

By: Senator(s) Huggins

To: Public Health and  
Welfare

## SENATE BILL NO. 2204

1       AN ACT TO REENACT SECTIONS 73-9-1, 73-9-3, 73-9-5, 73-9-7,  
2 73-9-9, 73-9-11, 73-9-13, 73-9-15, 73-9-17, 73-9-19, 73-9-21,  
3 73-9-23, 73-9-24, 73-9-25, 73-9-27, 73-9-28, 73-9-29, 73-9-35,  
4 73-9-37, 73-9-39, 73-9-41, 73-9-43, 73-9-45, 73-9-47, 73-9-49,  
5 73-9-51, 73-9-53, 73-9-55, 73-9-57, 73-9-59, 73-9-61, 73-9-63,  
6 73-9-65, 73-9-101, 73-9-103, 73-9-105, 73-9-107, 73-9-109,  
7 73-9-111, 73-9-113, 73-9-115 AND 73-9-117, MISSISSIPPI CODE OF  
8 1972, WHICH CREATE THE MISSISSIPPI BOARD OF DENTAL EXAMINERS AND  
9 PRESCRIBE ITS POWERS AND DUTIES; TO AMEND REENACTED SECTION  
10 73-9-3, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS  
11 UNDER THE DENTAL PRACTICE ACT; TO AMEND REENACTED SECTION 73-9-7,  
12 MISSISSIPPI CODE OF 1972, TO REVISE THE TERMS OF OFFICE FOR  
13 MEMBERS OF THE BOARD AND TO ENSURE APPOINTMENTS ARE NOT IN  
14 VIOLATION OF CURRENT ETHICS LAWS AND REGULATIONS; TO AMEND  
15 REENACTED SECTION 73-9-9, MISSISSIPPI CODE OF 1972, TO PROVIDE  
16 THAT A BOARD MEMBER SHALL NOT MISS TWO CONSECUTIVE MEETINGS  
17 WITHOUT JUST CAUSE; TO AMEND REENACTED SECTION 73-9-11,  
18 MISSISSIPPI CODE OF 1972, TO CLARIFY THE APPOINTMENT PROCESS FOR  
19 BOARD MEMBERS; TO AMEND REENACTED SECTION 73-9-13, MISSISSIPPI  
20 CODE OF 1972, TO PROVIDE FOR A VICE PRESIDENT AND AN EXECUTIVE  
21 DIRECTOR TO REQUIRE THAT ONLY DENTIST MEMBERS SERVE AS EITHER  
22 PRESIDENT OR VICE PRESIDENT, TO TRANSFER CERTAIN DUTIES TO THE  
23 EXECUTIVE DIRECTOR, TO DELETE LANGUAGE COVERED BY THE PUBLIC  
24 ACCESS TO PUBLIC RECORDS LAW, TO PROVIDE FOR REGISTRATION OF ALL  
25 LICENSES AND PERMITS ISSUED BY THE BOARD; TO AMEND REENACTED  
26 SECTION 73-9-15, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
27 CONFIDENTIALITY OF BOARD PERSONNEL MATTERS; TO AMEND REENACTED  
28 SECTION 73-9-19, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
29 MAINTAINING A LIST OF ALL LICENSES AND PERMITS ISSUED BY THE  
30 BOARD, TO REQUIRE LICENSEES TO PROMPTLY NOTIFY THE BOARD OF  
31 ADDRESS CHANGES OR BE ASSESSED AN ADMINISTRATIVE PENALTY, TO  
32 PROVIDE FOR A LICENSE/PERMIT RENEWAL PERIOD AS ESTABLISHED BY THE  
33 BOARD THROUGH RULE OR REGULATION, TO DELETE THE REQUIREMENT THAT  
34 LICENSES BE FILED IN THE COUNTY OF RESIDENCE; TO AMEND REENACTED  
35 SECTION 73-9-23, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
36 QUALIFICATIONS FOR THE ACCREDITATION OF DENTAL AND DENTAL HYGIENE  
37 SCHOOLS, TO REQUIRE THAT A PORTION OF THE LICENSURE EXAMINATIONS  
38 BE CONDUCTED ON LIVE HUMAN SUBJECTS IF DEEMED NECESSARY BY THE  
39 BOARD; TO AMEND REENACTED SECTION 73-9-24, MISSISSIPPI CODE OF  
40 1972, TO CLARIFY THE QUALIFICATIONS FOR THE ACCREDITATION OF  
41 DENTAL AND DENTAL HYGIENE SCHOOLS, AND TO PROVIDE FOR ACQUISITION  
42 OF INFORMATION FROM THE HEALTHCARE INTEGRITY AND PROTECTION DATA  
43 BANK; TO AMEND REENACTED SECTION 73-9-25, MISSISSIPPI CODE OF  
44 1972, TO DELETE CERTAIN LANGUAGE CONCERNING THE SUBJECTS FOR  
45 WRITTEN EXAMINATIONS; TO AMEND REENACTED SECTION 73-9-27,  
46 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SIGNATURES OF ALL BOARD  
47 MEMBERS BE AFFIXED TO LICENSES BY CREDENTIALS AND EXAMINATION, AND  
48 TO FURTHER CLARIFY THE DUTIES OF THE EXECUTIVE DIRECTOR; TO AMEND  
49 REENACTED SECTION 73-9-28, MISSISSIPPI CODE OF 1972, TO CLARIFY  
50 THE DUTIES OF THE SECRETARY AND EXECUTIVE DIRECTOR; TO AMEND  
51 REENACTED SECTION 73-9-29, MISSISSIPPI CODE OF 1972, TO PROVIDE  
52 FOR A SPECIALTY LICENSE FEE; TO REPEAL SECTION 73-9-33,



MISSISSIPPI CODE OF 1972, WHICH REQUIRES A LICENSEE TO RECORD HIS LICENSE WITH THE CIRCUIT CLERK OF HIS COUNTY OF RESIDENCE; TO AMEND REENACTED SECTION 73-9-35, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT A CERTIFICATE OF RECORDATION BE DISPLAYED; TO AMEND REENACTED SECTION 73-9-41, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE UNLICENSED PRACTICE AFTER A LICENSE HAS BEEN VOIDED FOR A FAILURE TO RE-REGISTER, TO PROVIDE THAT THIS SECTION NOT ONLY PERTAINS TO INDIVIDUALS WHO PREVIOUSLY HELD LICENSES BUT ALSO TO INDIVIDUALS WHO HAVE NEVER HELD LICENSES, TO PROVIDE FOR THE DEPOSIT OF BOTH COST ASSESSMENTS AND FINES TO THE BOARD'S SPECIAL FUND; TO AMEND REENACTED SECTION 73-9-43, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR CERTAIN INCREASES IN THE STATUTORY MAXIMUM FEE ASSESSMENTS, TO DELETE THE EXEMPTION FROM THE PAYMENT OF RENEWAL FEES FOR DENTISTS OVER THE AGE OF 70, TO PROVIDE FOR A TWO-MONTH PENALTY PHASE AND CLARIFY THE LANGUAGE THEREFOR TO APPLY TO ALL LICENSES AND PERMITS, TO DELETE CERTAIN PROVISIONS COVERED BY OTHER STATUTES, TO PROVIDE FOR THE DEPOSIT OF BOTH COST ASSESSMENTS AND FINES TO THE BOARD'S SPECIAL FUND, TO PROVIDE FOR A DAILY PER DIEM FOR BOARD MEMBERS WHO ADMINISTER INITIAL AND RE-TAKE LICENSURE EXAMINATIONS; TO AMEND REENACTED SECTION 73-9-45, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT EACH DENTIST AND DENTAL HYGIENIST MUST INVESTIGATE COMPLAINTS; TO AMEND REENACTED SECTION 73-9-47, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DUTIES OF THE EXECUTIVE DIRECTOR; TO AMEND REENACTED SECTION 73-9-49, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DUTIES OF THE EXECUTIVE DIRECTOR, AND TO DELETE THE REQUIREMENT THAT ANNUAL REPORTS BE FILED WITH THE GOVERNOR; TO AMEND REENACTED SECTION 73-9-57, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTIES FOR PRACTICING ILLEGALLY; TO AMEND REENACTED SECTION 73-9-61, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE DEPOSIT OF BOTH COST ASSESSMENTS AND FINES TO THE BOARD'S SPECIAL FUND, AND TO PROVIDE FOR DISCIPLINARY ACTION AGAINST ALL LICENSES AND PERMITS ISSUED BY THE BOARD; TO AMEND REENACTED SECTION 73-9-63, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROCEDURES FOR FILING NOTICES OF COMPLAINTS, AND TO PROVIDE FOR NOTICES OF COMPLAINTS FOR ALL LICENSES AND PERMITS ISSUED BY THE BOARD; TO AMEND REENACTED SECTION 73-9-65, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT SUSPENSIONS, REVOCATIONS AND REINSTATEMENTS BE FILED WITH THE CIRCUIT CLERK, TO PROVIDE FOR APPEAL FROM ALL TYPES OF DISCIPLINARY ACTIONS, TO PROVIDE AN APPEAL VENUE FOR DISCIPLINED LICENSEES WHO RESIDE OUTSIDE THE STATE OF MISSISSIPPI, TO PROVIDE AN APPEAL VENUE FOR HOLDERS OF ALL LICENSES AND PERMITS ISSUED BY THE BOARD; TO REPEAL SECTION 73-9-67, MISSISSIPPI CODE OF 1972, WHICH IS THE AUTOMATIC REPEALER ON THOSE STATUTES AUTHORIZING THE BOARD OF DENTAL EXAMINERS AND ITS DUTIES AND POWERS; TO AMEND REENACTED SECTION 73-9-107, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CONFIDENTIALITY OF ALL RECORDS IN THE POSSESSION OF THE BOARD AND EXAMINING COMMITTEE UNLESS SO ORDERED BY THE COURT, AND TO PROVIDE FOR ANONYMITY OF THOSE INDIVIDUALS FILING REPORTS WITH THE BOARD WHO HAVE REQUESTED TO REMAIN ANONYMOUS; TO AMEND REENACTED SECTION 73-9-113, MISSISSIPPI CODE OF 1972, TO ALLOW FOR THE RECOVERY OF COSTS AND IMPOSITION OF PENALTIES AS PROVIDED FOR IN SECTION 73-9-61, MISSISSIPPI CODE OF 1972; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 73-9-1, Mississippi Code of 1972, is reenacted as follows:

73-9-1. Every person who desires to practice dentistry or dental hygiene in this state must obtain a license to do so as



hereinafter provided; but this section shall not apply to dentists or dental hygienists now holding permanent licenses to practice provided the same have been recorded as required by law.

**SECTION 2.** Section 73-9-3, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-3. "Dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body; provided by a dentist, within the scope of his education, training and experience, in accordance with the ethics of the profession and applicable law, provided that nothing herein shall be so construed as to prevent:

(1) The practice of his profession by a regularly licensed and registered physician under the laws of this state unless he practices dentistry as a specialty; or

(2) The performance of mechanical work upon inanimate objects by persons working in dental offices under their supervision; or

(3) The operation of a dental laboratory and taking work by written work authorization from regularly licensed and registered dentists as provided for elsewhere in this chapter; or

(4) Dentists from outside the state from giving educational clinics or demonstrations before a dental society, convention or association; or

(5) Licensed dentists from outside the state from being called into Mississippi by licensed dentists of this state for consultative or operative purposes when such consultative or operative purposes have been authorized or approved by the Board of Dental Examiners for specified periods of time or as provided for by rules and regulations set forth by the board; or



(6) Applicants for a license to practice dentistry or dental hygiene in this state from working during an examination by and under the supervision and direction of the Board of Dental Examiners; or

(7) The practice of dentistry or of dental hygiene by students under the supervision of faculty in any dental school, college, or dental department of any school, college or university, or school of dental hygiene recognized by the board \* \* \*; or

(8) Dental or dental hygiene students enrolled in accredited dental or dental hygiene schools from participating in off-site training recognized and approved by the board, but such activities shall not be carried on for profit; or

(9) A regularly licensed and registered dentist from the delegation of procedures to a regularly licensed and registered dental hygienist or other competent dental auxiliary personnel while acting under the direct supervision and full responsibility of the dentist except as follows: Those procedures which require the professional judgment and skill of a dentist such as diagnosis, treatment planning, surgical procedures involving hard or soft tissues, or any intra-oral procedure of an irreversible nature which could result in injury to the patient. Provided, however, the dentist may delegate the removal of calcareous deposits only to a regularly licensed and registered dental hygienist as regulated by the State Board of Dental Examiners.

All dentists and dental hygienists serving as faculty, as provided for in subsections (7) and (8) above, shall be required to be licensed by the Mississippi State Board of Dental Examiners.

**SECTION 3.** Section 73-9-5, Mississippi Code of 1972, is reenacted as follows:

73-9-5. (1) For the purpose of this chapter, a dental hygienist shall be an individual who has completed an accredited



dental hygiene education program, passed the national dental hygiene board and is licensed by the State Board of Dental Examiners to provide, as an auxiliary to the dentist, preventive care services including, but not limited to, scaling and polishing. In fulfilling these services, dental hygienists provide treatment that helps to prevent oral disease such as dental caries and periodontal disease and for educating patients in prevention of these and other dental problems.

(2) The work of dental hygienists and dental assistants while working in the office of a regularly licensed and registered dentist shall at all times be under the direct supervision of the dentist. Dental hygienists in the employ of the State Board of Health or public school boards shall be limited to only performing oral hygiene instruction and screening when under the general supervision and direction of regularly licensed and registered dentists. Dental hygienists recognized by the board of dental examiners when making public demonstrations of dental hygiene for educational purposes shall be under the general supervision and direction of regularly licensed and registered dentists.

(3) The Board of Dental Examiners may prohibit any dental hygienist or other auxiliary personnel from rendering service that it feels is not in the best interest of the public welfare.

**SECTION 4.** Section 73-9-7, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-7. (1) The duties of the Mississippi State Board of Dental Examiners, or "the board," shall be to carry out the purposes and provisions of the laws pertaining to the practice of dentistry and dental hygiene. The Mississippi State Board of Dental Examiners is hereby continued and reconstructed as follows: The board shall consist of seven (7) \* \* \* licensed and actively practicing dentists and one (1) licensed and actively practicing dental hygienist, each a graduate of an accredited college of dentistry or dental hygiene, as appropriate, and practicing within



the State of Mississippi for a period of five (5) or more years next preceding his appointment. No dentist or dental hygienist shall be eligible for appointment who can be construed to be in violation of current state ethics laws and regulations.

(2) The members of the board appointed and serving prior to July 1, 2002, shall complete their current four-year appointments. Upon completion of said appointments, the term of each of the successor dentist and dental hygienist appointees provided for herein shall be for a period of six (6) years and shall terminate on and after June 30th of the sixth year.

(3) The Governor shall appoint one (1) dentist member of the board from the state at large. Upon expiration of the term of office of any of the six (6) members of the board who are appointed from districts, the Governor shall appoint his successor from a list of names to be submitted as set out herein. All appointments to the board shall be made with the advice and consent of the Senate.

\* \* \*

As soon after passage of this chapter as feasible, the board shall poll all licensed dentists \* \* \* in the state by dental district as follows:

Dental District One: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster;

Dental District Two: Bolivar, Carroll, Coahoma, DeSoto, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica, Washington, Yalobusha, Yazoo;

Dental District Three: Attala, Clarke, Covington, Forrest, Jasper, Jones, Kemper, Lamar, Lauderdale, Leake, Neshoba, Newton, Noxubee, Perry, Scott, Smith, Wayne, Winston;

Dental District Four: Hinds, Madison, Rankin, Warren;



Dental District Five: George, Greene, Hancock, Harrison,  
Jackson, Pearl River, Stone;

Dental District Six: Adams, Amite, Claiborne, Copiah,  
Franklin, Jefferson Davis, Jefferson, Lawrence, Lincoln, Marion,  
Pike, Simpson, Walthall, Wilkinson;

and request the submission from each such dental district of three  
(3) nominations for appointment as members of the board from the  
six (6) districts. Thirty (30) days after submitting such  
request, the board shall list all nominations by district  
according to the number of votes each received. The top three (3)  
names from each district shall then be considered as a list of  
names to be submitted to the Governor as referred to above each  
time a vacancy occurs in one (1) of the six (6) positions  
appointed from districts or whenever the Governor requests such  
submission. During the course of each calendar year, the board  
shall take like polls of all licensed dentists practicing in each  
dental district, and shall prepare new lists therefrom to be  
submitted to the Governor which shall be used in the appointment  
of the six (6) members appointed from districts.

It is the purpose of this section that no more than one (1)  
appointee of the six (6) members appointed from districts shall  
serve from any district at any one (1) time \* \* \*. The names on  
the lists shall be given priority in accordance with the votes for  
each nominee. In case of a tie, such persons receiving tie votes  
shall have their names placed on the list even though it results  
in more than three (3) names on such list from that district.

(4) The one (1) dental hygienist member shall be appointed  
by the Governor from the state at large from a list of six (6)  
dental hygienists, each of whom being the dental hygienist  
receiving the highest number of votes in his or her individual  
district from a poll conducted and compiled by the board. The  
poll shall consist of a blank ballot with three (3) spaces for  
nomination provided to all licensed dental hygienists in the



277 state. During the course of each calendar year, the board shall  
278 take like polls of all licensed dental hygienists practicing in  
279 the state, and shall prepare a new list of six (6) dental  
280 hygienists, such list to consist of the dental hygienists  
281 receiving the highest number of votes in each district, to be  
282 submitted to the Governor, which shall be used in the appointment  
283 of the dental hygienist member from the state at large. In case  
284 of a tie, such persons receiving tie votes shall have their names  
285 placed on the list even though it results in more than six (6)  
286 names on such list.

287 As soon after passage of this chapter as feasible, the board  
288 shall poll all licensed dental hygienists in the state by dental  
289 district as that enumerated in subsection (3) above.

290 (5) No dentist or dental hygienist member shall be permitted  
291 to serve consecutive terms, but may be nominated for reappointment  
292 after the expiration of six (6) years from the conclusion of  
293 his/her term. Any vacancy in the board membership shall be filled  
294 by the Governor within sixty (60) days by appointment from the  
295 list of nominees submitted for the existing term of office. Any  
296 appointment made to fill a vacancy or to replace an incumbent  
297 holding over shall terminate in accordance with the designation of  
298 the particular term and until his successor is duly appointed and  
299 qualified.

300 (6) A vote for an individual dentist or dental hygienist in  
301 all polls may be counted only once for each ballot no matter how  
302 many times the name is listed on the ballot.

303 (7) The Secretary of State shall, at his discretion, at any  
304 time there is sufficient cause, investigate the method and  
305 procedure of taking such polls and establishing such lists, and  
306 the board shall make available to him all records involved  
307 therein; and if the Secretary of State should find cause therefor  
308 he may, upon specifying such cause, declare the list invalid,  
309 whereupon the board shall follow the procedure set out above to





establish a new list. If a vacancy exists and no list is available, the Board of Dental Examiners is to follow the above-described procedure in establishing a new list for the appropriate board appointment.

**SECTION 5.** Section 73-9-9, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-9. The Governor may remove any member of said board on proof of inefficiency, incompetency, immorality, unprofessional conduct, or continued absence from the state, for failure to perform duties, or for other sufficient cause. Any member who shall not attend two (2) consecutive meetings of the board, without just cause, shall be subject to removal by the Governor. The president of the board shall notify the Governor in writing when any such member has failed to attend two (2) consecutive regular meetings. No removal shall be made without first giving the accused an opportunity to be heard in refutation of the charges made against him, and he shall be entitled to receive a copy of the charges at the time of filing.

**SECTION 6.** Section 73-9-11, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-11. Each person appointed as a member of the board shall qualify by taking the oath prescribed by the constitution for the state officers, and shall file certificate thereof in the office of the Secretary of State within fifteen (15) days after execution of such certificate. A majority of the board shall at all times constitute a quorum for the transaction of business.

**SECTION 7.** Section 73-9-13, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-13. The State Board of Dental Examiners shall each year elect from their number a president, vice president and \* \* \* secretary-treasurer to serve for the coming year and until their successors are qualified. Only dentist members of the board may hold the offices of president and vice president. The board shall



have a seal with appropriate wording to be kept at the offices of  
the board. The secretary and the executive director of the board  
shall be required to make bond in such sum and with such surety as  
the board may determine. It shall be the duty of the executive  
director to keep a complete record of the acts and proceedings of  
the board and to preserve all papers, documents and correspondence  
received by the board relating to its duties and office. \* \* \*

The board shall have the following powers and duties:

(a) To carry out the purposes and provisions of the  
state laws pertaining to dentistry and dental hygiene, and the  
practice thereof and matters related thereto, particularly  
Sections 73-9-1 through 73-9-117, together with all amendments and  
additions thereto.

(b) To regulate the practice of dentistry and dental  
hygiene and to promulgate reasonable regulations as are necessary  
or convenient for the protection of the public.

(c) To make rules and regulations by which clinical  
facilities within institutions, schools, colleges, universities  
and other agencies may be recognized and approved for the practice  
of dentistry or of dental hygiene by unlicensed persons therein,  
as a precondition to their being excepted from the dental practice  
act and authorized in accordance with Section 73-9-3(7) and (8).

(d) To provide for the enforcement of and to enforce  
the laws of the State of Mississippi and the rules and regulations  
of the State Board of Dental Examiners.

(e) To compile at least once each calendar year and to  
maintain an adequate list of prospective dentist and dental  
hygienist appointees for approval by the Governor as provided for  
elsewhere by law \* \* \*.

(f) To issue licenses and permits to applicants when  
found to be qualified.

(g) To provide for \* \* \* reregistration of all licenses  
and permits duly issued by the board.



(h) To maintain an up-to-date list of all licensees and permit holders in the state, together with their addresses.

(i) To examine applicants for the practice of dentistry or dental hygiene at least annually.

(j) To issue licenses or duplicates and \* \* \* reregistration/renewal certificates, and to collect and account for fees for same.

(k) To maintain an office adequately staffed insofar as funds are available for the purposes of carrying out the powers and duties of the board.

(l ) To provide by appropriate rules and regulations, within the provisions of the state laws, for revoking or suspending \* \* \* licenses and permits and a system of fines for lesser penalties.

(m) To prosecute, investigate or initiate prosecution for violations of the laws of the state pertaining to practice of dentistry or dental hygiene, or matters affecting the rights and duties, or related thereto.

(n) To provide by rules for the conduct of as much board business as practicable by mail, which, when so done, shall be and have the same force and effect as if done in a regular meeting duly organized.

(o) To adopt rules and regulations providing for the reasonable regulation of advertising by dentists and dental hygienists.

(p) To employ, in its discretion, a duly licensed attorney to represent the board in individual cases.

(q) To employ, in its discretion, technical and professional personnel to conduct dental office sedation site visits, administer and monitor state board examinations and carry out the powers and duties of the board.

**SECTION 8.** Section 73-9-15, Mississippi Code of 1972, is reenacted and amended as follows:



73-9-15. All board action on rules, regulations and policy matters, such as required to be by vote, shall be by roll call or mail ballot wherein the vote of each member shall be recorded whether for, against or otherwise. The dental hygienist member of the board shall only vote on rules, regulations, policy and administrative matters relating to the licensing, qualifications and practice of dental hygiene. The results of such vote shall be a public record except that information pertaining to \* \* \* investigations or examinations shall be confidential unless waived by such persons investigated or examined.

**SECTION 9.** Section 73-9-17, Mississippi Code of 1972, is reenacted as follows:

73-9-17. The board is authorized to prescribe and enforce regulations and to perform those acts compatible with and authorized by, either directly or by implication, the laws of the state for the purpose of implementing the provisions of this chapter.

**SECTION 10.** Section 73-9-19, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-19. The State Board of Dental Examiners shall maintain a compiled list of the names and post office addresses of all licensees registered with the board \* \* \*, arranged alphabetically by name and also by the towns where their offices are situated. Every licensee shall notify the board within thirty (30) days of any change in address of his office or residence. Failure to keep the board apprised of any change of address may result in an administrative penalty to the licensee and which amount shall not exceed the amount stipulated in Section 73-9-43. Every licensee shall prominently display his current registration, either the original or a notarized copy, in his place(s) of business. \* \* \* As used in this section, the word "licensee" shall include all dental and dental hygiene license holders, as well as all holders of permits duly issued by the board.



Every licensee shall, in accordance with the laws and rules and regulations of the board, together with appropriate required information and renewal fee, apply \* \* \* for renewal for such period as set by the board, and the board shall issue such \* \* \* registration certificate to any licensee in good standing with the board. The board shall have the specific authority to adopt such rules and regulations setting the dates and deadlines for license/permit renewal and establishing the penalty for failure to renew same.

Any licensee performing acts within the scope of this chapter without legally having in his custody a valid active registration certificate or duly issued duplicate therefor in accordance with provisions elsewhere set out may be found guilty and punished or prosecuted therefor in accordance with law; provided, that the filing of such application, the payment of such fee, and the issuance of such certificate therefor, shall not entitle the holder thereof to lawfully practice \* \* \* within the State of Mississippi unless he has in fact been previously licensed \* \* \* by the State Board of Dental Examiners as provided by this chapter, \* \* \* and unless said license/permit is in full force and effect; and provided further, that in any prosecution for the unlicensed practice, \* \* \* such receipt showing payment of the renewal fee required by this chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice according to his license/permit.

Any licensee who is registered but not actively practicing in the State of Mississippi at the time of making application for renewal, shall be registered on the "inactive" list and shall not be authorized to practice such profession in this state. Such "inactive" list shall be maintained by the board and shall set out the names and post office addresses of all licensees registered but not actively practicing in this state, arranged alphabetically by name and also by the towns and states of their last known



475 professional or residential address. However, licensed dentists  
476 or dental hygienists actively practicing \* \* \* at a veterans  
477 hospital, federal government facility or residency graduate school  
478 program at the time of renewal shall not be registered on the  
479 inactive list.

480 Only the licensees registered on the appropriate list as  
481 actively practicing in the State of Mississippi shall be  
482 authorized to practice such profession. For the purpose of this  
483 section, any licensed dentist or dental hygienist who has actively  
484 practiced his profession for at least three (3) months of the  
485 immediately preceding license renewal period shall be considered  
486 in active practice.

487 No licensee shall be registered on the "inactive" list until  
488 the licensee has been furnished a statement of intent to take such  
489 action by the board; and the board shall notify the licensee by  
490 mail that on the day fixed for hearing he may appear and show  
491 cause, if any, why his license/permit \* \* \* to practice dentistry  
492 or dental hygiene should remain active. The licensee may be  
493 present at the hearing in person, by counsel, or both. For the  
494 purpose of such hearing the board is hereby empowered to require  
495 the attendance of witnesses, administer oaths and hear testimony,  
496 either oral or documentary, for and against the licensee, and if  
497 after such hearing, the board shall be satisfied that the licensee  
498 shall be registered on the inactive list, it shall thereupon  
499 without further notice take such action.

500 Any licensed dentist or dental hygienist registered on the  
501 "inactive" list shall not be eligible for registration on the  
502 active list until either of the following conditions have been  
503 satisfied:

504 (a) Written application shall be submitted to the \* \* \*  
505 State Board of Dental Examiners stating the reasons for such  
506 inactivity and setting forth such other information as the board  
507 may require on an individual basis; or



508           (b) Evidence to the satisfaction of the board shall be  
509 submitted that they have actively practiced their profession in  
510 good standing in another state and have not been guilty of conduct  
511 that would warrant suspension or revocation as provided by  
512 applicable law.

513           **SECTION 11.** Section 73-9-21, Mississippi Code of 1972, is  
514 reenacted as follows:

515           73-9-21. Such stationery, blank books and forms as may be  
516 needed by the board in the discharge of its duties shall be  
517 furnished to it in the manner as like supplies are furnished other  
518 state departments.

519           **SECTION 12.** Section 73-9-23, Mississippi Code of 1972, is  
520 reenacted and amended as follows:

521           73-9-23. (1) No person who desires to practice dentistry or  
522 dental hygiene in the State of Mississippi shall be licensed until  
523 that person has passed an examination by the board. Applicants  
524 for examination shall apply in writing to the \* \* \* board for an  
525 examination at least thirty (30) days prior to the examination and  
526 shall upon application pay a nonrefundable fee as elsewhere  
527 provided in this chapter.

528           (2) An applicant for licensure by examination as a dentist  
529 who is a graduate of a dental school accredited by the Commission  
530 on Dental Accreditation \* \* \* of the American Dental Association  
531 (ADA), or its successor commission, shall:

532           (a) Be of good moral character, be possessed of a high  
533 school education, and have attained the age of twenty-one (21)  
534 years;

535           (b) Exhibit with the application a diploma or  
536 certificate of graduation from the ADA accredited dental school;  
537 and

538           (c) Have successfully completed Parts I and II of the  
539 National Board \* \* \* Examinations of the Joint Commission on  
540 National Dental Examinations, or its successor commission, unless



541 the applicant graduated from an accredited dental school prior to  
542 1960.

543 (3) An applicant for licensure by examination as a dentist  
544 who is a graduate of a non-ADA accredited foreign country dental  
545 school shall:

546 (a) Be of good moral character and have attained the  
547 age of twenty-one (21) years;

548 (b) Be proficient in oral and written communications in  
549 the English language;

550 (c) Have completed not less than six (6) academic years  
551 of postsecondary study and graduated from a foreign dental school  
552 which is recognized by the licensure authorities in that country;

553 (d) Have been licensed as a dentist or admitted to the  
554 practice of dentistry in the foreign country in which the  
555 applicant received foreign dental school training;

556 (e) \* \* \* Present documentation of having completed at  
557 least two (2) or more years of full-time post-doctoral general  
558 dental education in a dental school accredited by the Commission  
559 on Dental Accreditation \* \* \* of the American Dental Association,  
560 or its successor commission, and has been certified by the dean of  
561 the accredited dental school as having achieved the same level of  
562 didactic and clinical competence as expected of a graduate of the  
563 school; and

564 (f) Have successfully completed Parts I and II of the  
565 National Board Examinations of the Joint Commission on National  
566 Dental Examinations, or its successor commission, unless the  
567 applicant graduated from an approved dental school prior to 1960.

568 (4) An applicant for licensure by examination as a dental  
569 hygienist who is a graduate of a dental hygiene school accredited  
570 by the Commission on Dental Accreditation \* \* \* of the American  
571 Dental Association (ADA), or its successor commission, shall:





572                   (a) Be of good moral character, be possessed of a high  
573 school education and have attained the age of eighteen (18)  
574 years; \* \* \*

575                   (b) Exhibit with the application a diploma or  
576 certificate of graduation from the ADA accredited dental hygiene  
577 school; and

578                   (c) Have successfully completed the National Board  
579 Dental Hygiene Examinations of the Joint Commission on National  
580 Dental Examinations, or its successor commission.

581           (5) An applicant for licensure by examination as a dental  
582 hygienist who is a graduate of a non-ADA accredited foreign  
583 country dental hygiene school shall:

584                   (a) Be of good moral character and have attained the  
585 age of eighteen (18) years;

586                   (b) Be proficient in oral and written communications in  
587 the English language;

588                   (c) Have completed not less than two (2) academic years  
589 of postsecondary study and graduated from a foreign dental hygiene  
590 school which is recognized by the licensure authorities in that  
591 country;

592                   (d) Have been licensed as a dental hygienist or  
593 admitted to the practice of dental hygiene in the foreign country  
594 in which the applicant received foreign dental hygiene school  
595 training;

596                   (e) \* \* \* Present documentation of having completed at  
597 least one or more years of full-time post-graduate clinical  
598 education in a dental hygiene school accredited by the Commission  
599 on Dental Accreditation \* \* \* of the American Dental Association,  
600 or its successor commission, and has been certified by the dean of  
601 the accredited dental hygiene school as having achieved the same  
602 level of didactic and clinical competence as expected of a  
603 graduate of the school; and



(f) Have successfully completed the National Board Dental Hygiene Examinations of the Joint Commission on National Dental Examinations, or its successor commission.

(6) Applications shall be made in the form and content as required in this section and as shall be prescribed by the board, and each applicant shall submit upon request such proof as the board may require as to age, character and qualifications. Applications must be signed by two (2) citizens of the state of which the applicant is a resident, attesting under oath that the applicant is of good moral character. All applicants for licensure shall submit an endorsement from all states in which he or she is currently licensed or has ever been licensed to practice dentistry or dental hygiene. The board may disallow the licensure examination to any applicant who has been found guilty of any of the grounds for disciplinary action as enumerated in Section 73-9-61.

(7) Examination shall be as elsewhere provided in this chapter and the board may by its rules and regulations prescribe reasonable professional standards for oral, written, clinical and other examinations given to applicants, and, if deemed necessary by the board, include a requirement that licensure examinations of applicants be conducted utilizing live human subjects. Each applicant shall appear before the board and be examined to determine his or her learning and skill in dentistry or dental hygiene. If found by the members of the board conducting the examination to possess sufficient learning and skill therein and to be of good moral character, the board shall, as early as practicable, grant to such person a license to practice dentistry or dental hygiene, as the case may be, which shall be signed by each member of the board who attended the examination and approved the issuance of a license.

(8) The Board of Dental Examiners may, at its own discretion, accept certification of a licensure applicant, either



637 dentist or dental hygienist, by the National Board Examinations of  
638 the Joint Commission on National Dental Examinations, or its  
639 successor commission, in lieu of the written examination.

640 However, in all such instances the board shall retain the right to  
641 administer such further written and practical examinations and  
642 demonstrations as it deems necessary.

643 (9) Each application or filing made under this section shall  
644 include the social security number(s) of the applicant in  
645 accordance with Section 93-11-64, Mississippi Code of 1972.

646 **SECTION 13.** Section 73-9-24, Mississippi Code of 1972, is  
647 reenacted and amended as follows:

648 73-9-24. (1) In addition to the method for obtaining a  
649 license to practice dentistry or dental hygiene by way of  
650 examination as provided by Section 73-9-23, Mississippi Code of  
651 1972, the board, in its sole discretion, may grant a license to a  
652 candidate who meets the following criteria:

653 (a) Submit proof of graduation from a dental school or  
654 school of dental hygiene accredited by the Commission on Dental  
655 Accreditation \* \* \* of the American Dental Association (ADA), or  
656 its successor commission.

657 (b) Be engaged in the active practice of dentistry or  
658 dental hygiene or in full-time dental education or dental hygiene  
659 education for the past five (5) years;

660 (c) Currently hold a valid, unrestricted and unexpired  
661 license in a state whose standards for licensure are determined by  
662 the board as equivalent to Mississippi's standards, and which  
663 state grants reciprocity or licensure by credentials to licensees  
664 of the State of Mississippi;

665 (d) Provides an endorsement from all states in which he  
666 is currently licensed or has ever been licensed to practice  
667 dentistry or dental hygiene;



668           (e) Has not been the subject of pending or final  
669 disciplinary action in any state in which the applicant has been  
670 licensed;

671           (f) Is not the subject of a pending investigation in  
672 any other state or jurisdiction;

673           (g) Has not failed at any time within the past five (5)  
674 years, a licensure examination administered by another state or  
675 jurisdiction;

676           (h) Has not failed at any time, a licensure examination  
677 administered by the Mississippi State Board of Dental Examiners;

678           (i) Provides a written statement agreeing to appear for  
679 interviews at the request of the board;

680           (j) Has successfully completed all parts of the  
681 National Board Examinations of the Joint Commission on National  
682 Dental Examinations, or its successor commission, unless the  
683 applicant graduated from an accredited dental or dental hygiene  
684 school prior to 1960;

685           (k) Successfully passes a written jurisprudence  
686 examination;

687           (l ) Provides payment of a nonrefundable application  
688 fee as provided in Section 73-9-43; and

689           (m) In addition, the State Board of Dental Examiners  
690 may consider the following in accepting, rejecting or denying an  
691 application for licensure by credentialing:

692               (i) Information from the National Practitioner  
693 Data Bank, the Healthcare Integrity and Protection Data Bank  
694 and/or the American Association of Dental Examiners Clearinghouse  
695 for Disciplinary Information.

696               (ii) Questioning under oath.

697               (iii) Results of peer review reports from  
698 constituent societies and/or federal dental services.

699               (iv) Substance abuse testing or treatment.



(v) Background checks for criminal or fraudulent activities.

(vi) Participation in continuing education.

(vii) A current certificate in cardiopulmonary resuscitation.

(viii) Recent patient case reports and/or oral defense of diagnosis and treatment plans.

(ix) No physical or psychological impairment that would adversely affect the ability to deliver quality dental care.

(x) Agreement to initiate practice in the credentialing jurisdiction within a reasonable period of time.

(xi) Proof of professional liability coverage and that such coverage has not been refused, declined, canceled, nonrenewed or modified.

(xii) Any additional information or documentation that the board may stipulate by rule or regulation as necessary to qualify for a license by credentialing.

(2) The board shall be granted sufficient time to conduct a complete inquiry into the applicant's qualifications for licensure by credentials, and the board may adopt such rules and regulations pertaining to the time needed to conduct investigations and the responsibility of applicants to produce verifiable documentation.

(3) Any applicant failing to meet the criteria in subsection (1) above shall not be eligible for a license based on credentials. Upon meeting the criteria in subsection (1), the Mississippi State Board of Dental Examiners may, in its discretion, issue to the applicant a license to practice dentistry, or dental hygiene, unless grounds for denial of licensure exist as enumerated in Section 73-9-61. Evidence of falsification in the application for licensure through credentialing will result in revocation of such license.

(4) Any applicant applying for a specialty license by credentials must stay within his board recognized specialty and



733 must practice only that specialty within the State of Mississippi.  
734 A specialty license holder must hold a general dentistry license  
735 prior to obtaining a specialty license.

736 **SECTION 14.** Section 73-9-25, Mississippi Code of 1972, is  
737 reenacted and amended as follows:

738 73-9-25. The regular meeting of the State Board of Dental  
739 Examiners shall be held at least annually at such place, date and  
740 time as the board may determine in its discretion, for the purpose  
741 of examining applicants for a license to practice dentistry and  
742 dental hygiene, and continue in session until all applicants \* \* \*  
743 have been examined and their examinations have been approved or  
744 disapproved. The board may meet more often if necessary, in the  
745 discretion of the board, at such times and places as it may deem  
746 proper for the examination of applicants who may wish to practice  
747 dentistry or dental hygiene in this state, to administer makeup  
748 examinations, or for the purpose of enforcing the dental laws of  
749 the state.

750 \* \* \* Examinations for a license to practice dentistry or  
751 dental hygiene shall cover the subjects taught in the recognized  
752 schools of dentistry or dental hygiene together with such other  
753 subjects and practical demonstrations as the board may require.

754 The state shall furnish the necessary equipment for the  
755 required practical examinations for dentists and dental  
756 hygienists, and properly house and care for same.

757 **SECTION 15.** Section 73-9-27, Mississippi Code of 1972, is  
758 reenacted and amended as follows:

759 73-9-27. Each license issued by the board shall bear a  
760 serial number, the full name and residence of licensee, the date  
761 of issuance, the seal of the board, and shall be attested by the  
762 signatures of all the board members. Certified copies of the  
763 license may be issued by the president, secretary or executive  
764 director under their signature and seal, for which the secretary



765 or executive director shall collect a fee as elsewhere provided in  
766 this chapter.

767       **SECTION 16.** Section 73-9-28, Mississippi Code of 1972, is  
768 reenacted and amended as follows:

769       73-9-28. The Mississippi State Board of Dental Examiners is  
770 hereby vested with the authority to promulgate rules and  
771 regulations allowing special categories of licenses, certificates,  
772 specialty certificates and permits hereby institutional, teaching  
773 and provisional privileges may be granted on an individual basis,  
774 pursuant to such rules and regulations prescribing the  
775 qualifications, conditions and limitations of such privileges as  
776 may be established by the board. Such qualifications, conditions  
777 and limitations shall pertain to applicants who require but are  
778 eligible for less than complete resident licensure as provided for  
779 in the dental practice act.

780       Application for such special category of license,  
781 certificate, specialty certificate or permit, and the renewal  
782 thereof, shall be made to the \* \* \* board in writing in accordance  
783 with such rules and regulations as the board may adopt. The  
784 secretary or executive director shall collect a fee therefor as  
785 provided in Section 73-9-43.

786       **SECTION 17.** Section 73-9-29, Mississippi Code of 1972, is  
787 reenacted and amended as follows:

788       73-9-29. Any dentist of this state licensed by the  
789 Mississippi State Board of Dental Examiners, who has complied with  
790 the requirements specified by the Council on Dental Education of  
791 the American Dental Association, or its successor council or  
792 commission, in a specialty branch of dentistry or who has  
793 otherwise met the requirements of the rules and regulations  
794 promulgated by the board may apply for a certificate as a  
795 specialist. Such application shall be accompanied by the payment  
796 of a fee not to exceed the fee provided for in Section 73-9-43 and  
797 such application must be on file for at least sixty (60) days



798 prior to the regular meeting of the board, and if the application  
799 is accepted the applicant may be notified to appear for  
800 examination before the board and a committee of that particular  
801 specialty, if available, appointed by the board. Examinations may  
802 be oral, written, or both, and the applicant may be required to  
803 demonstrate his knowledge and proficiency in the specialty in  
804 which he desires to be certified. The board is authorized to  
805 certify specialists in all specialty areas approved by the  
806 American Dental Association.

807 Any dentist not licensed by the Mississippi State Board of  
808 Dental Examiners but who is eligible to take the Mississippi State  
809 Board examination, and is further eligible for specialty  
810 examination, may take both examinations at the discretion of the  
811 board.

812 No licensed dentist shall hold himself out to the public as a  
813 specialist, or publicly announce as being specially qualified in  
814 any particular branch of dentistry, or publicly announce as giving  
815 special attention to any branch of dentistry, until he has been  
816 issued a certificate by the board authorizing him to do so.  
817 Failure to comply shall be cause for his dental license to be  
818 revoked or suspended.

819 Only the following shall be eligible to announce as  
820 specialists:

821 (a) A diplomate of a specialty board approved by the  
822 American Dental Association;

823 (b) A dentist who has complied with requirements as  
824 specified by the Council on Dental Education of the American  
825 Dental Association, or its successor council or commission, for  
826 graduate training in the specialty sought to be announced, such  
827 training to meet the educational or training requirement for  
828 diplomate status;

829 (c) A dentist who has announced a specialized practice  
830 in one (1) of the special areas of dental practice within the





831 State of Mississippi for at least five (5) years prior to January  
832 1, 1970, and who meets the requirements elsewhere in this section  
833 may be granted a specialist certificate upon application and  
834 payment only of an initial specialty registration fee.

835 A dentist specialist's certificate shall be revoked or voided  
836 upon the revocation or voiding of the holder's license to practice  
837 dentistry in Mississippi.

838 **SECTION 18.** Section 73-9-33, Mississippi Code of 1972, which  
839 required the resignation of licenses in the office of the circuit  
840 clerk of the residence of the licensee, is hereby repealed.

841 **SECTION 19.** Section 73-9-35, Mississippi Code of 1972, is  
842 reenacted and amended as follows:

843 73-9-35. The holder of either of the licenses provided for,  
844 shall at all times, upon request, exhibit same \* \* \* to any member  
845 of the Board of Dental Examiners, or his authorized agent or to  
846 any officer of the law.

847 **SECTION 20.** Section 73-9-37, Mississippi Code of 1972, is  
848 reenacted as follows:

849 73-9-37. If a license to practice dentistry or dental  
850 hygiene be issued and be lost or destroyed, the board may issue  
851 another in lieu thereof, upon satisfactory proof of such loss or  
852 destruction.

853 **SECTION 21.** Section 73-9-39, Mississippi Code of 1972, is  
854 reenacted as follows:

855 73-9-39. It shall be unlawful for any person or persons to  
856 practice or offer to practice dentistry under, or use the name of  
857 any company, association or corporation or business name or any  
858 name except his or their own in a manner which is in violation of  
859 Section 73-9-61, or to operate, manage or be employed in any room,  
860 rooms or office where dental work is done or contracted for, and  
861 that is operated under the name of any company, association, trade  
862 name or corporation in a manner which is in violation of Section  
863 73-9-61.



**SECTION 22.** Section 73-9-41, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-41. (1) No person shall practice, attempt to practice or offer to practice dentistry or dental hygiene within the state without first having been authorized and issued a license by the board; nor shall any person practice, attempt to practice, or offer to practice dentistry or dental hygiene within the state during any period of suspension of his license by the board or after revocation or being voided for failure to re-register by the board of any license theretofore issued to the offending person.

(2) A person who has never been issued a license to practice dentistry or dental hygiene or whose license has been suspended, voided or revoked by action of the board, shall not perform any act which would constitute the practice of dentistry or dental hygiene as defined in Sections 73-9-3 and 73-9-5, including, but not limited to, the following:

(a) Making impressions or casts of the human mouth or teeth;

(b) Constructing or supplying dentures without the work authorization or prescription of a person licensed under the laws of this state to practice dentistry; and

(c) Constructing or supplying dentures from impressions or casts without the work authorization or prescription of a person licensed under the laws of this state to practice dentistry.

(3) The fact that any person engages in or performs or offers to engage in or performs any of the practices, acts or operations set forth in Section 73-9-3 or Section 73-9-5 is prima facie evidence that such a person is engaged in the practice of dentistry or dental hygiene.

(4) In addition to any other civil remedy or criminal penalty provided for by law, the executive director or the secretary of the board may issue a summons to appear before the



897 board to any person or persons who the executive director or any  
898 member of the board has probable cause to believe has violated  
899 this section by practicing, attempting to practice, or offering to  
900 practice dentistry or dental hygiene without a current, valid  
901 license or permit and any necessary witnesses. The summons issued  
902 by the board shall command each person to whom it is directed to  
903 attend and give testimony at a time and place therein specified.  
904 The summons shall be served upon the individual personally or by  
905 any type of mailing requiring a return receipt and shall include a  
906 statement of the charges and an explanation of the manner in which  
907 the unlicensed person shall be required to respond to the board.

908 (5) In proceedings conducted pursuant to subsection (4)  
909 above, the board may levy for each and every violation a civil  
910 penalty upon any unlicensed person who after a hearing is found to  
911 have practiced dentistry or dental hygiene without the benefit of  
912 a current, valid license having been issued by the board pursuant  
913 to the provisions of this chapter, as follows:

914 (a) For the first violation, a monetary penalty of not  
915 more than Five Hundred Dollars (\$500.00).

916 (b) For the second violation, a monetary penalty of not  
917 more than One Thousand Dollars (\$1,000.00).

918 (c) For the third and any subsequent violations, a  
919 monetary penalty of not more than Five Thousand Dollars  
920 (\$5,000.00).

921 (d) For any violation, the board may assess those  
922 reasonable costs that are expended by the board in the  
923 investigation and conduct of the hearing as provided in subsection  
924 (4) above, including, but not limited to, the cost of process  
925 service, court reporters, expert witnesses and other witness  
926 expenses paid by the board, and investigators. Appeals from the  
927 board's decision may be taken as provided in Section 73-9-65. Any  
928 monetary penalty or assessment levied under this section shall be  
929 paid to the board by the illegal practitioner upon the expiration



930 of the period allowed for appealing such penalties or may be paid  
931 sooner if the illegal practitioner elects. Monetary penalties and  
932 cost assessments collected by the board under this section shall  
933 be deposited \* \* \* into the special fund of the board.

934 (6) No person practicing dentistry or dental hygiene without  
935 a current valid license \* \* \* shall have the right to receive any  
936 compensation for services so rendered. In addition to any other  
937 penalties imposed under this section, any person who practices  
938 dentistry or dental hygiene without a license shall return any  
939 fees collected for practicing dentistry or dental hygiene and  
940 shall be liable for any damages resulting from negligent conduct.  
941 The board or any patient shall have the right to enforce the  
942 obligation provided in this section.

943 **SECTION 23.** Section 73-9-43, Mississippi Code of 1972, is  
944 reenacted and amended as follows:

945 73-9-43. (1) The secretary or executive director shall  
946 collect in advance all fees provided for in this chapter as  
947 established by the board, not to exceed:

948	Application for dental license.....	\$ 600.00
949	Application for dental license through	
950	credentials.....	2,500.00
951	Application for dental specialty license.....	400.00
952	Application for dental institutional,	
953	teaching or provisional license.....	600.00
954	Application for dental hygiene license.....	400.00
955	Application for dental hygiene license through	
956	credentials.....	750.00
957	Application for dental hygiene institutional,	
958	teaching or provisional license.....	400.00
959	Application for general anesthesia permit.....	400.00
960	Application for I.V. sedation permit.....	400.00
961	Application for radiology permit.....	100.00
962	* * * Dental license renewal.....	300.00

963	* * * Dental specialty license renewal.....	<u>200.00</u>
964	* * * Dental institutional, teaching or	
965	provisional license renewal.....	300.00
966	* * * Dental hygiene license renewal.....	150.00
967	* * * Dental hygiene institutional, teaching or	
968	provisional license renewal.....	150.00
969	* * * General anesthesia permit renewal.....	<u>200.00</u>
970	* * * I.V. sedation permit renewal.....	<u>200.00</u>
971	* * * Radiology permit renewal.....	75.00
972	Penalty for delinquent renewal of dental licenses;	
973	dental specialty licenses; and dental institutional,	
974	teaching and provisional licenses:	
975	First month (plus * * * renewal fee).....	100.00
976	Second month (plus * * * renewal fee).....	150.00
977	* * *	
978	Penalty for delinquent renewal of dental hygiene	
979	licenses and dental hygiene institutional, teaching	
980	and provisional licenses:	
981	First month (plus * * * renewal fee).....	50.00
982	Second month (plus * * * renewal fee).....	75.00
983	* * *	
984	Penalty for delinquent renewal of radiology permits:	
985	First month (plus * * * renewal fee).....	45.00
986	Second month (plus * * * renewal fee).....	65.00
987	* * *	
988	Penalty for nonnotification of change of address.....	50.00
989	Penalty for duplicate renewal forms and	
990	certification cards.....	50.00
991	Duplicate or replacement license or permit.....	40.00
992	Certification of licensure status.....	40.00
993	Certified copy of license or permit.....	40.00
994	Handling fee for nonsufficient funds check.....	50.00
995	Requests for database information.....	300.00

996	Radiology examinations administered in board's	
997	office.....	100.00
998	Dental and dental hygiene licensure examination	
999	manuals.....	50.00
1000	Dental and dental hygiene licensure by	
1001	credentials packets.....	50.00
1002	Laws and/or regulations.....	50.00
1003	Disciplinary action orders.....	25.00
1004	Newsletters.....	20.00

1005 \* \* \*

1006 (2) The board may enact and enforce for delinquency in  
1007 payment for any fees set out in this section a penalty in addition  
1008 to the fee of an amount up to but not in excess of the fee. An  
1009 additional fee of an amount equal to the first penalty may be  
1010 assessed for each thirty (30) days, or part thereof, of  
1011 delinquency. If any license or permit holder should be delinquent  
1012 in payment of renewal fees exceeding sixty (60) days from the  
1013 initial renewal deadline as set by the board, such person shall be  
1014 presumed to be no longer practicing, shall be stricken from the  
1015 rolls and shall be deemed an illegal practitioner, subject to the  
1016 penalties as enumerated in Section 73-9-41. In order to practice  
1017 his or her profession in this state thereafter, such person may,  
1018 at the discretion of the board, be considered as a new applicant  
1019 and subject to examination and other licensing requirements as an  
1020 original applicant.

1021 (3) The secretary or executive director shall faithfully  
1022 account for all monies received by the board. All fees and any  
1023 other monies received by the board \* \* \* shall be deposited in a  
1024 special fund that is created in the State Treasury and shall be  
1025 used for the implementation and administration of this chapter  
1026 when appropriated by the Legislature for such purpose. \* \* \* Any  
1027 interest earned on this special fund shall be credited by the  
1028 State Treasurer to the fund and shall not be paid into the State



1029 General Fund. Any unexpended monies remaining in the special fund  
1030 at the end of a fiscal year shall not lapse into the State General  
1031 Fund.

1032 \* \* \*

1033 (4) \* \* \* For conducting the initial and re-take  
1034 examinations of applicants for licensure the secretary shall  
1035 receive no more than Nine Hundred Dollars (\$900.00) per day for  
1036 each examination, and no other member shall receive more than  
1037 Seven Hundred Dollars (\$700.00) per day for each examination. The  
1038 receipt of said compensation shall not entitle members of the  
1039 board to receive or be eligible for any state employee group  
1040 insurance, retirement or other fringe benefits. Provided further,  
1041 that any fees or income other than the maximum allowable for  
1042 examining applicants for licensure as set out above shall be  
1043 accounted for and may be used as needed in carrying out the  
1044 provisions of this chapter.

1045 (5) \* \* \* A portion of the fee charged for license renewal  
1046 of dentists \* \* \* and dental hygienists \* \* \* may be used to  
1047 support a program to aid impaired dentists and/or dental  
1048 hygienists. The payment of per diem and expense for attending  
1049 said board meetings shall be in addition to the compensation  
1050 permitted above for examining applicants for licensure, and the  
1051 per diem shall not exceed the amount provided in Section 25-3-69.

1052 **SECTION 24.** Section 73-9-45, Mississippi Code of 1972, is  
1053 reenacted and amended as follows:

1054 73-9-45. Each member of the board and each licensed and  
1055 practicing dentist and dental hygienist is constituted an agent  
1056 who may investigate all complaints and all alleged cases of  
1057 noncompliance with, or violation of the provisions of this chapter  
1058 and may bring all such matters to the notice of the proper  
1059 prosecuting officers, where it appears probable that an offense  
1060 has been committed.



1061           **SECTION 25.** Section 73-9-47, Mississippi Code of 1972, is  
1062 reenacted and amended as follows:

1063           73-9-47. The board shall, as far as practicable, provide by  
1064 rule for the conduct of its business by mail, but all examinations  
1065 shall be conducted in person by the board, or by a quorum thereof  
1066 as provided herein.

1067           Any official action or vote taken by mail shall be preserved  
1068 by the secretary or executive director in the same manner as the  
1069 minutes of regular meetings.

1070           **SECTION 26.** Section 73-9-49, Mississippi Code of 1972, is  
1071 reenacted and amended as follows:

1072           73-9-49. The secretary or executive director of the board  
1073 shall, at its regular annual meeting, submit a report of its  
1074 receipts and disbursements for the preceding year, and a report of  
1075 its actions in general during the preceding year \* \* \*.

1076           **SECTION 27.** Section 73-9-51, Mississippi Code of 1972, is  
1077 reenacted as follows:

1078           73-9-51. No member of the board shall during the term of his  
1079 office or thereafter, be required to defend any action for damages  
1080 in any of the courts of this state where it is shown that said  
1081 damage followed or resulted from any of the official acts of said  
1082 board in the performance of its powers, duties or authority as set  
1083 forth in this chapter. Any such action filed shall upon motion be  
1084 dismissed, at the cost of the plaintiff, with prejudice.

1085           **SECTION 28.** Section 73-9-53, Mississippi Code of 1972, is  
1086 reenacted as follows:

1087           73-9-53. Legally licensed pharmacists of this state are  
1088 hereby authorized to fill prescriptions of legally licensed and  
1089 registered dentists of this state for any drugs to be used in the  
1090 practice of dentistry.

1091           **SECTION 29.** Section 73-9-55, Mississippi Code of 1972, is  
1092 reenacted as follows:





1093           73-9-55. A written work authorization shall accompany all  
1094 dental laboratory work sent by a licensed dentist to a commercial  
1095 dental laboratory or private dental laboratory technician.

1096           The original of said written authorization shall be kept on  
1097 file by a commercial dental laboratory or a private dental  
1098 laboratory technician for a period of time required by the State  
1099 Board of Dental Examiners, not to exceed two (2) years from the  
1100 date it was received, and one (1) carbon copy of this written work  
1101 authorization shall be kept on file by the licensed dentist  
1102 executing this written work authorization for a like period not to  
1103 exceed two (2) years from the date it was issued.

1104           This said written work authorization shall include the  
1105 following information:

1106                 (1) Date signed.

1107                 (2) The name and address of the commercial dental  
1108 laboratory or private dental laboratory technician.

1109                 (3) The name or identification number of the patient  
1110 for whom the act or service is ordered.

1111                 (4) The licensed dentist's name, address, and license  
1112 number.

1113                 (5) The signature of the licensed dentist.

1114                 (6) The description of the kind and type of appliance,  
1115 process, fabrication, service, or material ordered.

1116           Any dental laboratory having received a work  
1117 authorization from a licensed dentist for any appliance, process,  
1118 fabrication, service, or material, who shall thereafter secure the  
1119 services of another dental laboratory for the performance of any  
1120 said work or services, shall furnish to such laboratory a written  
1121 work order therefor, and both laboratories shall keep on file a  
1122 record thereof for a like period not to exceed two (2) years from  
1123 the date received.

1124           In the enforcement of this section and the foregoing  
1125 rules and regulations promulgated pursuant thereto, the members of



1126 the Board of Dental Examiners, their agents, investigators, and  
1127 employees shall have the right to inspect the records of any  
1128 dental office or any dental laboratory during regular office  
1129 hours.

1130       **SECTION 30.** Section 73-9-57, Mississippi Code of 1972, is  
1131 reenacted and amended as follows:

1132       73-9-57. If any person for any reason whatsoever, shall  
1133 practice, attempt, or offer to practice dentistry or dental  
1134 hygiene illegally within the meaning of this chapter, he or she  
1135 shall be deemed guilty of a misdemeanor, and upon conviction shall  
1136 be fined not less than Two Thousand Dollars (\$2,000.00) nor more  
1137 than Five Thousand Dollars (\$5,000.00) or be imprisoned in the  
1138 county jail not less than two (2) months nor more than six (6)  
1139 months.

1140       **SECTION 31.** Section 73-9-59, Mississippi Code of 1972, is  
1141 reenacted as follows:

1142       73-9-59. It shall be the duty of the several prosecuting  
1143 officers of this state on notice from a member of the board or  
1144 other persons having knowledge of violations of this chapter to  
1145 institute prosecutions in the same manner as for other  
1146 misdemeanors.

1147       **SECTION 32.** Section 73-9-61, Mississippi Code of 1972, is  
1148 reenacted and amended as follows:

1149       73-9-61. (1) Upon satisfactory proof, and in accordance  
1150 with statutory provisions elsewhere set out for such hearings and  
1151 protecting the rights of the accused as well as the public, the  
1152 State Board of Dental Examiners may deny the issuance or renewal  
1153 of a license or may revoke or suspend the license of any licensed  
1154 dentist or dental hygienist practicing in the State of  
1155 Mississippi, or take any other action in relation to the license  
1156 as the board may deem proper under the circumstances, for any of  
1157 the following reasons:



1158           (a) Misrepresentation in obtaining a license, or  
1159 attempting to obtain, obtaining, attempting to renew or renewing a  
1160 license or professional credential by making any material  
1161 misrepresentation, including the signing in his professional  
1162 capacity any certificate that is known to be false at the time he  
1163 makes or signs such certificate.

1164           (b) Willful violation of any of the rules or  
1165 regulations duly promulgated by the board, or of any of the rules  
1166 or regulations duly promulgated by the appropriate dental  
1167 licensure agency of another state or jurisdiction.

1168           (c) Being impaired in the ability to practice dentistry  
1169 or dental hygiene with reasonable skill and safety to patients by  
1170 reason of illness or use of alcohol, drugs, narcotics, chemicals,  
1171 or any other type of material or as a result of any mental or  
1172 physical condition.

1173           (d) Administering, dispensing or prescribing any  
1174 prescriptive medication or drug outside the course of legitimate  
1175 professional dental practice.

1176           (e) Being convicted or found guilty of or entering a  
1177 plea of nolo contendere to, regardless of adjudication, a  
1178 violation of any federal or state law regulating the possession,  
1179 distribution or use of any narcotic drug or any drug considered a  
1180 controlled substance under state or federal law, a certified copy  
1181 of the conviction order or judgment rendered by the trial court  
1182 being prima facie evidence thereof, notwithstanding the pendency  
1183 of any appeal.

1184           (f) Practicing incompetently or negligently, regardless  
1185 of whether there is actual harm to the patient.

1186           (g) Being convicted or found guilty of or entering a  
1187 plea of nolo contendere to, regardless of adjudication, a crime in  
1188 any jurisdiction which relates to the practice of dentistry or  
1189 dental hygiene, a certified copy of the conviction order or



1190 judgment rendered by the trial court being prima facie evidence  
1191 thereof, notwithstanding the pendency of any appeal.

1192 (h) Being convicted or found guilty of or entering a  
1193 plea of nolo contendere to, regardless of adjudication, a felony  
1194 in any jurisdiction, a certified copy of the conviction order or  
1195 judgment rendered by the trial court being prima facie evidence  
1196 thereof, notwithstanding the pendency of any appeal.

1197 (i) Delegating professional responsibilities to a  
1198 person who is not qualified by training, experience or licensure  
1199 to perform them.

1200 (j) The refusal of a licensing authority of another  
1201 state or jurisdiction to issue or renew a license, permit or  
1202 certificate to practice dentistry or dental hygiene in that  
1203 jurisdiction or the revocation, suspension or other restriction  
1204 imposed on a license, permit or certificate issued by such  
1205 licensing authority which prevents or restricts practice in that  
1206 jurisdiction, a certified copy of the disciplinary order or action  
1207 taken by the other state or jurisdiction being prima facie  
1208 evidence thereof, notwithstanding the pendency of any appeal.

1209 (k) Surrender of a license or authorization to practice  
1210 dentistry or dental hygiene in another state or jurisdiction when  
1211 the board has reasonable cause to believe that the surrender is  
1212 made to avoid or in anticipation of a disciplinary action.

1213 (l) Any unprofessional conduct to be determined by the  
1214 board on a case-by-case basis, which shall include but not be  
1215 restricted to the following:

1216 (i) Committing any crime involving moral  
1217 turpitude.

1218 (ii) Practicing deceit or other fraud upon the  
1219 public.

1220 (iii) Practicing dentistry or dental hygiene under  
1221 a false or assumed name.



1222                   (iv) Advertising that is false, deceptive or  
1223 misleading.

1224                   (v) Announcing a specialized practice shall be  
1225 considered advertising that tends to deceive or mislead the public  
1226 unless the dentist announcing as a specialist conforms to other  
1227 statutory provisions and the duly promulgated rules or regulations  
1228 of the board pertaining to practice of dentistry in the State of  
1229 Mississippi.

1230                   (m) Failure to provide and maintain reasonable sanitary  
1231 facilities and conditions or failure to follow board rules  
1232 regarding infection control.

1233                   (n) Committing any act which would constitute sexual  
1234 misconduct upon a patient or upon ancillary staff. For purposes  
1235 of this subsection, the term sexual misconduct means:

1236                   (i) Use of the licensee-patient relationship to  
1237 engage or attempt to engage the patient in sexual activity; or

1238                   (ii) Conduct of a licensee that is intended to  
1239 intimidate, coerce, influence or trick any person employed by or  
1240 for the licensee in a dental practice or educational setting for  
1241 the purpose of engaging in sexual activity or activity intended  
1242 for the sexual gratification of the licensee.

1243                   (o) Violation of a lawful order of the board previously  
1244 entered in a disciplinary or licensure hearing; failure to  
1245 cooperate with any lawful request or investigation by the board;  
1246 or failure to comply with a lawfully issued subpoena of the board.

1247                   (p) Willful, obstinate and continuing refusal to  
1248 cooperate with the board in observing its rules and regulations in  
1249 promptly paying all legal license or other fees required by law.

1250                   (q) Practicing dentistry or dental hygiene while such  
1251 person's license is suspended.

1252                   (2) In lieu of revocation of a license as provided for  
1253 above, the board may suspend the license of the offending dentist  
1254 or dental hygienist, suspend the sedation permit of the offending



1255 dentist, or take any other action in relation to his license as  
1256 the board may deem proper under the circumstances.

1257       (3) When a license to practice dentistry or dental hygiene  
1258 is revoked or suspended by the board, the board may, in its  
1259 discretion, stay such revocation or suspension and simultaneously  
1260 place the licensee on probation upon the condition that such  
1261 licensee shall not violate the laws of the State of Mississippi  
1262 pertaining to the practice of dentistry or dental hygiene and  
1263 shall not violate the rules and regulations of the board and shall  
1264 not violate any terms in relation to his license as may be set by  
1265 the board.

1266       (4) In a proceeding conducted under this section by the  
1267 board for the denial, revocation or suspension of a license to  
1268 practice dentistry or dental hygiene, the board shall have the  
1269 power and authority for the grounds stated for such denial,  
1270 revocation or suspension, and in addition thereto or in lieu of  
1271 such denial, revocation or suspension may assess and levy upon any  
1272 person licensed to practice dentistry or dental hygiene in the  
1273 State of Mississippi, a monetary penalty, as follows:

1274           (a) For the first violation of any of subparagraph (a),  
1275 (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection  
1276 (1) of this section, a monetary penalty of not less than Fifty  
1277 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

1278           (b) For the second violation of any of subparagraph  
1279 (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of  
1280 subsection (1) of this section, a monetary penalty of not less  
1281 than One Hundred Dollars (\$100.00) nor more than One Thousand  
1282 Dollars (\$1,000.00).

1283           (c) For the third and any subsequent violation of any  
1284 of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o)  
1285 or (q) of subsection (1) of this section, a monetary penalty of  
1286 not less than Five Hundred Dollars (\$500.00) and not more than  
1287 Five Thousand Dollars (\$5,000.00).



1288           (d) For any violation of any of subparagraphs (a)  
1289 through (q) of subsection (1) of this section, those reasonable  
1290 costs that are expended by the board in the investigation and  
1291 conduct of a proceeding for licensure revocation or suspension,  
1292 including, but not limited to, the cost of process service, court  
1293 reporters, expert witnesses and investigators.

1294           (5) The power and authority of the board to assess and levy  
1295 such monetary penalties hereunder shall not be affected or  
1296 diminished by any other proceeding, civil or criminal, concerning  
1297 the same violation or violations except as provided in this  
1298 section.

1299           (6) A licensee shall have the right of appeal from the  
1300 assessment and levy of a monetary penalty as provided in this  
1301 section under the same conditions as a right of appeal is provided  
1302 elsewhere for appeals from an adverse ruling, order or decision of  
1303 the board.

1304           (7) Any monetary penalty assessed and levied under this  
1305 section shall not take effect until after the time for appeal  
1306 shall have expired. In the event of an appeal, such appeal shall  
1307 act as a supersedeas.

1308           (8) A monetary penalty assessed and levied under this  
1309 section shall be paid to the board by the licensee upon the  
1310 expiration of the period allowed for appeal of such penalties  
1311 under this section or may be paid sooner if the licensee  
1312 elects. \* \* \* Any monies collected by the board under subsections  
1313 (4) (a) through (4) (d) of this section shall be deposited into the  
1314 special fund operating account of the board.

1315           (9) When payment of a monetary penalty assessed and levied  
1316 by the board against a licensee in accordance with this section is  
1317 not paid by the licensee when due under this section, the board  
1318 shall have power to institute and maintain proceedings in its name  
1319 for enforcement of payment in the chancery court of the county and  
1320 judicial district of residence of the licensee, and if the



licensee be a nonresident of the State of Mississippi, such proceedings shall be in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

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

(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 pursuant to this chapter or regulations duly adopted by the board.

**SECTION 33.** Section 73-9-63, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-63. A complaint may be filed with the secretary or executive director of the board, by any person charging a licensed dentist or dental hygienist with the commission of any of the offenses enumerated in the preceding section. Such complaint shall be in writing and signed by the accuser, or accusers. If upon review of the complaint, the board determines that there is not substantial justification to believe that the accused dentist or dental hygienist has committed any of the offenses enumerated in the preceding section, it may dismiss the complaint. In the event of a dismissal, the person filing the complaint and the





1354 accused dentist or dental hygienist shall be given written notice  
1355 of the board's determination. If the board determines there is  
1356 reasonable cause to believe the accused has committed the  
1357 offenses, and a hearing should be held to determine the validity  
1358 of the complaint, the executive director of the board shall set a  
1359 day for a hearing, and \* \* \* shall notify the accused that on the  
1360 day fixed for hearing he may appear and show cause, if any, why  
1361 his or her license to practice dentistry or dental hygiene in the  
1362 state should not be revoked or have other disciplinary action  
1363 taken against it. Such notice shall be served upon the dentist or  
1364 dental hygienist either personally or by registered or certified  
1365 mail with return receipt requested. The board may, by regulation,  
1366 establish an investigative panel consisting of at least two (2)  
1367 people, one (1) of whom shall be a board member, to review  
1368 complaints to determine the existence of probable cause and  
1369 whether such complaints should proceed to formal hearing.

1370       Nothing in this section shall prevent the board from  
1371 determining that it should investigate a licensee without a signed  
1372 complaint provided that a prior determination is made that  
1373 probable cause exists that a violation of this chapter may have  
1374 occurred.

1375       For the purpose of such hearings or investigation of  
1376 complaints, the board is empowered to require the attendance of  
1377 witnesses, reimburse witnesses for necessary expenses and mileage  
1378 incurred, subpoena documents and records, employ and compensate  
1379 expert witnesses, administer oaths, and hear testimony, either  
1380 oral or documentary, for and against the accused. Hearings shall  
1381 be conducted by a majority of the members of the board. A record  
1382 of the hearing shall be made which shall consist of all testimony  
1383 received and all documents and other material introduced. If  
1384 after such hearing the board shall be satisfied that the accused  
1385 has been guilty of the offense charged in the accusation, it shall  
1386 thereupon, without further notice, order such disciplinary action



as it deems proper. All procedural due process requirements as enumerated above shall also apply to any other license or permit issued by the board pursuant to this chapter or regulations duly adopted by the board.

**SECTION 34.** Section 73-9-65, Mississippi Code of 1972, is reenacted and 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 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 hereby granted. Such appeal shall be to the chancery court of the county in which such 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 Dollars (\$100.00), with two (2) sureties, conditioned that if the action of the board regarding the license be affirmed by the chancery court the dentist or dental hygienist will pay the costs of the appeal and the action in the chancery court. Such bonds shall be approved by the president of the board. In lieu of the bond, the dentist or dental hygienist may deposit One Hundred Dollars (\$100.00) with the clerk of the chancery court. If there is an



1420 appeal, such appeal may, in the discretion of and on motion to the  
1421 chancery court, act as a supersedeas. The chancery court shall  
1422 dispose of the appeal and enter its decision promptly. The  
1423 hearing on the appeal may, in the discretion of the chancellor, be  
1424 tried in vacation. Appeals may be had to the Supreme Court of the  
1425 State of Mississippi as provided by law from any final action of  
1426 the chancery court. No such person shall be allowed to practice  
1427 dentistry or dental hygiene or deliver health care services in  
1428 violation of any action of the chancery court \* \* \* while any such  
1429 appeal to the Supreme Court is pending. All procedural appeal  
1430 requirements as enumerated above shall also apply to any other  
1431 license or permit issued by the board pursuant to this chapter or  
1432 regulations duly adopted by the board.

1433       Actions taken by the board in suspending a license when  
1434 required by Section 93-11-157 or 93-11-163 are not actions from  
1435 which an appeal may be taken under this section. Any appeal of a  
1436 license suspension that is required by Section 93-11-157 or  
1437 93-11-163 shall be taken in accordance with the appeal procedure  
1438 specified in Section 93-11-157 or 93-11-163, as the case may be,  
1439 rather than the procedure specified in this section.

1440       **SECTION 35.** Section 73-9-67, Mississippi Code of 1972, which  
1441 is the automatic repealer of Sections 73-9-1 through 73-9-117,  
1442 Mississippi Code of 1972, which create the Board of Dental  
1443 Examiners and describe its duties and powers, is hereby repealed.

1444       **SECTION 36.** Section 73-9-101, Mississippi Code of 1972, is  
1445 reenacted as follows:

1446       73-9-101. Sections 73-9-101 through 73-9-117 shall be known  
1447 as the "Mississippi Disabled Dentist Law."

1448       **SECTION 37.** Section 73-9-103, Mississippi Code of 1972, is  
1449 reenacted as follows:

1450       73-9-103. The license of any dentist or dental hygienist in  
1451 this state shall be subject to restriction, suspension or  
1452 revocation, as hereinafter provided, in case of inability of the



licensee to practice dentistry or dental hygiene with reasonable skill or safety to patients by reason of one or more of the following:

(a) Mental illness;

(b) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill;

(c) Excessive use or abuse of drugs, including alcohol.

**SECTION 38.** Section 73-9-105, Mississippi Code of 1972, is reenacted as follows:

73-9-105. (1) If the State Board of Dental Examiners has reasonable cause to believe that a dentist or dental hygienist licensed to practice dentistry or dental hygiene in this state is unable to practice with reasonable skill and safety to patients because of a condition described in Section 73-9-103, such Board of Dental Examiners shall cause an examination of such dentist or dental hygienist to be made as described in subsection (2) of this section and shall, following such examination, take appropriate action within the provisions of Sections 73-9-101 through 73-9-117.

(2) Examination of a dentist or dental hygienist under this section shall be conducted by an examining committee designated by the board. Such examining committee shall be composed of at least two (2) practicing dentists, three (3) practicing physicians, and shall include at least one (1) psychiatrist if a question of mental illness is involved.

**SECTION 39.** Section 73-9-107, Mississippi Code of 1972, is reenacted and amended as follows:

73-9-107. (1) The examining committee assigned to examine a dentist or dental hygienist pursuant to referral by the board under Section 73-9-105 shall conduct an examination of such dentist or dental hygienist for the purpose of determining his fitness to practice dentistry or dental hygiene with reasonable skill and safety to patients, either on a restricted or



1486 unrestricted basis, and shall report its findings and  
1487 recommendations to the board. The committee shall order the  
1488 dentist or dental hygienist to appear before the committee for  
1489 examination and give him ten (10) days' notice of the time and  
1490 place of the examination, together with a statement of the cause  
1491 for such examination. Such notice shall be served upon the  
1492 dentist or dental hygienist either personally or by registered or  
1493 certified mail with return receipt requested.

1494       (2) If the examining committee, in its discretion, should  
1495 deem an independent mental or physical examination of the dentist  
1496 or dental hygienist necessary to its determination of the fitness  
1497 of the dentist or dental hygienist to practice, the committee  
1498 shall order the dentist or dental hygienist to submit to such  
1499 examination. Any person licensed to practice dentistry or dental  
1500 hygiene in this state shall be deemed to have waived all  
1501 objections to the admissibility of the examining committee's  
1502 report in any proceedings before the board under Sections 73-9-101  
1503 through 73-9-117 on the grounds of privileged communication. Any  
1504 dentist or dental hygienist ordered to an examination before the  
1505 committee under this subsection shall be entitled to an  
1506 independent mental or physical examination if he makes a request  
1507 therefor.

1508       (3) Any dentist or dental hygienist who submits to a  
1509 diagnostic mental or physical examination as ordered by the  
1510 examining committee shall have a right to designate another  
1511 physician to be present at the examination and make an independent  
1512 report to the board.

1513       (4) Failure of a dentist or dental hygienist to comply with  
1514 a committee order under subsection (1) to appear before it for  
1515 examination or to submit to mental or physical examination under  
1516 subsection (2) shall be reported by the committee to the board,  
1517 and unless due to circumstances beyond the control of the dentist  
1518 or dental hygienist, shall be grounds for suspension by the board



of his license to practice dentistry or dental hygiene in this state until such time as such dentist or dental hygienist has complied with the order of the committee.

(5) The examining committee may inspect patient records in accordance with the rules and regulations duly promulgated by the Board of Dental Examiners.

(6) All patient records, investigative reports, and other documents in possession of the board and examining committee shall be deemed confidential and not subject to subpoena or disclosure unless so ordered by the court from which the subpoena issued, but the court, in its discretion, may limit use or disclosure of such records. Notwithstanding, and to encourage the prompt reporting of disabled practitioners, neither the board nor examining committee shall reveal the identify of any source of information where said source has requested anonymity.

**SECTION 40.** Section 73-9-109, Mississippi Code of 1972, is reenacted as follows:

73-9-109. A dentist or dental hygienist may request in writing to the board a restriction of his license to practice dentistry or dental hygiene. The board may grant such request for restriction and shall have authority, if it deems appropriate, to attach conditions to the licensure of the dentist or dental hygienist to practice dentistry or dental hygiene within specified limitations, and waive the commencement of any proceeding under Section 73-9-113. Removal of a voluntary restriction on licensure to practice dentistry or dental hygiene shall be subject to the procedure for reinstatement of license in Section 73-9-115.

**SECTION 41.** Section 73-9-111, Mississippi Code of 1972, is reenacted as follows:

73-9-111. (1) The examining committee shall report to the board its findings on the examination of the dentist or dental hygienist under Section 73-9-107, the determination of the committee as to the fitness of the dentist or dental hygienist to



1552 engage in the practice of dentistry or dental hygiene with  
1553 reasonable skill and safety to patients, either on a restricted or  
1554 unrestricted basis, and any management that the committee may  
1555 recommend. Such recommendation by the committee shall be advisory  
1556 only and shall not be binding on the board.

1557 (2) The board may accept or reject the recommendation of the  
1558 examining committee to permit a dentist or dental hygienist to  
1559 continue to practice with or without any restriction on his  
1560 license to practice dentistry or dental hygiene, or may refer the  
1561 matter back to the examining committee for further examination and  
1562 report thereon.

1563 (3) In the absence of a voluntary agreement by a dentist or  
1564 dental hygienist under Section 73-9-109 for restriction of the  
1565 licensure of such dentist or dental hygienist to practice  
1566 dentistry or dental hygiene, any dentist or dental hygienist shall  
1567 be entitled to a hearing in formal proceedings before the board  
1568 and a determination on the evidence as to whether or not  
1569 restriction, suspension or revocation of licensure shall be  
1570 imposed.

1571 **SECTION 42.** Section 73-9-113, Mississippi Code of 1972, is  
1572 reenacted and amended as follows:

1573 73-9-113. (1) The board may proceed against a dentist or  
1574 dental hygienist under Sections 73-9-101 through 73-9-117 by  
1575 serving upon such dentist or dental hygienist at least fifteen  
1576 (15) days' notice of a time and place fixed for a hearing,  
1577 together with copies of the examining committee's report and  
1578 diagnosis. Such notice and reports shall be served upon the  
1579 dentist or dental hygienist either personally or by registered or  
1580 certified mail with return receipt requested.

1581 (2) At the hearing the dentist or dental hygienist shall  
1582 have the right to be present, to be represented by counsel, to  
1583 produce witnesses or evidence in his behalf, to cross-examine  
1584 witnesses, and to have subpoenas issued by the board.



(3) At the conclusion of the hearing, the board shall make a determination of the merits and may issue an order imposing one or more of the following:

(a) Make a recommendation that the dentist or dental hygienist submit to the care, counseling or treatment by physicians acceptable to the board.

(b) Suspend or restrict the license to practice dentistry or dental hygiene for the duration of his impairment.

(c) Revoke the license of the dentist or dental hygienist.

(d) Impose an assessment of costs or monetary penalty as provided for in Section 73-9-61.

(4) The board may temporarily suspend the license of any dentist or dental hygienist without a hearing, simultaneously with the institution of proceedings for a hearing under this section, if it finds that the evidence in support of the examining committee's determination is clear, competent and unequivocal and that his continuation in practice would constitute an imminent danger to public health and safety.

(5) Neither the record of the proceedings nor any order entered against a dentist or dental hygienist may be used against him in any other legal proceedings except upon judicial review as provided herein.

**SECTION 43.** Section 73-9-115, Mississippi Code of 1972, is reenacted as follows:

73-9-115. (1) A dentist or dental hygienist whose licensure has been restricted, suspended or revoked under Sections 73-9-101 through 73-9-113, voluntarily or by action of the board, shall have a right, at reasonable intervals, to petition for reinstatement of his license and to demonstrate that he can resume the competent practice of dentistry or dental hygiene with reasonable skill and safety to patients. Such petition shall be made in writing and on a form prescribed by the board. Action of





1618 the board on such petition shall be initiated by referral to and  
1619 examination by the examining committee pursuant to the provisions  
1620 of Sections 73-9-105 and 73-9-107. The board may, upon written  
1621 recommendation of the examining committee, restore the licensure  
1622 of the dentist or dental hygienist on a general or limited basis  
1623 or institute a proceeding pursuant to Section 73-9-113 for the  
1624 determination of the fitness of the dentist or dental hygienist to  
1625 resume his practice.

1626 (2) All orders of the board entered under Section  
1627 73-9-113(3) and (4) shall be subject to judicial review by appeal  
1628 to the chancery court of the county of the residence of the  
1629 dentist or dental hygienist involved against whom the order is  
1630 rendered, within thirty (30) days following the date of entry of  
1631 the order, the appeal to be taken and perfected in the same manner  
1632 as provided in Section 73-9-65.

1633 **SECTION 44.** Section 73-9-117, Mississippi Code of 1972, is  
1634 reenacted as follows:

1635 73-9-117. There shall be no liability on the part of and no  
1636 action for damages against:

1637 (a) Any member of the examining committee or the board  
1638 for any action undertaken or performed by such member within the  
1639 scope of the functions of such committee or the board under  
1640 Sections 73-9-101 through 73-9-115 when acting without malice and  
1641 in the reasonable belief that the action taken by him is  
1642 warranted; or

1643 (b) Any person providing information to the committee  
1644 or to the board without malice in the reasonable belief that such  
1645 information is accurate.

1646 **SECTION 45.** This act shall take effect and be in force from  
1647 and after June 30, 2002.

