163, as the case may be,
2859 rather than the procedure specified in this section.

2860 **SECTION 31.** Section 73-36-33, Mississippi Code of 1972, is
2861 amended as follows:

2862 73-36-33. (1) The board shall have the power, after notice
2863 and hearing, to suspend or revoke the license of any registrant
2864 who (a) is found guilty by the board of fraud or gross negligence
2865 in the practice of professional forestry; (b) fails to comply with
2866 board rules and regulations; (c) is found guilty by the board of
2867 unprofessional or unethical conduct; or (d) has had his license
2868 suspended or revoked for cause in another jurisdiction.

2869 (2) Any person may prefer charges of fraud or gross
2870 negligence in connection with any forestry practice against any
2871 registrant. Such charges shall be in writing, shall be sworn to
2872 by the person making them, and shall be filed with the secretary
2873 of the board. All charges shall be heard by the board pursuant to
2874 its rules and regulations without undue delay.



2875 (3) Any applicant whose license is suspended or revoked by
2876 the board may apply for a review of the proceedings with reference
2877 to such suspension or revocation by appealing to the Chancery
2878 Court of the First Judicial District of Hinds County, Mississippi,
2879 provided a notice of appeal is filed by such applicant with the
2880 clerk of said court within sixty (60) days from entry of an order
2881 by the board suspending or revoking his license, provided said
2882 applicant files with said notice of appeal a bond to be approved
2883 by the court assuring the prompt payment of any and all costs of
2884 said appeal, said amount to be fixed by the court. Such appeal
2885 shall act as a supersedeas as provided in Section 1 of this act.
2886 Upon the filing of such notice of appeal and posting of such bond,
2887 the clerk of the said court shall notify the secretary of the
2888 board thereof and the record of the proceedings involved shall be
2889 prepared by the secretary and forwarded to the court within a
2890 period of sixty (60) days from such notice by the clerk. The
2891 court shall thereupon review the proceedings on the record
2892 presented and may hear such additional testimony as to the court
2893 may appear material and dispose of the appeal in termtime or in
2894 vacation, and the court may sustain or dismiss the appeal, or
2895 modify or vacate the order complained of, but in case the order is
2896 modified or vacated, the court may also, in its discretion, remand
2897 the matter to the board for such further proceedings not
2898 inconsistent with the court's order as, in the opinion of the



2899 court, justice may require. The decision of the chancery court
2900 may be appealed as other cases to the Supreme Court.

2901 (4) The board is authorized to secure, by contract, the
2902 services of an investigator when deemed necessary by the board to
2903 properly consider any charge then before it. The board may, at
2904 its discretion, establish a program of routine inspections.

2905 (5) In addition to the reasons specified in subsection (1)
2906 of this section, the board shall be authorized to suspend the
2907 license of any licensee for being out of compliance with an order
2908 for support, as defined in Section 93-11-153. The procedure for
2909 suspension of a license for being out of compliance with an order
2910 for support, and the procedure for the reissuance or reinstatement
2911 of a license suspended for that purpose, and the payment of any
2912 fees for the reissuance or reinstatement of a license suspended
2913 for that purpose, shall be governed by Section 93-11-157 or
2914 93-11-163, as the case may be. Actions taken by the board in
2915 suspending a license when required by Section 93-11-157 or
2916 93-11-163 are not actions from which an appeal may be taken under
2917 this section. Any appeal of a license suspension that is required
2918 by Section 93-11-157 or 93-11-163 shall be taken in accordance
2919 with the appeal procedure specified in Section 93-11-157 or
2920 93-11-163, as the case may be, rather than the procedure specified
2921 in this section. If there is any conflict between any provision
2922 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 32. Section 73-36-36, Mississippi Code of 1972, is amended as follows:

73-36-36. In addition to the penalties provided under Section 73-36-33 and Section 73-36-35, any person, found by the board to be in violation of this chapter or any rule or regulation of the board, shall be subject to an administrative fine of not more than One Thousand Dollars (\$1,000.00) for each violation. The person shall be given at least ten (10) days' written notice and an opportunity for a hearing before the board. If the administrative fine is not paid within ninety (90) days after the date of the board's order, the order shall become a judgment and may be filed and executed. Any person aggrieved of the board's order may appeal the order to the * * * Chancery Court of Hinds County within thirty (30) days after the date of the order of the board is issued. Appeal shall be on the record made before the board.

SECTION 33. Section 73-39-81, Mississippi Code of 1972, is amended as follows:

73-39-81. Any person aggrieved by a decision of the board may appeal to the * * * Chancery Court of the First Judicial District of Hinds County, Mississippi * * *. The appeal shall be made solely on the record before the board. Such appeal shall act as a supersedeas as provided in Section 1 of this act.



2948 **SECTION 34.** Section 73-42-13, Mississippi Code of 1972, is
2949 amended as follows:

2950 73-42-13. (1) After proper notice and an opportunity for a
2951 hearing, the Secretary of State may deny, suspend, revoke or
2952 refuse to renew a registration for conduct that would have
2953 justified denial of registration under Section 73-42-11(3) or for
2954 a violation of any provision of this chapter.

2955 (2) (a) The Secretary of State shall appoint at least one
2956 (1) hearing officer for the purpose of holding hearings, compiling
2957 evidence and rendering decisions under this section and Section
2958 73-42-11. The hearing officer shall fix the date for an
2959 adjudicatory hearing and notify the athlete agent involved. The
2960 hearing shall be held at a location to be designated by the
2961 hearing officer. Unless the time period is extended by the
2962 hearing officer, the hearing shall be held not less than fifteen
2963 (15) nor more than thirty (30) days after the mailing of notice to
2964 the athlete agent involved. At the conclusion of the hearing, the
2965 hearing officer shall make a recommendation regarding the
2966 registration of the athlete agent involved. The Secretary of
2967 State shall then take appropriate action by final order.

2968 (b) Any athlete agent whose application for
2969 registration has been denied or not renewed, or whose registration
2970 has been revoked or suspended by the Secretary of State, within
2971 thirty (30) days after the date of such final order, shall have
2972 the right of a trial de novo on appeal to the * * * chancery court



2973 of the county of residence of the athlete agent, the
2974 student-athlete, or the educational institution that issued an
2975 athletic scholarship to the student-athlete. If the secretary's
2976 final order is supported by substantial evidence and does not
2977 violate a state or federal law, then it shall be affirmed by
2978 the * * * chancery court. Either party shall have the right of
2979 appeal to the Supreme Court as provided by law from any decision
2980 of the * * * chancery court. * * * Such appeal shall act as a
2981 supersedeas as provided in Section 1 of this act.

2982 (3) In addition to the reasons specified in subsection (1)
2983 of this section, the secretary shall be authorized to suspend the
2984 registration of any person for being out of compliance with an
2985 order for support, as defined in Section 93-11-153. The procedure
2986 for suspension of a registration for being out of compliance with
2987 an order for support, and the procedure for the reissuance or
2988 reinstatement of a registration suspended for that purpose, and
2989 the payment of any fees for the reissuance or reinstatement of a
2990 registration suspended for that purpose, shall be governed by
2991 Section 93-11-157 or 93-11-163, as the case may be. Actions taken
2992 by the secretary in suspending the registration of a person when
2993 required by Section 93-11-157 are not actions from which an appeal
2994 may be taken under this section. Any appeal of a registration
2995 suspension that is required by Section 93-11-157 or 93-11-163
2996 shall be taken in accordance with the appeal procedure specified
2997 in Section 93-11-157 or 93-11-163, as the case may be, rather than



2998 the procedure specified in this section. If there is any conflict
2999 between any provision of Section 93-11-157 or 93-11-163 and any
3000 provision of this chapter, the provisions of Section 93-11-157 or
3001 93-11-163, as the case may be, shall control.

3002 **SECTION 35.** Section 73-43-14, Mississippi Code of 1972, is
3003 amended as follows:

3004 73-43-14. The State Board of Medical Licensure may appoint
3005 an executive committee, to be composed of three (3) of its
3006 members, with a chairman to be designated by the board from the
3007 members appointed to said committee. The executive committee
3008 shall have authority to execute all the powers vested in the
3009 board, in the interim of the meetings of the board. The executive
3010 committee shall have the authority to conduct licensure hearings
3011 pursuant to Section 73-25-27, provided that the power to revoke
3012 shall be subject to approval of the board. Any person aggrieved
3013 by a decision of the executive committee regarding licensure may
3014 appeal to the board. Any person aggrieved by an action of the
3015 board regarding licensure may appeal to the Chancery Court of the
3016 First Judicial District of Hinds County. Such appeal shall act as
3017 a supersedeas as provided in Section 1 of this act. Any action of
3018 the executive committee shall be legal and binding until modified
3019 or annulled by the board, and all pains and penalties prescribed
3020 for violating the rules of the board shall apply to any violation
3021 of rules and regulations that may be prescribed by the executive



committee. Any two (2) members of the executive committee shall be a quorum for the transaction of business.

All official meetings of the executive committee, as to time and place, shall be held pursuant to a call of the president of the board.

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.

SECTION 36. Section 73-53-25, Mississippi Code of 1972, is amended as follows:

73-53-25. Any person aggrieved by a decision of the board shall have the right to appeal therefrom to the * * * chancery court of the county of the residence of the aggrieved party or to the * * * Chancery Court of the First Judicial District of Hinds County in the manner provided by law for appeals from administrative decisions. Such appeal shall act as a supersedeas as provided in Section 1 of this act. 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.

SECTION 37. Section 73-55-19, Mississippi Code of 1972, is amended as follows:

73-55-19. (1) Any person licensed under this chapter may have his license revoked or suspended for a fixed period to be determined by the board for any of the following causes:

(a) Being convicted of an offense involving moral turpitude. The record of such conviction, or certified copy thereof from the clerk of the court where such conviction occurred or by the judge of that court, shall be sufficient evidence to warrant revocation or suspension.

(b) By securing a license under this chapter through fraud or deceit.

(c) For unethical conduct or for gross ignorance or inefficiency in the conduct of his practice.

(d) For knowingly practicing while suffering with a contagious or infectious disease.

(e) For the use of a false name or alias in the practice of his profession.

(f) For violating any of the provisions of this chapter.

(2) Any person, whose license is sought to be revoked or suspended under the provisions of this chapter, shall be given



3072 thirty (30) days' notice, in writing, enumerating the charges and
3073 specifying a date for public hearing thereon. The hearing shall
3074 be held in the county where the person's business is conducted.
3075 The board may issue subpoenas, compel the attendance and testimony
3076 of witnesses, and place them under oath, the same as any court of
3077 competent jurisdiction where the hearing takes place.

3078 (3) At all hearings the board may designate in writing one
3079 or more persons deemed competent by the board to conduct the
3080 hearing as trial examiner or trial committee, with the decision to
3081 be rendered in accordance with the provisions of subsection (4) of
3082 this section.

3083 (4) After a hearing has been completed the trial examiner or
3084 trial committee who conducted the hearing shall proceed to
3085 consider the case and, as soon as practicable, shall render a
3086 decision. In any case, the decision must be rendered within sixty
3087 (60) days after the hearing. The decision shall contain:

3088 (a) The findings of fact made by the trial examiner or
3089 trial committee;

3090 (b) Conclusions of law reached by the trial examiner or
3091 trial committee; and

3092 (c) The order based upon these findings of fact and
3093 conclusions of law.

3094 (5) From any revocation or suspension, the person charged
3095 may, within thirty (30) days thereof, appeal to the chancery court
3096 of the county where the hearing was held.



3097 (6) Notice of appeals shall be filed in the office of the
3098 clerk of the court, who shall issue a writ of certiorari directed
3099 to the board, commanding it within ten (10) days after service
3100 thereof to certify to such court its entire record in the matter
3101 in which the appeal has been taken. The appeal shall thereupon be
3102 heard in the due course by said court without a jury, and the
3103 court shall review the record and make its determination of the
3104 cause between the parties.

3105 (7) Except as otherwise provided in Section 1 of this act,
3106 if there is an appeal, such appeal may, in the discretion of and
3107 on motion to the chancery court, act as a supersedeas. The
3108 chancery court shall dispose of the appeal and enter its decision
3109 promptly. The hearing on the appeal may, in the discretion of the
3110 chancellor, be tried in vacation.

3111 (8) Any person taking an appeal shall post a satisfactory
3112 bond in the amount of Two Hundred Dollars (\$200.00) for payment of
3113 any costs which may be adjudged against him.

3114 (9) In addition to the reasons specified in subsection (1)
3115 of this section, the board shall be authorized to suspend the
3116 license of any licensee for being out of compliance with an order
3117 for support, as defined in Section 93-11-153. The procedure for
3118 suspension of a license for being out of compliance with an order
3119 for support, and the procedure for the reissuance or reinstatement
3120 of a license suspended for that purpose, and the payment of any
3121 fees for the reissuance or reinstatement of a license suspended



3122 for that purpose, shall be governed by Section 93-11-157 or
3123 93-11-163, as the case may be. Actions taken by the board in
3124 suspending a license when required by Section 93-11-157 or
3125 93-11-163 are not actions from which an appeal may be taken under
3126 this section. Any appeal of a license suspension that is required
3127 by Section 93-11-157 or 93-11-163 shall be taken in accordance
3128 with the appeal procedure specified in Section 93-11-157 or
3129 93-11-163, as the case may be, rather than the procedure specified
3130 in this section. If there is any conflict between any provision
3131 of Section 93-11-157 or 93-11-163 and any provision of this
3132 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
3133 case may be, shall control.

3134 **SECTION 38.** Section 73-57-33, Mississippi Code of 1972, is
3135 amended as follows:

3136 73-57-33. (1) Upon the filing of a written complaint with
3137 the board, charging a person with having committed any of the acts
3138 described in Section 73-57-31, the authorized employee of the
3139 board, shall make an investigation. If the board finds reasonable
3140 grounds for the complaint, a time and place for a hearing will be
3141 set, notice of which shall be served on the licensee, permit
3142 holder or applicant at least fifteen (15) calendar days prior
3143 thereto. The notice shall be by personal service or by certified
3144 or registered mail sent to the last-known address of the person.

3145 (2) The board may petition the * * * chancery court for the
3146 county within which the hearing is being held to issue subpoenas



3147 for the attendance of witnesses and the production of necessary
3148 evidence in any hearing before it. Upon request of the respondent
3149 or his counsel, the board shall petition the court to issue
3150 subpoenas in behalf of the respondent. The * * * chancery court
3151 upon petition may issue such subpoenas as it deems necessary.

3152 (3) At the hearing the board shall administer oaths as may
3153 be necessary for the proper conduct of the hearing. The accused
3154 shall have the right to appear either personally or by counsel, or
3155 both, to produce witnesses or evidence in his or her behalf and to
3156 cross-examine witnesses. All hearings before the board shall be
3157 conducted by the board, which shall not be bound by strict rules
3158 of procedure or by the laws of evidence in the conduct of its
3159 proceedings, but the determination shall be based upon sufficient
3160 legal evidence to sustain it. A final decision by the board shall
3161 include findings of fact and conclusions of law, separately
3162 stated, of which the accused shall receive a copy.

3163 (4) If the board determined that probable cause and
3164 sufficient legal evidence exist to believe that an applicant does
3165 not possess the qualifications required by this chapter or that an
3166 accused has violated any of the provisions of Section 73-57-31 of
3167 this chapter, the board may refuse to issue a license to the
3168 applicant, or revoke, suspend or refuse to renew a license.

3169 (5) The right to appeal from the action of the board in
3170 denying, revoking, suspending or refusing to renew any license
3171 issued by the board is hereby granted. Such appeal shall be to



3172 the * * * chancery court of the county of the residence of the
3173 licensee on the record made, including a verbatim transcript of
3174 the testimony at the hearing. Such appeal shall act as a
3175 supersedeas as provided in Section 1 of this act. The appeal must
3176 be taken within thirty (30) days after notice of the action of the
3177 board in denying, revoking, suspending or refusing to renew the
3178 license. The appeal is perfected upon filing notice of the
3179 appeal, together with a bond in the sum of One Hundred Dollars
3180 (\$100.00), with two (2) sureties, conditioned that if the action
3181 of the board in denying, revoking, suspending or refusing to renew
3182 the license be affirmed by the * * * chancery court, the licensee
3183 will pay the costs of the appeal and the action in the * * *
3184 chancery court. Such bond shall be approved by the president of
3185 the board. Appeals may be had to the Supreme Court of the State
3186 of Mississippi as provided by law from any final action of
3187 the * * * chancery court. Actions taken by the board in
3188 suspending a license or permit when required by Section 93-11-157
3189 or 93-11-163 are not actions from which an appeal may be taken
3190 under this section. Any appeal of a license or permit suspension
3191 that is required by Section 93-11-157 or 93-11-163 shall be taken
3192 in accordance with the appeal procedure specified in Section
3193 93-11-157 or 93-11-163, as the case may be, rather than the
3194 procedure specified in this section.

3195 **SECTION 39.** Section 73-59-13, Mississippi Code of 1972, is
3196 amended as follows:



3197 73-59-13. (1) The board, upon satisfactory proof and in
3198 accordance with the provisions of this chapter and the regulations
3199 of the board pertaining thereto, is authorized to take the
3200 disciplinary actions provided for in this section against any
3201 person for any of the following reasons:

3202 (a) Violating any of the provisions of this chapter or
3203 the rules or regulations of the board pertaining to the work of
3204 residential building or residential improvement;

3205 (b) Fraud, deceit or misrepresentation in obtaining a
3206 license;

3207 (c) Gross negligence or misconduct;

3208 (d) Engaging in work of residential building or
3209 residential improvement on an expired license or while under
3210 suspension or revocation of license unless the suspension or
3211 revocation be abated in accordance with this chapter;

3212 (e) Loaning a license to an unlicensed person;

3213 (f) Failing to maintain workers' compensation
3214 insurance, if applicable; or

3215 (g) Failing to pay for goods or services for which the
3216 builder is contractually bound.

3217 (2) Any person, including members of the board, may prefer
3218 charges against any other person for committing any of the acts
3219 set forth in subsection (1) of this section. Such charges shall
3220 be sworn to, either upon actual knowledge or upon information and
3221 belief, and shall be filed with the board.



3222 The board shall investigate all charges filed with it and,
3223 upon finding reasonable cause to believe that the charges are not
3224 frivolous, unfounded or filed in bad faith, may, in its
3225 discretion, cause a hearing to be held, at a time and place fixed
3226 by the board, regarding the charges and may compel the accused by
3227 subpoena to appear before the board to respond to such charges.

3228 The board may send a certified inspector to inspect the
3229 building or structure which is the subject of a complaint or the
3230 board may use a county certified building inspector from the
3231 county where the building or structure is located to inspect the
3232 building or structure which is the subject of a complaint. The
3233 report of the inspector shall be used in the investigation and the
3234 determination of the board. The provisions above shall only apply
3235 to hearings.

3236 No disciplinary action may be taken until the accused has
3237 been furnished both a statement of the charges against him and
3238 notice of the time and place of the hearing thereon, which shall
3239 be personally served on such accused or mailed by certified mail,
3240 return receipt requested, to the last-known business or residence
3241 address of the accused not less than thirty (30) days prior to the
3242 date fixed for the hearing. The complaining party shall be
3243 notified of the place and time of the hearing by mail to the
3244 last-known business or residence address of the complaining party
3245 not less than thirty (30) days prior to the date fixed for the
3246 hearing.



3247 (3) At any hearing held hereunder, the board shall have the
3248 power to subpoena witnesses and compel their attendance and may
3249 also require the production of books, papers, documents or other
3250 materials which may be pertinent to the proceedings. The board
3251 may designate or secure a hearing officer to conduct the hearing.
3252 All evidence shall be presented under oath, which may be
3253 administered by any member of the board, and thereafter the
3254 proceedings may, if necessary, be transcribed in full by a court
3255 reporter and filed as part of the record in the case. Copies of
3256 such transcriptions may be provided to any party to the
3257 proceedings at a price reflecting actual cost, to be fixed by the
3258 board.

3259 All witnesses who are subpoenaed and appear in any
3260 proceedings before the board shall receive the same fees and
3261 mileage as allowed by law to witnesses in county, circuit and
3262 chancery court pursuant to Section 25-7-47, * * * and all such
3263 fees shall be taxed as part of the costs in the case.

3264 When, in any proceeding before the board, any witness shall
3265 fail or refuse to attend upon subpoena issued by the board, shall
3266 refuse to testify, or shall refuse to produce any books and papers
3267 the production of which is called for by the subpoena, the
3268 attendance of such witness and the giving of his testimony and the
3269 production of the books and papers shall be enforced by any court
3270 of competent jurisdiction of this state in the manner provided for



3271 the enforcement of attendance and testimony of witnesses in civil
3272 cases in the courts of this state.

3273 The accused and the complaining party shall have the right to
3274 be present at the hearing in person, by counsel or other
3275 representative, or both. The board is authorized for proper cause
3276 to continue or recess the hearing as may be necessary.

3277 (4) At the conclusion of the hearing, the board may either
3278 decide the issue at that time or take the case under advisement
3279 for further deliberation. The board shall render its decision not
3280 more than ninety (90) days after the close of the hearing and
3281 shall forward to the last-known business or residence address of
3282 the accused, by certified mail, return receipt requested, a
3283 written statement of the decision of the board.

3284 (5) If a majority of the board finds the accused guilty of
3285 the charges filed, the board may:

3286 (a) Issue a public or private reprimand;
3287 (b) Suspend or revoke the license of the accused;
3288 (c) Order completion of an additional educational
3289 requirement prescribed by the board not to exceed two (2) hours
3290 per violation; or

3291 (d) In lieu of or in addition to any reprimand,
3292 suspension, revocation, or education requirement, assess and levy
3293 upon the guilty party a monetary penalty of not less than One
3294 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
3295 (\$5,000.00) for each violation.



3296 (6) A monetary penalty assessed and levied under this
3297 section shall be paid to the board upon the expiration of the
3298 period allowed for appeal of such penalties under this section or
3299 may be paid sooner if the guilty party elects. Money collected by
3300 the board under this section shall be deposited to the credit of
3301 the State Board of Contractors Fund.

3302 When payment of a monetary penalty assessed and levied by the
3303 board in accordance with this section is not paid when due, the
3304 board shall have the power to institute and maintain proceedings
3305 in its name for enforcement of payment in the chancery court of
3306 the county of residence of the delinquent party; however, if the
3307 delinquent party is a nonresident of the State of Mississippi,
3308 such proceedings shall be in the Chancery Court of the First
3309 Judicial District of Hinds County, Mississippi.

3310 (7) When the board has taken a disciplinary action under
3311 this section, the board may, in its discretion, stay such action
3312 and place the guilty party on probation for a period not to exceed
3313 one (1) year upon the condition that such party shall not further
3314 violate either the laws of the State of Mississippi pertaining to
3315 the practice of residential construction or residential remodeling
3316 or the bylaws, rules or regulations promulgated by the board.

3317 (8) The board shall not assess any of the costs of
3318 disciplinary proceedings conducted pursuant to this section
3319 against the prevailing party.



3320 (9) The power and authority of the board to assess and levy
3321 the monetary penalties provided for in this section shall not be
3322 affected or diminished by any other proceedings, civil or
3323 criminal, concerning the same violation or violations except as
3324 provided in this section.

3325 (10) The board, for sufficient cause, may reissue a revoked
3326 license whenever a majority of the board members vote to do so.

3327 (11) Within ten (10) days after any order, judgment or
3328 action of the board, any person aggrieved thereby may appeal such
3329 order, judgment or action either to the chancery court of the
3330 county wherein the appellant resides or to the Chancery Court of
3331 the First Judicial District of Hinds County, Mississippi, upon
3332 giving bond with sufficient security in the amount of Two Hundred
3333 Fifty Dollars (\$250.00), approved by the clerk of the chancery
3334 court and conditioned to pay any costs which may be adjudged
3335 against such person. Such appeal shall act as a supersedeas as
3336 provided in Section 1 of this act. In lieu of the bond, the
3337 appellant may post Two Hundred Fifty Dollars (\$250.00) with the
3338 clerk of the chancery court and conditioned to pay any costs which
3339 may be adjudged against such person.

3340 Notice of appeal shall be filed in the office of the clerk of
3341 the chancery clerk, who shall issue a writ of certiorari directed
3342 to the board commanding it within forty-five (45) days after
3343 service thereof to certify to such court its entire record in the
3344 matter in which the appeal has been taken. The appeal shall



3345 thereupon be heard in due course by the court, and the court shall
3346 review the record and shall affirm or reverse the judgment. If
3347 the judgment is reversed, the chancery court or chancellor shall
3348 render such order or judgment as the board ought to have rendered,
3349 and certify the same to the board; and costs shall be awarded as
3350 in other cases.

3351 Appeals may be had to the Supreme Court of the State of
3352 Mississippi as provided by law from any final action of the
3353 chancery court. The board may employ counsel to defend all such
3354 appeals, to be paid out of the funds in the State Board of
3355 Contractors Fund.

3356 * * *

3357 The remedies provided under this chapter for any aggrieved
3358 person shall not be exclusive, but shall be cumulative of and
3359 supplemental to any other remedies which he may otherwise have in
3360 law or in equity, whether by injunction or otherwise.

3361 (12) Any political subdivision or agency of this state which
3362 receives a complaint against a residential builder or remodeler
3363 shall, in addition to exercising whatever authority such political
3364 subdivision or agency has been given over such complaint, forward
3365 the complaint to the board.

3366 (13) In addition to the reasons specified in subsection (1)
3367 of this section, the board shall be authorized to suspend the
3368 license of any licensee for being out of compliance with an order
3369 for support, as defined in Section 93-11-153. The procedure for



3370 suspension of a license for being out of compliance with an order
3371 for support, and the procedure for the reissuance or reinstatement
3372 of a license suspended for that purpose, and the payment of any
3373 fees for the reissuance or reinstatement of a license suspended
3374 for that purpose, shall be governed by Section 93-11-157 or
3375 93-11-163, as the case may be. Actions taken by the board in
3376 suspending a license when required by Section 93-11-157 or
3377 93-11-163 are not actions from which an appeal may be taken under
3378 this section. Any appeal of a license suspension that is required
3379 by Section 93-11-157 or 93-11-163 shall be taken in accordance
3380 with the appeal procedure specified in Section 93-11-157 or
3381 93-11-163, as the case may be, rather than the procedure specified
3382 in this section. If there is any conflict between any provision
3383 of Section 93-11-157 or 93-11-163 and any provision of this
3384 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
3385 case may be, shall control.

3386 **SECTION 40.** Section 73-60-35, Mississippi Code of 1972, is
3387 amended as follows:

3388 73-60-35. (1) Except as otherwise provided in Section 1 of
3389 this act, upon the revocation or suspension of a license, the
3390 licensee shall immediately surrender the license to the
3391 commission. If the licensee fails to do so, the commission shall
3392 have the right to seize the license.



3393 (2) If circumstances of suspension or revocation so
3394 indicate, the commission may require an examination of the
3395 licensee before restoring his license.

3396 **SECTION 41.** Section 73-61-3, Mississippi Code of 1972, is
3397 amended as follows:

3398 73-61-3. (1) For the purposes of this section, the term
3399 "body piercing" means the creation of an opening in any part of
3400 the human body, other than the outer perimeter or lobe of the ear,
3401 for the purpose of inserting jewelry or other decorative object,
3402 or for some other nonmedical purpose.

3403 (2) No person shall perform body piercing upon any person
3404 for compensation within the State of Mississippi without first
3405 registering with the State Department of Health. The facility or
3406 premises in which body piercing is to be performed shall be
3407 specified in the registration, and the registered person shall be
3408 authorized to perform body piercing only in the specified facility
3409 or premises. Except as provided in Section 33-1-39, registrations
3410 shall be valid for one (1) year, and each person registered under
3411 this section shall pay an annual registration fee to the
3412 department in an amount set by the department, but not to exceed
3413 One Hundred Fifty Dollars (\$150.00), which fee shall be uniform
3414 for all registered persons. Any increase in the fee charged by
3415 the department under this subsection shall be in accordance with
3416 the provisions of Section 41-3-65.



3417 (3) The State Board of Health shall promulgate rules and
3418 regulations relating to:

3419 (a) Health, cleanliness and general sanitation of the
3420 facilities or premises in which body piercing is performed or to
3421 be performed;

3422 (b) Sterilization of body piercing apparatus and safe
3423 disposal of body piercing apparatus;

3424 (c) Procedures to prevent the transmission of disease
3425 or infection during or relating to body piercing procedures,
3426 specifically including, but not limited to, transmission of
3427 Hepatitis B and the human immunodeficiency virus (HIV); and

3428 (d) Such other administrative provisions as may be
3429 necessary to protect public health or properly administer the
3430 requirements of this section.

3431 (4) Representatives of the department may visit any facility
3432 or premises in which body piercing is performed at any time during
3433 business hours to ensure compliance with the requirements of this
3434 section and the rules and regulations promulgated under this
3435 section. Representatives of the department shall visit each
3436 facility or premises in which body piercing is performed not less
3437 than once each year to inspect for such compliance. Except as
3438 otherwise provided in Section 1 of this act, the department may
3439 suspend or revoke the registration of any person found to be
3440 violating any of the rules or regulations promulgated under this
3441 section.



(5) It shall be unlawful for any person to perform body piercing upon any person under the age of eighteen (18) years.

(6) Any person who performs body piercing for compensation without first registering with the department or after his registration has been suspended or revoked by the department, or any person who performs body piercing upon any person in violation of subsection (5) of this section, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

(7) The department is authorized to bring an action for an injunction under the provisions of Sections 73-51-1 through 73-51-5 to prohibit any person who is required to be registered under this section from performing body piercing without first registering with the department or after his registration has been suspended or revoked by the department.

(8) This section shall not apply to physicians licensed to practice medicine in Mississippi in the performance of their professional duties.

SECTION 42. Section 73-63-49, Mississippi Code of 1972, is amended as follows:

73-63-49. Except as provided in Section 73-63-43(10), any person aggrieved by an action of the board revoking that person's certificate of registration or certificate of enrollment as a geologist-in-training or denying the renewal of registration as a



3467 professional geologist, or who is aggrieved by the action of the
3468 board as a result of disciplinary proceedings conducted under
3469 Section 73-63-43 may appeal to the chancery court of the county in
3470 which the appellant resides or the Chancery Court of the First
3471 Judicial District of Hinds County, at the election of the
3472 appellant. If the appellant is a nonresident of this state, the
3473 appeal shall be made to the Chancery Court of the First Judicial
3474 District of Hinds County. The appeal shall be perfected before the
3475 board by the filing with the board of a notice of appeal to the
3476 chancery court. The notice of appeal shall be filed not later than
3477 thirty (30) days after the decision of the board is forwarded to
3478 the guilty party.

3479 Except as otherwise provided in Section 1 of this act, all
3480 appeals perfected under this section shall act as a supersedeas,
3481 and shall be made to the chancery court solely upon the record
3482 made before the board during the disciplinary hearing. The
3483 appellant shall be required to post a bond with sufficient
3484 sureties according to law in an amount to be determined by the
3485 chancellor. When the appeal is properly perfected, the board shall
3486 cause the record of the proceedings conducted before it to be
3487 compiled, certified and filed with the chancery court. The
3488 chancery court shall always be deemed open for hearing of appeals
3489 and the chancellor may hear the appeal in termtime or in vacation
3490 at any place in the chancellor's district. The appeal shall have
3491 precedence over all civil cases, except election contests. The



3492 chancery court shall review all questions of law and of fact. If
3493 no prejudicial error is found, the matter shall be affirmed and
3494 remanded to the board for enforcement. If a prejudicial error is
3495 found, the matter shall be reversed and the chancery court shall
3496 remand the matter to the board for appropriate action as may be
3497 shown or necessary under the circumstances. Appeals may be taken
3498 from the chancery court to the Supreme Court in the manner as
3499 required by law.

3500 **SECTION 43.** Section 73-67-19, Mississippi Code of 1972, is
3501 amended as follows:

3502 73-67-19. (1) The board shall report to the proper district
3503 attorney all cases that, in the judgment of the board, warrant
3504 prosecution.

3505 (2) Massage therapists or establishments may not be
3506 discriminated against regarding business licenses and shall be
3507 treated as any other health care profession.

3508 (3) Any civil penalty imposed under this section shall
3509 become due and payable when the person incurring the penalty
3510 receives a notice in writing of the penalty. The notice shall be
3511 sent by registered or certified mail. The person to whom the
3512 notice is addressed shall have thirty (30) days from the date of
3513 mailing of the notice in which to make written application for a
3514 hearing. Any person who makes that application shall be entitled
3515 to a hearing. The hearing shall be conducted as a contested case
3516 hearing. When an order assessing a civil penalty under this



3517 section becomes final by operation of law or on appeal, unless the
3518 amount of penalty is paid within ten (10) days after the order
3519 becomes final, it may be recorded with the circuit clerk in any
3520 county of this state. The clerk shall then record the name of the
3521 person incurring the penalty and the amount of the penalty in his
3522 lien record book.

3523 (4) Where the board proposes to refuse to grant or renew a
3524 license or proposes to revoke or suspend a license, an opportunity
3525 for a hearing shall be accorded. The board may designate any
3526 competent person(s) to preside at the hearing. The board shall
3527 promulgate rules for the conduct of hearings and issuance of
3528 orders.

3529 (5) The board may adopt rules requiring any person,
3530 including, but not limited to, licensed massage therapists,
3531 corporations, organizations, health care facilities and state or
3532 local governmental agencies to report to the board any conviction,
3533 determination or finding that a holder of a license has committed
3534 an act that constitutes unprofessional conduct, or to report
3535 information that indicates that the holder of a license may not be
3536 able to practice his profession with reasonable skill and safety
3537 to consumers as a result of a mental, emotional or physical
3538 condition. If the entity fails to furnish a required report, the
3539 board may petition the circuit court of the county in which the
3540 entity resides or is found, and the court shall issue to the



entity an order to furnish the required report. A failure to obey the order is a contempt of court.

(6) A person is immune from civil liability, whether direct or derivative, for providing information to the board.

(7) Upon the complaint of any citizen of this state, or upon its own motion, the board may investigate any alleged violation of this chapter. In the conduct of investigations, the board may take evidence; take the depositions of witnesses, including the person charged; compel the appearance of witnesses, including the person charged, before the board in person the same as in civil cases; require answers to interrogations; and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(8) The board shall make available, upon request, written appeals procedures for anyone whose license has been denied, suspended or revoked, and/or for anyone accused of violating any provisions of this chapter as provided in Section 1 of this act.

(9) Any time the board intends to deny an application for licensure, or suspend or revoke an existing license, the board shall give the person an opportunity for a hearing before taking final action.

SECTION 44. Section 73-69-33, Mississippi Code of 1972, is amended as follows:

73-69-33. Any person aggrieved by any action or decision of the State Fire Marshal under the provisions of this chapter may



3566 appeal therefrom, within thirty (30) days after receipt of notice
3567 thereof to the Chancery Court of the First Judicial District of
3568 Hinds County by certiorari in the manner provided by law. Such
3569 appeal shall * * * act as supersedeas * * * as provided in Section
3570 1 of this act. The court shall have the authority and
3571 jurisdiction to hear the appeal and render its decision in regard
3572 thereto in termtime or vacation.

3573 **SECTION 45.** Section 73-71-49, Mississippi Code of 1972, is
3574 amended as follows:

3575 73-71-49. (1) A suspended license is subject to expiration
3576 and shall be renewed as provided in this chapter, but while the
3577 license remains suspended, and until it is reinstated, the renewal
3578 does not entitle the practice of acupuncture, or any other
3579 activity or conduct in violation of the order of the board by
3580 which the license was suspended. Any final action shall be
3581 subject to the provisions of Section 1 of this act.

3582 (2) A revoked license is subject to expiration as provided
3583 in this chapter but it may not be renewed. If it is reinstated
3584 after its expiration, the former licensee, as a condition of
3585 reinstatement, shall pay a reinstatement fee in an amount equal to
3586 the renewal fee in effect on the last regular renewal fee date, if
3587 any, accrued at the time of its expiration.

3588 **SECTION 46.** Section 73-73-33, Mississippi Code of 1972, is
3589 amended as follows:



3590 73-73-33. Within thirty (30) days after entry of a final
3591 order or judgment denying or revoking a certificate to practice as
3592 a Certified Interior Designer, whether an initial licensure or
3593 renewal, or action of the board as a result of disciplinary
3594 proceedings conducted under this section, any person aggrieved may
3595 appeal the order, judgment or action either to the chancery court
3596 of the county in which the appellant resides or to the Chancery
3597 Court of the First Judicial District of Hinds County, Mississippi,
3598 upon giving bond with sufficient security in the amount of Five
3599 Hundred Dollars (\$500.00), approved by the clerk of the chancery
3600 court and conditioned to pay any costs which may be adjudged
3601 against the person. If the appellant is a nonresident of this
3602 state, the appeal shall be made to the Chancery Court of the First
3603 Judicial District of Hinds County, Mississippi.

3604 Notice of appeal shall be filed in the office of the clerk of
3605 the chancery court, who shall issue a writ of certiorari directed
3606 to the board commanding it, within ten (10) days after service, to
3607 certify to the court its entire record in the matter in which the
3608 appeal has been taken. The content of the briefs shall be in
3609 accordance with M.R.A.P. 28 and the briefing schedule shall be in
3610 accordance with M.R.A.P. 31 unless the court, in its discretion,
3611 directs otherwise. The appeal shall be heard in due course by the
3612 court, and the court shall review the record and make its
3613 determination of the cause between the parties within sixty (60)
3614 days of the close of briefing.



Any order, judgment or decision of the board shall not take effect until after the time for appeal to the court shall have expired. Except as otherwise provided in Section 1 of this act, all appeals perfected under this section shall act as a supersedeas of the order, judgment or action appealed from.

SECTION 47. Section 73-75-19, Mississippi Code of 1972, is amended as follows:

73-75-19. **License denial, suspension, or revocation.** (1)
The board, by an affirmative vote of at least three (3) of its five (5) 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 behavior analyst or licensed assistant behavior analyst upon finding that the applicant or licensee:

(a) Has violated the current Behavior Analyst Certification Board Professional Disciplinary and Ethical Standards, the Behavior Analyst Certification Board Guidelines for Responsible Conduct for Behavior Analysts, or other codes of ethical standards adopted by the board, or has lost or failed to renew certification by the Behavior Analyst Certification Board;
or

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



3639 (c) Is using any narcotic or any alcoholic beverage to
3640 an extent or in a manner dangerous to any other person or the
3641 public, or to an extent that such use impairs his ability to
3642 perform the work of a licensed behavior analyst or licensed
3643 assistant behavior analyst; or

3644 (d) Has impersonated another person holding a license
3645 issued under this chapter or allowed another person to use his
3646 license; or

3647 (e) Has used fraud or deception in applying for a
3648 license provided for in this chapter; or

3649 (f) Has accepted commissions or rebates or other forms
3650 of remuneration for referring clients to other professional
3651 persons; or

3652 (g) Has allowed his name or license issued under this
3653 chapter to be used in connection with any person or persons who
3654 perform applied behavior analysis services outside the area of
3655 their training, experience or competence; or

3656 (h) Is legally adjudicated mentally incompetent, the
3657 record of such adjudication being conclusive evidence thereof; or

3658 (i) Has willfully or negligently violated any of the
3659 provisions of this chapter.

3660 (2) The board may recover from any person disciplined under
3661 this chapter the costs of investigation, prosecution, and
3662 adjudication of the disciplinary action.



3663 (3) Notice shall be effected by registered mail or personal
3664 service setting forth the particular reasons for the proposed
3665 action and fixing a date not less than thirty (30) days nor more
3666 than sixty (60) days from the date of such mailing or such
3667 service, at which time the applicant or licensee shall be given an
3668 opportunity for a prompt and fair hearing. For the purpose of
3669 such hearing the board, acting by and through its executive
3670 secretary, may exercise all authority granted to conduct
3671 investigations and hearings pursuant to Section 73-75-9(2)(a) and
3672 (b). At such hearing the applicant or licensee may appear by
3673 counsel and personally on his own behalf. On the basis of any
3674 such hearing, or upon default of applicant or licensee, the board
3675 shall make a determination specifying its findings of fact and
3676 conclusions of law. A copy of such determination shall be sent by
3677 registered mail or served personally upon the applicant or
3678 licensee. The decision of the board denying, revoking or
3679 suspending the license shall become final thirty (30) days after
3680 so mailed or served unless within that period the licensee appeals
3681 the decision to the Chancery Court of Madison or Rankin Counties,
3682 pursuant to the provisions hereof, and the proceedings in chancery
3683 shall be conducted as other matters coming before the court. All
3684 proceedings and evidence, together with exhibits, presented at
3685 such hearing before the board in the event of appeal, shall be
3686 admissible in evidence in the court.



3687 (4) * * * The appeal provided for in subsection (3) of this
3688 section shall act as a supersedeas as provided in Section 1 of
3689 this act.

3690 (5) Except as otherwise provided in Section 1 of this act,
3691 every order and judgment of the board shall take effect
3692 immediately upon its promulgation unless the board in such order
3693 or judgment fixes a probationary period for applicant or licensee.
3694 Except as otherwise provided in Section 1 of this act, such order
3695 and judgment shall continue in effect unless upon appeal the court
3696 by proper order or decree terminates it earlier. The board may
3697 make public its order and judgments in such manner and form as it
3698 deems proper.

3699 (6) Suspension by the board of a license issued under this
3700 chapter shall be for a period not to exceed one (1) year. At the
3701 end of this period the board shall reevaluate the suspension, and
3702 shall either reinstate or revoke the license. A person whose
3703 license has been revoked under the provisions of this section may
3704 reapply for license after more than two (2) years have elapsed
3705 from the date such revocation is legally effective.

3706 (7) In addition to the reasons specified in subsection (1)
3707 of this section, the board shall be authorized to suspend the
3708 license of any licensee for being out of compliance with an order
3709 for support, in compliance with the procedures set forth in
3710 Sections 93-11-151 through 93-11-163.



3711 **SECTION 48.** This act shall take effect and be in force from
3712 and after July 1, 2021.

