

By: Senator(s) Burton

To: Public Health and  
Welfare; Appropriations

COMMITTEE SUBSTITUTE  
FOR  
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. Further, a  
106 finding by the sponsoring agency of a default by the recipient  
107 shall be grounds for revocation of any license, certificate,  
108 permit, credential, registration or any other authorization issued  
109 by a licensing entity that allows a person to engage in a  
110 business, occupation or profession to operate a motor vehicle, to  
111 sell alcoholic beverages or to hunt and fish. The procedure for  
112 hearing and appeal shall be the same as set forth in this section  
113 for a finding of default.

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

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

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

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

128 (x) Appeals from a finding of default by the  
129 sponsoring agency shall be to the Circuit Court of Hinds County.  
130 Actions taken by a licensing entity in revoking a license when  
131 required by this section are not actions from which an appeal may  
132 be taken under the general licensing and disciplinary provisions  
133 applicable to the licensing agency.



134                   (xi) Rules and regulations governing hearing and  
135 other applicable matters shall be promulgated by the sponsoring  
136 agency.

137                   (xii) A license which has been revoked pursuant to  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

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

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

154                   (i) The recipient shall fulfill his or her  
155 obligation under the contract with the State of Mississippi by  
156 working as a health care professional defined in Section  
157 37-101-287 or as a licensed practical nurse in a state health  
158 institution; a recipient sponsored by a health institution under  
159 the supervision of the Mississippi Department of Mental Health may  
160 fulfill his or her obligation under the contract with the State of  
161 Mississippi at another health institution under the supervision of  
162 the Mississippi Department of Mental Health with prior written  
163 approval of the Director of the Department of Mental Health  
164 institution with which he or she originally contracted for  
165 educational leave. \* \* \* The total compensation that the  
166 recipient was paid while on educational leave shall be considered



167 as unconditionally earned per year pro rata for each year of  
168 service as such health care professional in his or her respective  
169 state health institution under the educational leave contract.

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

183 (iii) If any recipient fails or withdraws from  
184 school at any time before completing his or her health care  
185 training, the recipient shall be liable for repayment on demand of  
186 the amount of the total compensation that he or she was paid while  
187 on paid educational leave, with interest accruing at ten percent  
188 (10%) per annum from the date the recipient failed or withdrew  
189 from school, but shall not be liable for liquidated damages.  
190 However, if the recipient returns to work in the same position he  
191 or she held in the same state health institution prior to  
192 accepting educational leave, he or she shall not be liable for  
193 payment of any interest on the amount owed, or for liquidated  
194 damages.

195 (iv) The issuance and renewal of the professional  
196 license required to work as a health care professional as defined  
197 in Section 37-101-285 for which the educational leave was granted  
198 shall be contingent upon the repayment of the total compensation  
199 that the recipient received while on paid educational leave. No



200 license shall be granted until a contract for repayment is  
201 executed. No license shall be renewed without proof of an  
202 existing contract which is not in default. Failure to meet the  
203 terms of an educational loan contract shall be grounds for  
204 revocation of the professional license which was earned through  
205 the paid educational leave compensation granted under this  
206 section. Any person who receives any amount of paid educational  
207 leave compensation while in school and subsequently receives a  
208 professional license shall be deemed to have earned said  
209 professional license through paid educational leave.

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

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

218 73-15-29. (1) The board shall have power to revoke, suspend  
219 or refuse to renew any license issued by the board, or to revoke  
220 or suspend any privilege to practice, or to deny an application  
221 for a license, or to fine, place on probation and/or discipline a  
222 licensee, in any manner specified in this chapter, upon proof that  
223 the person:

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

226 (b) Has been convicted of felony, or a crime involving  
227 moral turpitude or has had accepted by a court a plea of nolo  
228 contendere to a felony or a crime involving moral turpitude (a  
229 certified copy of the judgment of the court of competent  
230 jurisdiction of the conviction or pleas shall be prima facie  
231 evidence of the conviction);



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

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

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

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

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

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

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

261 (j) Has engaged in any other conduct, whether of the  
262 same or of a different character from that specified in this  
263 chapter, that would constitute a crime as defined in Title 97 of  
264 the Mississippi Code of 1972, as now or hereafter amended, and





265 that relates to the person's employment as a registered nurse or  
266 licensed practical nurse;

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

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

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

272 (2) Notwithstanding any provision of this chapter:

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

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

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

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

289 (b) Administering a reprimand;

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

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

295 (e) Requiring the discipline to submit to care,  
296 counseling or treatment by persons and/or agencies approved or  
297 designated by the board as a condition for initial, continued or



298 renewed licensure or other authorization to practice nursing or  
299 practical nursing;

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

304 (g) Requiring the discipline to practice under the  
305 supervision of a registered nurse for a specified period of time;  
306 or

307 (h) Imposing a fine not to exceed Five Hundred Dollars  
308 (\$500.00).

309 (4) In addition to the grounds specified in subsection (1)  
310 of this section, the board may suspend the license or privilege to  
311 practice of any licensee for being out of compliance with an order  
312 for support, as defined in Section 93-11-153. The procedure for  
313 suspension of a license or privilege to practice for being out of  
314 compliance with an order for support, and the procedure for the  
315 reissuance or reinstatement of a license or privilege to practice  
316 suspended for that purpose, and the payment of any fees for the  
317 reissuance or reinstatement of a license or privilege to practice  
318 suspended for that purpose, shall be governed by Section 93-11-157  
319 or 93-11-163, as the case may be. If there is any conflict  
320 between any provision of Section 93-11-157 or 93-11-163 and any  
321 provision of this chapter, the provisions of Section 93-11-157 or  
322 93-11-163, as the case may be, shall control.

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

325 73-23-59. (1) Licensees subject to this chapter shall  
326 conduct their activities, services and practice in accordance with  
327 this chapter and any rules promulgated pursuant hereto. Licensees  
328 may be subject to the exercise of the disciplinary sanction  
329 enumerated in Section 73-23-64 if the board finds that a licensee  
330 is guilty of any of the following:



- 331           (a) Negligence in the practice or performance of  
332 professional services or activities;
- 333           (b) Engaging in dishonorable, unethical or  
334 unprofessional conduct of a character likely to deceive, defraud  
335 or harm the public in the course of professional services or  
336 activities;
- 337           (c) Perpetrating or cooperating in fraud or material  
338 deception in obtaining or renewing a license or attempting the  
339 same;
- 340           (d) Being convicted of any crime that has a substantial  
341 relationship to the licensee's activities and services or an  
342 essential element of which is misstatement, fraud or dishonesty;
- 343           (e) Being convicted of any crime that is a felony under  
344 the laws of this state or the United States;
- 345           (f) Engaging in or permitting the performance of  
346 unacceptable services personally or by others working under the  
347 licensee's supervision due to the licensee's deliberate or  
348 negligent act or acts or failure to act, regardless of whether  
349 actual damage or damages to the public is established;
- 350           (g) Continued practice although the licensee has become  
351 unfit to practice as a physical therapist or physical therapist  
352 assistant due to:
- 353               (i) Failure to keep abreast of current  
354 professional theory or practice; \* \* \*
- 355               (ii) Physical or mental disability; the entry of  
356 an order or judgment by a court of competent jurisdiction that a  
357 licensee is in need of mental treatment or is incompetent shall  
358 constitute mental disability; or
- 359               (iii) Addiction or severe dependency upon alcohol  
360 or other drugs that may endanger the public by impairing the  
361 licensee's ability to practice;
- 362           (h) Having disciplinary action taken against the  
363 licensee's license in another state;



364 (i) Making differential, detrimental treatment against  
365 any person because of race, color, creed, sex, religion or  
366 national origin;

367 (j) Engaging in lewd conduct in connection with  
368 professional services or activities;

369 (k) Engaging in false or misleading advertising;

370 (l) Contracting, assisting or permitting unlicensed  
371 persons to perform services for which a license is required under  
372 this chapter;

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

375 (n) Revealing confidential information except as may be  
376 required by law;

377 (o) Failing to inform clients of the fact that the  
378 client no longer needs the services or professional assistance of  
379 the licensee;

380 (p) Charging excessive or unreasonable fees or engaging  
381 in unreasonable collection practices;

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

385 (r) For applying or offering to apply physical therapy,  
386 exclusive of initial evaluation or screening and exclusive of  
387 education or consultation for the prevention of physical and  
388 mental disability within the scope of physical therapy, other than  
389 upon the referral of a licensed physician, dentist, osteopath,  
390 podiatrist, chiropractor or nurse practitioner; or for acting as a  
391 physical therapist assistant other than under the direct, on-site  
392 supervision of a licensed physical therapist;

393 (s) Violations of the current codes of conduct for  
394 physical therapists and physical therapy assistants adopted by the  
395 American Physical Therapy Association;



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

398 (2) The board may order a licensee to submit to a reasonable  
399 physical or mental examination if the licensee's physical or  
400 mental capacity to practice safely is at issue in a disciplinary  
401 proceeding.

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

405 (4) Notwithstanding any provision of this chapter:

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

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

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



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

431           73-24-24. (1) Licensees subject to this chapter shall  
432 conduct their activities, services and practice in accordance with  
433 this chapter and any rules promulgated pursuant hereto. Licenses  
434 may be subject to the exercise of the disciplinary sanction  
435 enumerated in Section 73-24-25 if the board finds that a licensee  
436 is guilty of any of the following:

437                   (a) Negligence in the practice or performance of  
438 professional services or activities;

439                   (b) Engaging in dishonorable, unethical or  
440 unprofessional conduct of a character likely to deceive, defraud  
441 or harm the public in the course of professional services or  
442 activities;

443                   (c) Perpetrating or cooperating in fraud or material  
444 deception in obtaining or renewing a license or attempting the  
445 same;

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

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

451                   (f) Engaging in or permitting the performance of  
452 unacceptable services personally or by others working under the  
453 licensee's supervision due to the licensee's deliberate or  
454 negligent act or acts or failure to act, regardless of whether  
455 actual damage or damages to the public is established;

456                   (g) Continued practice although the licensee has become  
457 unfit to practice as an occupational therapist or occupational  
458 therapist assistant due to:

459                           (i) Failure to keep abreast of current  
460 professional theory or practice; \* \* \*



461                   (ii) Physical or mental disability; the entry of  
462 an order or judgment by a court of competent jurisdiction that a  
463 licensee is in need of mental treatment or is incompetent shall  
464 constitute mental disability; or

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

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

470                   (i) Making differential, detrimental treatment against  
471 any person because of race, color, creed, sex, religion or  
472 national origin;

473                   (j) Engaging in lewd conduct in connection with  
474 professional services or activities;

475                   (k) Engaging in false or misleading advertising;

476                   (l) Contracting, assisting or permitting unlicensed  
477 persons to perform services for which a license is required under  
478 this chapter;

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

481                   (n) Revealing confidential information except as may be  
482 required by law;

483                   (o) Failing to inform clients of the fact that the  
484 client no longer needs the services or professional assistance of  
485 the licensee;

486                   (p) Charging excessive or unreasonable fees or engaging  
487 in unreasonable collection practices;

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

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



493 (s) Violations of the current codes of conduct for  
494 occupational therapists and occupational therapy assistants  
495 adopted by the American Occupational Therapy Association;

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

498 (2) Notwithstanding any provision of this chapter:

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

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

509 (3) The board may order a licensee to submit to a reasonable  
510 physical or mental examination if the licensee's physical or  
511 mental capacity to practice safely is at issue in a disciplinary  
512 proceeding.

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

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

518 73-31-21. (1) The board, by an affirmative vote of at least  
519 four (4) of its seven (7) members, shall withhold, deny, revoke or  
520 suspend any license issued or applied for in accordance with the  
521 provisions of this chapter, or otherwise discipline a licensed  
522 psychologist, upon proof that the applicant or licensed  
523 psychologist:





524 (a) Has violated the current code of ethics of the  
525 American Psychological Association or other codes of ethical  
526 standards adopted by the board; or

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

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

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

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

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

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

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

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

554 (2) Notwithstanding any provision of this chapter:

555 (a) The board shall suspend the license of any person  
556 who defaults on or fails to comply with the requirements of a



557 state educational loan, service conditional scholarship or loan  
558 repayment program obligation under which the person obtained any  
559 of the education necessary to qualify for a license under this  
560 chapter; and

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

565 (3) Notice shall be effected by registered mail or personal  
566 service setting forth the particular reasons for the proposed  
567 action and fixing a date not less than thirty (30) days nor more  
568 than sixty (60) days from the date of the mailing or the service,  
569 at which time the applicant or licentiate shall be given an  
570 opportunity for a prompt and fair hearing. For the purpose of the  
571 hearing the board, acting by and through its executive secretary,  
572 may subpoena persons and papers on its own behalf and on behalf of  
573 the applicant or licentiate, may administer oaths and may take  
574 testimony. That testimony, when properly transcribed, together  
575 with the papers and exhibits, shall be admissible in evidence for  
576 or against the applicant or licentiate. At the hearing applicant  
577 or licentiate may appear by counsel and personally in his own  
578 behalf. Any person sworn and examined by a witness in the hearing  
579 shall not be held to answer criminally, nor shall any papers or  
580 documents produced by the witness be competent evidence in any  
581 criminal proceedings against the witness other than for perjury in  
582 delivering his evidence. On the basis of any such hearing, or  
583 upon default of applicant or licentiate, the board shall make a  
584 determination specifying its findings of fact and conclusions of  
585 law. A copy of that determination shall be sent by registered  
586 mail or served personally upon the applicant or licentiate. The  
587 decision of the board denying, revoking or suspending the license  
588 shall become final thirty (30) days after so mailed or served  
589 unless within that period the licentiate appeals the decision to



590 the chancery court, under the provisions hereof, and the  
591 proceedings in chancery shall be conducted as other matters coming  
592 before the court. All proceedings and evidence, together with  
593 exhibits, presented at the hearing before the board if there is an  
594 appeal shall be admissible in evidence in the court.

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

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

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

619 (7) Suspension by the board of the license of a psychologist  
620 shall be for a period not exceeding one (1) year. At the end of  
621 this period the board shall reevaluate the suspension, and shall  
622 either reinstate or revoke the license. A person whose license



623 has been revoked under the provisions of this section may reapply  
624 for license after more than two (2) years have elapsed from the  
625 date the denial or revocation is legally effective.

626 (8) In addition to the reasons specified in subsection (1)  
627 of this section, the board may suspend the license of any licensee  
628 for being out of compliance with an order for support, as defined  
629 in Section 93-11-153. The procedure for suspension of a license  
630 for being out of compliance with an order for support, and the  
631 procedure for the reissuance or reinstatement of a license  
632 suspended for that purpose, and the payment of any fees for the  
633 reissuance or reinstatement of a license suspended for that  
634 purpose, shall be governed by Section 93-11-157. Actions taken by  
635 the board in suspending a license when required by Section  
636 93-11-157 or 93-11-163 are not actions from which an appeal may be  
637 taken under this section. Any appeal of a license suspension that  
638 is required by Section 93-11-157 or 93-11-163 shall be taken in  
639 accordance with the appeal procedure specified in Section  
640 93-11-157 or 93-11-163, as the case may be, rather than the  
641 procedure specified in this section. If there is any conflict  
642 between any provision of Section 93-11-157 or 93-11-163 and any  
643 provision of this chapter, the provisions of Section 93-11-157 or  
644 93-11-163, as the case may be, shall control.

645 (9) This section shall stand repealed from and after July 1,  
646 2011.

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

649 73-38-27. (1) The board may refuse to issue or renew a  
650 license, or may suspend or revoke a license where the licensee or  
651 applicant for license has been guilty of unprofessional conduct  
652 that has endangered or is likely to endanger the health, welfare  
653 or safety of the public. That unprofessional conduct may result  
654 from:



655 (a) Obtaining a license by means of fraud,  
656 misrepresentation or concealment of material facts;  
657 (b) Being guilty of unprofessional conduct as defined  
658 by the rules established by the board;  
659 (c) Being convicted of a felony in any court of the  
660 United States if the acts for which he is convicted are found by  
661 the board to have a direct bearing on whether he should be  
662 entrusted to serve the public in the capacity of a speech-language  
663 pathologist or audiologist;  
664 (d) Violating any lawful order, rule or regulation  
665 rendered or adopted by the board;  
666 (e) Violating any provisions of this chapter.  
667 (2) Notwithstanding any provision of this chapter:  
668 (a) The board shall suspend the license of any person  
669 who defaults on or fails to comply with the requirements of a  
670 state educational loan, service conditional scholarship or loan  
671 repayment program obligation under which the person obtained any  
672 of the education necessary to qualify for a license under this  
673 chapter; and  
674 (b) The person's license shall remain suspended until  
675 he or she has made arrangements satisfactory to the lender for  
676 repaying the educational loan or meeting the obligations of the  
677 scholarship or loan repayment program.  
678 (3) The board may deny an application for, or suspend,  
679 revoke or impose probationary conditions upon a license upon  
680 recommendations of the council made after a hearing as provided in  
681 this chapter. One (1) year from the date of revocation of a  
682 license under this section, application may be made to the board  
683 for reinstatement. The board shall have discretion to accept or  
684 reject an application for reinstatement and may require an  
685 examination for the reinstatement.  
686 (4) A plea or verdict of guilty, or a conviction following a  
687 plea of nolo contendere, made to a charge of a felony or of any



688 offense involving moral turpitude is a conviction within the  
689 meaning of this section. After due notice and administrative  
690 hearing, the license of the person so convicted shall be suspended  
691 or revoked or the board shall decline to issue a license when:

692 (a) The time for appeal has elapsed;

693 (b) The judgment of conviction has been affirmed on  
694 appeal; or

695 (c) An order granting probation has been made  
696 suspending the imposition of sentence, without regard to a  
697 subsequent order allowing the withdrawal of a guilty plea and the  
698 substitution therefor of a not guilty plea, or the setting aside  
699 of a guilty verdict, or the dismissal of the acquisition,  
700 information or indictment.

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

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

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

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



720           (9) In addition to the reasons specified in subsection (1)  
721 of this section, the board may suspend the license of any licensee  
722 for being out of compliance with an order for support, as defined  
723 in Section 93-11-153. The procedure for suspension of a license  
724 for being out of compliance with an order for support, and the  
725 procedure for the reissuance or reinstatement of a license  
726 suspended for that purpose, and the payment of any fees for the  
727 reissuance or reinstatement of a license suspended for that  
728 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
729 the case may be. Actions taken by the board in suspending a  
730 license when required by Section 93-11-157 or 93-11-163 are not  
731 actions from which an appeal may be taken under this section. Any  
732 appeal of a license suspension that is required by Section  
733 93-11-15 or 93-11-163 shall be taken in accordance with the appeal  
734 procedure specified in Section 93-11-157 or 93-11-163, as the case  
735 may be, rather than the procedure specified in this section. If  
736 there is any conflict between any provision of Section 93-11-157  
737 or 93-11-163 and any provision of this chapter, the provisions of  
738 Section 93-11-157 or 93-11-163, as the case may be, shall control.

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

