

By: Senator(s) Burton

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2691

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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



103 professional license until he has made arrangements satisfactory
104 to the sponsoring agency for repaying the educational loan or
105 meeting the obligations of the loan repayment program.

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

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

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

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

120 (x) Appeals from a finding of default by the
121 sponsoring agency shall be to the Circuit Court of Hinds County.
122 Actions taken by a licensing entity in revoking a license when
123 required by this section are not actions from which an appeal may
124 be taken under the general licensing and disciplinary provisions
125 applicable to the licensing agency.

126 (xi) Rules and regulations governing hearing and
127 other applicable matters shall be promulgated by the sponsoring
128 agency.

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

132 (4) (a) Any recipient who is granted paid educational leave
133 by a state health institution shall be compensated by the
134 institution during the time he or she is in school, at the rate of
135 pay received by a nurse's aide employed at the respective state



136 health institution. All educational leave compensation received
137 by the recipient while in school shall be considered earned
138 conditioned upon the fulfillment of the terms and obligations of
139 the educational leave contract and this section. However, no
140 recipient of full-time educational leave shall accrue personal or
141 major medical leave while he or she is on paid educational leave.
142 Recipients of paid educational leave shall be responsible for
143 their individual costs of tuition and books.

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

146 (i) The recipient shall fulfill his or her
147 obligation under the contract with the State of Mississippi by
148 working as a health care professional defined in Section
149 37-101-287 or as a licensed practical nurse in a state health
150 institution; a recipient sponsored by a health institution under
151 the supervision of the Mississippi Department of Mental Health may
152 fulfill his or her obligation under the contract with the State of
153 Mississippi at another health institution under the supervision of
154 the Mississippi Department of Mental Health with prior written
155 approval of the Director of the Department of Mental Health
156 institution with which he or she originally contracted for
157 educational leave. * * * The total compensation that the
158 recipient was paid while on educational leave shall be considered
159 as unconditionally earned per year pro rata for each year of
160 service as such health care professional in his or her respective
161 state health institution under the educational leave contract.

162 (ii) If the recipient does not work as a health
163 care professional as defined in Section 37-101-285 or as a
164 licensed practical nurse in his respective state health
165 institution for the period as stated in Paragraph 3(b)(iii) above,
166 the recipient shall be liable for repayment on demand of the
167 remaining portion of the compensation that he or she was paid
168 while on paid educational leave which has not been unconditionally



169 earned, with interest accruing at ten percent (10%) per annum from
170 the recipient's date of graduation, or the date that the recipient
171 last worked at that state health institution, whichever is the
172 later date. In addition, there shall be * * * liquidated damages
173 equal to Five Thousand Dollars (\$5,000.00), which may be reduced,
174 pro rata per year for each year * * * served under the contract.

175 (iii) If any recipient fails or withdraws from
176 school at any time before completing his or her health care
177 training, the recipient shall be liable for repayment on demand of
178 the amount of the total compensation that he or she was paid while
179 on paid educational leave, with interest accruing at ten percent
180 (10%) per annum from the date the recipient failed or withdrew
181 from school, but shall not be liable for liquidated damages.

182 However, if the recipient returns to work in the same position he
183 or she held in the same state health institution prior to
184 accepting educational leave, he or she shall not be liable for
185 payment of any interest on the amount owed, or for liquidated
186 damages.

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



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

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

210 73-15-29. (1) The board shall have power to revoke, suspend
211 or refuse to renew any license issued by the board, or to revoke
212 or suspend any privilege to practice, or to deny an application
213 for a license, or to fine, place on probation and/or discipline a
214 licensee, in any manner specified in this chapter, upon proof that
215 the person:

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

218 (b) Has been convicted of felony, or a crime involving
219 moral turpitude or has had accepted by a court a plea of nolo
220 contendere to a felony or a crime involving moral turpitude (a
221 certified copy of the judgment of the court of competent
222 jurisdiction of the conviction or pleas shall be prima facie
223 evidence of the conviction);

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

227 (d) Has had a license or privilege to practice as a
228 registered nurse or a licensed practical nurse suspended or
229 revoked in any jurisdiction, has voluntarily surrendered the
230 license or privilege to practice in any jurisdiction, has been
231 placed on probation as a registered nurse or licensed practical
232 nurse in any jurisdiction or has been placed under a disciplinary
233 order(s) in any manner as a registered nurse or licensed practical
234 nurse in any jurisdiction, (a certified copy of the order of



235 suspension, revocation, probation or disciplinary action shall be
236 prima facie evidence of the action);

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

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

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

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

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

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

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

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

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

264 (2) Notwithstanding any provision of this chapter:

265 (a) The board shall suspend the license of any person
266 who defaults on or fails to comply with the requirements of a
267 state educational loan, service conditional scholarship or loan



268 repayment program obligation under which the person obtained any
269 of the education necessary to qualify for a license under this
270 chapter; and

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

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

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

281 (b) Administering a reprimand;

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

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

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

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

296 (g) Requiring the discipline to practice under the
297 supervision of a registered nurse for a specified period of time;

298 or

299 (h) Imposing a fine not to exceed Five Hundred Dollars
300 (\$500.00).



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

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

317 73-23-59. (1) Licensees subject to this chapter shall
318 conduct their activities, services and practice in accordance with
319 this chapter and any rules promulgated pursuant hereto. Licensees
320 may be subject to the exercise of the disciplinary sanction
321 enumerated in Section 73-23-64 if the board finds that a licensee
322 is guilty of any of the following:

323 (a) Negligence in the practice or performance of
324 professional services or activities;

325 (b) Engaging in dishonorable, unethical or
326 unprofessional conduct of a character likely to deceive, defraud
327 or harm the public in the course of professional services or
328 activities;

329 (c) Perpetrating or cooperating in fraud or material
330 deception in obtaining or renewing a license or attempting the
331 same;



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

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

337 (f) Engaging in or permitting the performance of
338 unacceptable services personally or by others working under the
339 licensee's supervision due to the licensee's deliberate or
340 negligent act or acts or failure to act, regardless of whether
341 actual damage or damages to the public is established;

342 (g) Continued practice although the licensee has become
343 unfit to practice as a physical therapist or physical therapist
344 assistant due to:

345 (i) Failure to keep abreast of current
346 professional theory or practice; * * *

347 (ii) Physical or mental disability; the entry of
348 an order or judgment by a court of competent jurisdiction that a
349 licensee is in need of mental treatment or is incompetent shall
350 constitute mental disability; or

351 (iii) Addiction or severe dependency upon alcohol
352 or other drugs that may endanger the public by impairing the
353 licensee's ability to practice;

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

356 (i) Making differential, detrimental treatment against
357 any person because of race, color, creed, sex, religion or
358 national origin;

359 (j) Engaging in lewd conduct in connection with
360 professional services or activities;

361 (k) Engaging in false or misleading advertising;

362 (l) Contracting, assisting or permitting unlicensed
363 persons to perform services for which a license is required under
364 this chapter;



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

367 (n) Revealing confidential information except as may be
368 required by law;

369 (o) Failing to inform clients of the fact that the
370 client no longer needs the services or professional assistance of
371 the licensee;

372 (p) Charging excessive or unreasonable fees or engaging
373 in unreasonable collection practices;

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

377 (r) For applying or offering to apply physical therapy,
378 exclusive of initial evaluation or screening and exclusive of
379 education or consultation for the prevention of physical and
380 mental disability within the scope of physical therapy, other than
381 upon the referral of a licensed physician, dentist, osteopath,
382 podiatrist, chiropractor or nurse practitioner; or for acting as a
383 physical therapist assistant other than under the direct, on-site
384 supervision of a licensed physical therapist;

385 (s) Violations of the current codes of conduct for
386 physical therapists and physical therapy assistants adopted by the
387 American Physical Therapy Association;

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

390 (2) The board may order a licensee to submit to a reasonable
391 physical or mental examination if the licensee's physical or
392 mental capacity to practice safely is at issue in a disciplinary
393 proceeding.

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

397 (4) Notwithstanding any provision of this chapter:



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

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

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

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

423 73-24-24. (1) Licensees subject to this chapter shall
424 conduct their activities, services and practice in accordance with
425 this chapter and any rules promulgated pursuant hereto. Licenses
426 may be subject to the exercise of the disciplinary sanction
427 enumerated in Section 73-24-25 if the board finds that a licensee
428 is guilty of any of the following:

429 (a) Negligence in the practice or performance of
430 professional services or activities;



431 (b) Engaging in dishonorable, unethical or
432 unprofessional conduct of a character likely to deceive, defraud
433 or harm the public in the course of professional services or
434 activities;

435 (c) Perpetrating or cooperating in fraud or material
436 deception in obtaining or renewing a license or attempting the
437 same;

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

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

443 (f) Engaging in or permitting the performance of
444 unacceptable services personally or by others working under the
445 licensee's supervision due to the licensee's deliberate or
446 negligent act or acts or failure to act, regardless of whether
447 actual damage or damages to the public is established;

448 (g) Continued practice although the licensee has become
449 unfit to practice as an occupational therapist or occupational
450 therapist assistant due to:

451 (i) Failure to keep abreast of current
452 professional theory or practice; * * *

453 (ii) Physical or mental disability; the entry of
454 an order or judgment by a court of competent jurisdiction that a
455 licensee is in need of mental treatment or is incompetent shall
456 constitute mental disability; or

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

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



462 (i) Making differential, detrimental treatment against
463 any person because of race, color, creed, sex, religion or
464 national origin;

465 (j) Engaging in lewd conduct in connection with
466 professional services or activities;

467 (k) Engaging in false or misleading advertising;

468 (l) Contracting, assisting or permitting unlicensed
469 persons to perform services for which a license is required under
470 this chapter;

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

473 (n) Revealing confidential information except as may be
474 required by law;

475 (o) Failing to inform clients of the fact that the
476 client no longer needs the services or professional assistance of
477 the licensee;

478 (p) Charging excessive or unreasonable fees or engaging
479 in unreasonable collection practices;

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

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

485 (s) Violations of the current codes of conduct for
486 occupational therapists and occupational therapy assistants
487 adopted by the American Occupational Therapy Association;

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

490 (2) Notwithstanding any provision of this chapter:

491 (a) The board shall suspend the license of any person
492 who defaults on or fails to comply with the requirements of a
493 state educational loan, service conditional scholarship or loan
494 repayment program obligation under which the person obtained any



495 of the education necessary to qualify for a license under this
496 chapter; and

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

501 (3) The board may order a licensee to submit to a reasonable
502 physical or mental examination if the licensee's physical or
503 mental capacity to practice safely is at issue in a disciplinary
504 proceeding.

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

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

510 73-31-21. (1) The board, by an affirmative vote of at least
511 four (4) of its seven (7) members, shall withhold, deny, revoke or
512 suspend any license issued or applied for in accordance with the
513 provisions of this chapter, or otherwise discipline a licensed
514 psychologist, upon proof that the applicant or licensed
515 psychologist:

516 (a) Has violated the current code of ethics of the
517 American Psychological Association or other codes of ethical
518 standards adopted by the board; or

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

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



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

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

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

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

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

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

546 (2) Notwithstanding any provision of this chapter:

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

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

557 (3) Notice shall be effected by registered mail or personal
558 service setting forth the particular reasons for the proposed
559 action and fixing a date not less than thirty (30) days nor more



560 than sixty (60) days from the date of the mailing or the service,
561 at which time the applicant or licentiate shall be given an
562 opportunity for a prompt and fair hearing. For the purpose of the
563 hearing the board, acting by and through its executive secretary,
564 may subpoena persons and papers on its own behalf and on behalf of
565 the applicant or licentiate, may administer oaths and may take
566 testimony. That testimony, when properly transcribed, together
567 with the papers and exhibits, shall be admissible in evidence for
568 or against the applicant or licentiate. At the hearing applicant
569 or licentiate may appear by counsel and personally in his own
570 behalf. Any person sworn and examined by a witness in the hearing
571 shall not be held to answer criminally, nor shall any papers or
572 documents produced by the witness be competent evidence in any
573 criminal proceedings against the witness other than for perjury in
574 delivering his evidence. On the basis of any such hearing, or
575 upon default of applicant or licentiate, the board shall make a
576 determination specifying its findings of fact and conclusions of
577 law. A copy of that determination shall be sent by registered
578 mail or served personally upon the applicant or licentiate. The
579 decision of the board denying, revoking or suspending the license
580 shall become final thirty (30) days after so mailed or served
581 unless within that period the licentiate appeals the decision to
582 the chancery court, under the provisions hereof, and the
583 proceedings in chancery shall be conducted as other matters coming
584 before the court. All proceedings and evidence, together with
585 exhibits, presented at the hearing before the board if there is an
586 appeal shall be admissible in evidence in the court.

587 (4) The board may subpoena persons and papers on its own
588 behalf and on behalf of the respondent, may administer oaths and
589 may compel the testimony of witnesses. It may issue commissions
590 to take testimony, and testimony so taken and sworn to shall be
591 admissible in evidence for and against the respondent. The board
592 shall be entitled to the assistance of the chancery court or the



593 chancellor in vacation, which, on petition by the board, shall
594 issue ancillary subpoenas and petitions and may punish as for
595 contempt of court if there is noncompliance therewith.

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

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

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

618 (8) In addition to the reasons specified in subsection (1)
619 of this section, the board may suspend the license of any licensee
620 for being out of compliance with an order for support, as defined
621 in Section 93-11-153. The procedure for suspension of a license
622 for being out of compliance with an order for support, and the
623 procedure for the reissuance or reinstatement of a license
624 suspended for that purpose, and the payment of any fees for the
625 reissuance or reinstatement of a license suspended for that



626 purpose, shall be governed by Section 93-11-157. Actions taken by
627 the board in suspending a license when required by Section
628 93-11-157 or 93-11-163 are not actions from which an appeal may be
629 taken under this section. Any appeal of a license suspension that
630 is required by Section 93-11-157 or 93-11-163 shall be taken in
631 accordance with the appeal procedure specified in Section
632 93-11-157 or 93-11-163, as the case may be, rather than the
633 procedure specified in this section. If there is any conflict
634 between any provision of Section 93-11-157 or 93-11-163 and any
635 provision of this chapter, the provisions of Section 93-11-157 or
636 93-11-163, as the case may be, shall control.

637 (9) This section shall stand repealed from and after July 1,
638 2011.

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

641 73-38-27. (1) The board may refuse to issue or renew a
642 license, or may suspend or revoke a license where the licensee or
643 applicant for license has been guilty of unprofessional conduct
644 that has endangered or is likely to endanger the health, welfare
645 or safety of the public. That unprofessional conduct may result
646 from:

647 (a) Obtaining a license by means of fraud,
648 misrepresentation or concealment of material facts;

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

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

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

658 (e) Violating any provisions of this chapter.



659 (2) Notwithstanding any provision of this chapter:

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

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

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

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

684 (a) The time for appeal has elapsed;

685 (b) The judgment of conviction has been affirmed on
686 appeal; or

687 (c) An order granting probation has been made
688 suspending the imposition of sentence, without regard to a
689 subsequent order allowing the withdrawal of a guilty plea and the
690 substitution therefor of a not guilty plea, or the setting aside



691 of a guilty verdict, or the dismissal of the acquisition,
692 information or indictment.

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

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

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

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

712 (9) In addition to the reasons specified in subsection (1)
713 of this section, the board may suspend the license of any licensee
714 for being out of compliance with an order for support, as defined
715 in Section 93-11-153. The procedure for suspension of a license
716 for being out of compliance with an order for support, and the
717 procedure for the reissuance or reinstatement of a license
718 suspended for that purpose, and the payment of any fees for the
719 reissuance or reinstatement of a license suspended for that
720 purpose, shall be governed by Section 93-11-157 or 93-11-163, as
721 the case may be. Actions taken by the board in suspending a
722 license when required by Section 93-11-157 or 93-11-163 are not
723 actions from which an appeal may be taken under this section. Any



724 appeal of a license suspension that is required by Section
725 93-11-15 or 93-11-163 shall be taken in accordance with the appeal
726 procedure specified in Section 93-11-157 or 93-11-163, as the case
727 may be, rather than the procedure specified in this section. If
728 there is any conflict between any provision of Section 93-11-157
729 or 93-11-163 and any provision of this chapter, the provisions of
730 Section 93-11-157 or 93-11-163, as the case may be, shall control.

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

