

By: Representative Howell

To: Universities and  
Colleges; Appropriations

## HOUSE BILL NO. 332

1 AN ACT TO AMEND SECTIONS 37-3-2, 73-1-29, 73-2-16, 73-3-327,  
2 73-4-25, 73-5-25, 73-6-19, 73-7-27, 73-9-61, 73-10-21, 73-11-57,  
3 73-13-37, 73-14-35, 73-15-29, 73-17-15, 73-19-23, 73-21-97,  
4 73-23-59, 73-24-24, 73-25-29, 73-26-5, 73-27-13, 73-29-31,  
5 73-30-21, 73-31-21, 73-33-11, 73-34-35, 73-35-21, 73-36-33,  
6 73-38-27, 73-39-77, 73-42-13, 73-53-17, 73-54-29, 73-55-19,  
7 73-57-31, 73-59-13, 73-63-43, 73-65-13 AND 73-67-27, MISSISSIPPI  
8 CODE OF 1972, TO REQUIRE THE LICENSING AGENCIES OF CERTAIN  
9 PROFESSIONS AND OCCUPATIONS TO SUSPEND THE LICENSE OF ANY LICENSEE  
10 WHO DEFAULTS ON OR FAILS TO COMPLY WITH THE REQUIREMENTS OF AN  
11 EDUCATIONAL LOAN, SERVICE CONDITIONAL SCHOLARSHIP OR LOAN  
12 REPAYMENT PROGRAM OBLIGATION THAT HAS BEEN GRANTED OR GUARANTEED  
13 BY ANY FEDERAL, STATE OR LOCAL AGENCY OR POLITICAL SUBDIVISION  
14 UNDER WHICH THE LICENSEE OBTAINED ANY OF THE EDUCATION NECESSARY  
15 TO QUALIFY FOR THE LICENSE; TO PROVIDE THAT THE PERSON'S LICENSE  
16 SHALL REMAIN SUSPENDED UNTIL HE OR SHE HAS MADE SATISFACTORY  
17 ARRANGEMENTS FOR REPAYING THE EDUCATIONAL LOAN OR MEETING THE  
18 OBLIGATIONS OF THE SCHOLARSHIP OR LOAN REPAYMENT PROGRAM; AND FOR  
19 RELATED PURPOSES.

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

21 **SECTION 1.** Section 37-3-2, Mississippi Code of 1972, is  
22 amended as follows:

23 37-3-2. (1) There is established within the State  
24 Department of Education the Commission on Teacher and  
25 Administrator Education, Certification and Licensure and  
26 Development. It shall be the purpose and duty of the commission  
27 to make recommendations to the State Board of Education regarding  
28 standards for the certification and licensure and continuing  
29 professional development of those who teach or perform tasks of an  
30 educational nature in the public schools of Mississippi.

31 (2) The commission shall be composed of fifteen (15)  
32 qualified members. The membership of the commission shall be  
33 composed of the following members to be appointed, three (3) from  
34 each congressional district: four (4) classroom teachers; three  
35 (3) school administrators; one (1) representative of schools of

36 education of institutions of higher learning located within the  
37 state to be recommended by the Board of Trustees of State  
38 Institutions of Higher Learning; one (1) representative from the  
39 schools of education of independent institutions of higher  
40 learning to be recommended by the Board of the Mississippi  
41 Association of Independent Colleges; one (1) representative from  
42 public community and junior colleges located within the state to  
43 be recommended by the State Board for Community and Junior  
44 Colleges; one (1) local school board member; and four (4) lay  
45 persons. All appointments shall be made by the State Board of  
46 Education after consultation with the State Superintendent of  
47 Public Education. The first appointments by the State Board of  
48 Education shall be made as follows: five (5) members shall be  
49 appointed for a term of one (1) year; five (5) members shall be  
50 appointed for a term of two (2) years; and five (5) members shall  
51 be appointed for a term of three (3) years. Thereafter, all  
52 members shall be appointed for a term of four (4) years.

53 (3) The State Board of Education when making appointments  
54 shall designate a chairman. The commission shall meet at least  
55 once every two (2) months or more often if needed. Members of the  
56 commission shall be compensated at a rate of per diem as  
57 authorized by Section 25-3-69 and be reimbursed for actual and  
58 necessary expenses as authorized by Section 25-3-41.

59 (4) An appropriate staff member of the State Department of  
60 Education shall be designated and assigned by the State  
61 Superintendent of Public Education to serve as executive secretary  
62 and coordinator for the commission. No less than two (2) other  
63 appropriate staff members of the State Department of Education  
64 shall be designated and assigned by the State Superintendent of  
65 Public Education to serve on the staff of the commission.

66 (5) It shall be the duty of the commission to:

67           (a) Set standards and criteria, subject to the approval  
68 of the State Board of Education, for all educator preparation  
69 programs in the state;

70           (b) Recommend to the State Board of Education each year  
71 approval or disapproval of each educator preparation program in  
72 the state;

73           (c) Establish, subject to the approval of the State  
74 Board of Education, standards for initial teacher certification  
75 and licensure in all fields;

76           (d) Establish, subject to the approval of the State  
77 Board of Education, standards for the renewal of teacher licenses  
78 in all fields;

79           (e) Review and evaluate objective measures of teacher  
80 performance, such as test scores, which may form part of the  
81 licensure process, and to make recommendations for their use;

82           (f) Review all existing requirements for certification  
83 and licensure;

84           (g) Consult with groups whose work may be affected by  
85 the commission's decisions;

86           (h) Prepare reports from time to time on current  
87 practices and issues in the general area of teacher education and  
88 certification and licensure;

89           (i) Hold hearings concerning standards for teachers'  
90 and administrators' education and certification and licensure with  
91 approval of the State Board of Education;

92           (j) Hire expert consultants with approval of the State  
93 Board of Education;

94           (k) Set up ad hoc committees to advise on specific  
95 areas; and

96           (l) Perform such other functions as may fall within  
97 their general charge and which may be delegated to them by the  
98 State Board of Education.

99           (6) (a) **Standard License - Approved Program Route.** An  
100 educator entering the school system of Mississippi for the first  
101 time and meeting all requirements as established by the State  
102 Board of Education shall be granted a standard five-year license.  
103 Persons who possess two (2) years of classroom experience as an  
104 assistant teacher or who have taught for one (1) year in an  
105 accredited public or private school shall be allowed to fulfill  
106 student teaching requirements under the supervision of a qualified  
107 participating teacher approved by an accredited college of  
108 education. The local school district in which the assistant  
109 teacher is employed shall compensate such assistant teachers at  
110 the required salary level during the period of time such  
111 individual is completing student teaching requirements.

112 Applicants for a standard license shall submit to the department:

113                   (i) An application on a department form;

114                   (ii) An official transcript of completion of a

115 teacher education program approved by the department or a

116 nationally accredited program, subject to the following:

117 Licensure to teach in Mississippi prekindergarten through

118 kindergarten classrooms shall require completion of a teacher

119 education program or a bachelor of science degree with child

120 development emphasis from a program accredited by the American

121 Association of Family and Consumer Sciences (AAFCS) or by the

122 National Association for Education of Young Children (NAEYC) or by

123 the National Council for Accreditation of Teacher Education

124 (NCATE). Licensure to teach in Mississippi kindergarten, for

125 those applicants who have completed a teacher education program,

126 and in Grade 1 through Grade 4 shall require the completion of an

127 interdisciplinary program of studies. Licenses for Grades 4

128 through 8 shall require the completion of an interdisciplinary

129 program of studies with two (2) or more areas of concentration.

130 Licensure to teach in Mississippi Grades 7 through 12 shall

131 require a major in an academic field other than education, or a

132 combination of disciplines other than education. Students  
133 preparing to teach a subject shall complete a major in the  
134 respective subject discipline. All applicants for standard  
135 licensure shall demonstrate that such person's college preparation  
136 in those fields was in accordance with the standards set forth by  
137 the National Council for Accreditation of Teacher Education  
138 (NCATE) or the National Association of State Directors of Teacher  
139 Education and Certification (NASDTEC) or, for those applicants who  
140 have a bachelor of science degree with child development emphasis,  
141 the American Association of Family and Consumer Sciences (AAFCS);

142 (iii) A copy of test scores evidencing  
143 satisfactory completion of nationally administered examinations of  
144 achievement, such as the Educational Testing Service's teacher  
145 testing examinations; and

146 (iv) Any other document required by the State  
147 Board of Education.

148 (b) **Standard License - Nontraditional Teaching Route.**

149 Beginning January 1, 2004, an individual who has a passing score  
150 on the Praxis I Basic Skills and Praxis II Specialty Area Test in  
151 the requested area of endorsement may apply for the Teach  
152 Mississippi Institute (TMI) program to teach students in Grades 7  
153 through 12 if the individual meets the requirements of this  
154 paragraph (b). The State Board of Education shall adopt rules  
155 requiring that teacher preparation institutions which provide the  
156 Teach Mississippi Institute (TMI) program for the preparation of  
157 nontraditional teachers shall meet the standards and comply with  
158 the provisions of this paragraph.

159 (i) The Teach Mississippi Institute (TMI) shall  
160 include an intensive eight-week, nine-semester-hour summer program  
161 or a curriculum of study in which the student matriculates in the  
162 fall or spring semester, which shall include, but not be limited  
163 to, instruction in education, effective teaching strategies,  
164 classroom management, state curriculum requirements, planning and

165 instruction, instructional methods and pedagogy, using test  
166 results to improve instruction, and a one (1) semester three-hour  
167 supervised internship to be completed while the teacher is  
168 employed as a full-time teacher intern in a local school district.  
169 The TMI shall be implemented on a pilot program basis, with  
170 courses to be offered at up to four (4) locations in the state,  
171 with one (1) TMI site to be located in each of the three (3)  
172 Mississippi Supreme Court districts.

173           (ii) The school sponsoring the teacher intern  
174 shall enter into a written agreement with the institution  
175 providing the Teach Mississippi Institute (TMI) program, under  
176 terms and conditions as agreed upon by the contracting parties,  
177 providing that the school district shall provide teacher interns  
178 seeking a nontraditional provisional teaching license with a  
179 one-year classroom teaching experience. The teacher intern shall  
180 successfully complete the one (1) semester three-hour intensive  
181 internship in the school district during the semester immediately  
182 following successful completion of the TMI and prior to the end of  
183 the one-year classroom teaching experience.

184           (iii) Upon completion of the nine-semester-hour  
185 TMI or the fall or spring semester option, the individual shall  
186 submit his transcript to the commission for provisional licensure  
187 of the intern teacher, and the intern teacher shall be issued a  
188 provisional teaching license by the commission, which will allow  
189 the individual to legally serve as a teacher while the person  
190 completes a nontraditional teacher preparation internship program.

191           (iv) During the semester of internship in the  
192 school district, the teacher preparation institution shall monitor  
193 the performance of the intern teacher. The school district that  
194 employs the provisional teacher shall supervise the provisional  
195 teacher during the teacher's intern year of employment under a  
196 nontraditional provisional license, and shall, in consultation  
197 with the teacher intern's mentor at the school district of

198 employment, submit to the commission a comprehensive evaluation of  
199 the teacher's performance sixty (60) days prior to the expiration  
200 of the nontraditional provisional license. If the comprehensive  
201 evaluation establishes that the provisional teacher intern's  
202 performance fails to meet the standards of the approved  
203 nontraditional teacher preparation internship program, the  
204 individual shall not be approved for a standard license.

205 (v) An individual issued a provisional teaching  
206 license under this nontraditional route shall successfully  
207 complete, at a minimum, a one-year beginning teacher mentoring and  
208 induction program administered by the employing school district  
209 with the assistance of the State Department of Education.

210 (vi) Upon successful completion of the TMI and the  
211 internship provisional license period, applicants for a Standard  
212 License - Nontraditional Route shall submit to the commission a  
213 transcript of successful completion of the twelve (12) semester  
214 hours required in the internship program, and the employing school  
215 district shall submit to the commission a recommendation for  
216 standard licensure of the intern. If the school district  
217 recommends licensure, the applicant shall be issued a Standard  
218 License - Nontraditional Route which shall be valid for a  
219 five-year period and be renewable.

220 (vii) At the discretion of the teacher preparation  
221 institution, the individual shall be allowed to credit the twelve  
222 (12) semester hours earned in the nontraditional teacher  
223 internship program toward the graduate hours required for a Master  
224 of Arts in Teacher (MAT) Degree.

225 (viii) The local school district in which the  
226 nontraditional teacher intern or provisional licensee is employed  
227 shall compensate such teacher interns at Step 1 of the required  
228 salary level during the period of time such individual is  
229 completing teacher internship requirements and shall compensate

230 such Standard License - Nontraditional Route teachers at Step 3 of  
231 the required salary level when they complete license requirements.

232 Implementation of the TMI program provided for under this  
233 paragraph (b) shall be contingent upon the availability of funds  
234 appropriated specifically for such purpose by the Legislature.

235 Such implementation of the TMI program may not be deemed to  
236 prohibit the State Board of Education from developing and  
237 implementing additional alternative route teacher licensure  
238 programs, as deemed appropriate by the board. The emergency  
239 certification program in effect prior to July 1, 2002, shall  
240 remain in effect.

241 The State Department of Education shall compile and report,  
242 in consultation with the commission, information relating to  
243 nontraditional teacher preparation internship programs, including  
244 the number of programs available and geographic areas in which  
245 they are available, the number of individuals who apply for and  
246 possess a nontraditional conditional license, the subject areas in  
247 which individuals who possess nontraditional conditional licenses  
248 are teaching and where they are teaching, and shall submit its  
249 findings and recommendations to the legislative committees on  
250 education by December 1, 2004.

251 A Standard License - Approved Program Route shall be issued  
252 for a five-year period, and may be renewed. Recognizing teaching  
253 as a profession, a hiring preference shall be granted to persons  
254 holding a Standard License - Approved Program Route or Standard  
255 License - Nontraditional Teaching Route over persons holding any  
256 other license.

257 (c) **Special License - Expert Citizen.** In order to  
258 allow a school district to offer specialized or technical courses,  
259 the State Department of Education, in accordance with rules and  
260 regulations established by the State Board of Education, may grant  
261 a one-year expert citizen-teacher license to local business or  
262 other professional personnel to teach in a public school or



263 nonpublic school accredited or approved by the state. Such person  
264 may begin teaching upon his employment by the local school board  
265 and licensure by the Mississippi Department of Education. The  
266 board shall adopt rules and regulations to administer the expert  
267 citizen-teacher license. A Special License - Expert Citizen may  
268 be renewed in accordance with the established rules and  
269 regulations of the State Department of Education.

270 (d) **Special License - Nonrenewable.** The State Board of  
271 Education is authorized to establish rules and regulations to  
272 allow those educators not meeting requirements in subsection  
273 (6)(a), (b) or (c) to be licensed for a period of not more than  
274 three (3) years, except by special approval of the State Board of  
275 Education.

276 (e) **Nonlicensed Teaching Personnel.** A nonlicensed  
277 person may teach for a maximum of three (3) periods per teaching  
278 day in a public school or a nonpublic school accredited/approved  
279 by the state. Such person shall submit to the department a  
280 transcript or record of his education and experience which  
281 substantiates his preparation for the subject to be taught and  
282 shall meet other qualifications specified by the commission and  
283 approved by the State Board of Education. In no case shall any  
284 local school board hire nonlicensed personnel as authorized under  
285 this paragraph in excess of five percent (5%) of the total number  
286 of licensed personnel in any single school.

287 (f) **Special License - Transitional Bilingual**  
288 **Education. \* \* \*** The commission shall grant special licenses to  
289 teachers of transitional bilingual education who possess such  
290 qualifications as are prescribed in this section. Teachers of  
291 transitional bilingual education shall be compensated by local  
292 school boards at not less than one (1) step on the regular salary  
293 schedule applicable to permanent teachers licensed under this  
294 section. The commission shall grant special licenses to teachers  
295 of transitional bilingual education who present the commission

296 with satisfactory evidence that they: (i) possess a speaking and  
297 reading ability in a language, other than English, in which  
298 bilingual education is offered and communicative skills in  
299 English; (ii) are in good health and sound moral character; (iii)  
300 possess a bachelor's degree or an associate's degree in teacher  
301 education from an accredited institution of higher education; (iv)  
302 meet such requirements as to courses of study, semester hours  
303 therein, experience and training as may be required by the  
304 commission; and (v) are legally present in the United States and  
305 possess legal authorization for employment. A teacher of  
306 transitional bilingual education serving under a special license  
307 shall be under an exemption from standard licensure if he achieves  
308 the requisite qualifications therefor. Two (2) years of service  
309 by a teacher of transitional bilingual education under such an  
310 exemption shall be credited to the teacher in acquiring a Standard  
311 Educator License. Nothing in this paragraph shall be deemed to  
312 prohibit a local school board from employing a teacher licensed in  
313 an appropriate field as approved by the State Department of  
314 Education to teach in a program in transitional bilingual  
315 education.

316 (g) In the event any school district meets Level 4 or 5  
317 accreditation standards, the State Board of Education, in its  
318 discretion, may exempt such school district from any restrictions  
319 in paragraph (e) relating to the employment of nonlicensed  
320 teaching personnel.

321 (h) **Highly Qualified Teachers.** Beginning July 1, 2006,  
322 any teacher from any state meeting the federal definition of  
323 highly qualified, as described in the No Child Left Behind Act,  
324 must be granted a standard five-year license by the State  
325 Department of Education.

326 (7) **Administrator License.** The State Board of Education is  
327 authorized to establish rules and regulations and to administer  
328 the licensure process of the school administrators in the State of

329 Mississippi. There will be four (4) categories of administrator  
330 licensure with exceptions only through special approval of the  
331 State Board of Education.

332 (a) **Administrator License - Nonpracticing.** Those  
333 educators holding administrative endorsement but having no  
334 administrative experience or not serving in an administrative  
335 position on January 15, 1997.

336 (b) **Administrator License - Entry Level.** Those  
337 educators holding administrative endorsement and having met the  
338 department's qualifications to be eligible for employment in a  
339 Mississippi school district. Administrator License - Entry Level  
340 shall be issued for a five-year period and shall be nonrenewable.

341 (c) **Standard Administrator License - Career Level.** An  
342 administrator who has met all the requirements of the department  
343 for standard administrator licensure.

344 (d) **Administrator License - Nontraditional Route.** The  
345 board may establish a nontraditional route for licensing  
346 administrative personnel. Such nontraditional route for  
347 administrative licensure shall be available for persons holding,  
348 but not limited to, a master of business administration degree, a  
349 master of public administration degree, a master of public  
350 planning and policy degree or a doctor of jurisprudence degree  
351 from an accredited college or university, with five (5) years of  
352 administrative or supervisory experience. Successful completion  
353 of the requirements of alternate route licensure for  
354 administrators shall qualify the person for a standard  
355 administrator license.

356 The State Department of Education shall compile and report,  
357 in consultation with the commission, information relating to  
358 nontraditional administrator preparation internship programs,  
359 including the number of programs available and geographic areas in  
360 which they are available, the number of individuals who apply for  
361 and possess a nontraditional conditional license and where they

362 are employed, and shall submit its findings and recommendations to  
363 the legislative committees on education by December 1, 2004.

364 \* \* \* Individuals seeking school administrator licensure  
365 under paragraph (b), (c) or (d) shall successfully complete a  
366 training program and an assessment process prescribed by the State  
367 Board of Education. \* \* \* All applicants for school administrator  
368 licensure shall meet all requirements prescribed by the department  
369 under paragraph (b), (c) or (d), and the cost of the assessment  
370 process required shall be paid by the applicant.

371 (8) **Reciprocity.** (a) The department shall grant a standard  
372 license to any individual who possesses a valid standard license  
373 from another state.

374 (b) The department shall grant a nonrenewable special  
375 license to any individual who possesses a credential which is less  
376 than a standard license or certification from another state. Such  
377 special license shall be valid for the current school year plus  
378 one (1) additional school year to expire on June 30 of the second  
379 year, not to exceed a total period of twenty-four (24) months,  
380 during which time the applicant shall be required to complete the  
381 requirements for a standard license in Mississippi.

382 (9) **Renewal and Reinstatement of Licenses.** The State Board  
383 of Education is authorized to establish rules and regulations for  
384 the renewal and reinstatement of educator and administrator  
385 licenses. Effective May 15, 1997, the valid standard license held  
386 by an educator shall be extended five (5) years beyond the  
387 expiration date of the license in order to afford the educator  
388 adequate time to fulfill new renewal requirements established  
389 pursuant to this subsection. An educator completing a master of  
390 education, educational specialist or doctor of education degree in  
391 May 1997 for the purpose of upgrading the educator's license to a  
392 higher class shall be given this extension of five (5) years plus  
393 five (5) additional years for completion of a higher degree.

394 (10) All controversies involving the issuance, revocation,  
395 suspension or any change whatsoever in the licensure of an  
396 educator required to hold a license shall be initially heard in a  
397 hearing de novo, by the commission or by a subcommittee  
398 established by the commission and composed of commission members  
399 for the purpose of holding hearings. Any complaint seeking the  
400 denial of issuance, revocation or suspension of a license shall be  
401 by sworn affidavit filed with the Commission of Teacher and  
402 Administrator Education, Certification and Licensure and  
403 Development. The decision thereon by the commission or its  
404 subcommittee shall be final, unless the aggrieved party shall  
405 appeal to the State Board of Education, within ten (10) days, of  
406 the decision of the committee or its subcommittee. An appeal to  
407 the State Board of Education shall be on the record previously  
408 made before the commission or its subcommittee unless otherwise  
409 provided by rules and regulations adopted by the board. The State  
410 Board of Education in its authority may reverse, or remand with  
411 instructions, the decision of the committee or its subcommittee.  
412 The decision of the State Board of Education shall be final.

413 (11) The State Board of Education, acting through the  
414 commission, may deny an application for any teacher or  
415 administrator license for one or more of the following:

416 (a) Lack of qualifications which are prescribed by law  
417 or regulations adopted by the State Board of Education;

418 (b) The applicant has a physical, emotional or mental  
419 disability that renders the applicant unfit to perform the duties  
420 authorized by the license, as certified by a licensed psychologist  
421 or psychiatrist;

422 (c) The applicant is actively addicted to or actively  
423 dependent on alcohol or other habit-forming drugs or is a habitual  
424 user of narcotics, barbiturates, amphetamines, hallucinogens or  
425 other drugs having similar effect, at the time of application for  
426 a license;

427 (d) Revocation of an applicant's certificate or license  
428 by another state;

429 (e) Fraud or deceit committed by the applicant in  
430 securing or attempting to secure such certification and license;

431 (f) Failing or refusing to furnish reasonable evidence  
432 of identification;

433 (g) The applicant has been convicted, has pled guilty  
434 or entered a plea of nolo contendere to a felony, as defined by  
435 federal or state law; or

436 (h) The applicant has been convicted, has pled guilty  
437 or entered a plea of nolo contendere to a sex offense as defined  
438 by federal or state law.

439 (12) The State Board of Education, acting on the  
440 recommendation of the commission, may revoke or suspend any  
441 teacher or administrator license for specified periods of time for  
442 one or more of the following:

443 (a) Breach of contract or abandonment of employment may  
444 result in the suspension of the license for one (1) school year as  
445 provided in Section 37-9-57;

446 (b) Obtaining a license by fraudulent means shall  
447 result in immediate suspension and continued suspension for one  
448 (1) year after correction is made;

449 (c) Suspension or revocation of a certificate or  
450 license by another state shall result in immediate suspension or  
451 revocation and shall continue until records in the prior state  
452 have been cleared;

453 (d) The license holder has been convicted, has pled  
454 guilty or entered a plea of nolo contendere to a felony, as  
455 defined by federal or state law;

456 (e) The license holder has been convicted, has pled  
457 guilty or entered a plea of nolo contendere to a sex offense, as  
458 defined by federal or state law; or

459 (f) The license holder knowingly and willfully  
460 committing any of the acts affecting validity of mandatory uniform  
461 test results as provided in Section 37-16-4(1).

462 (13) (a) The State Board of Education, acting on its own  
463 motion or, in the case of a default on a loan, on the  
464 recommendation of the agency, political subdivision or other  
465 public or private entity to which payments are due, shall suspend  
466 the teacher or administrator license of any person who defaults on  
467 or fails to comply with the requirements of an educational loan,  
468 service conditional scholarship or loan repayment program  
469 obligation that has been granted or guaranteed by any federal,  
470 state or local agency or political subdivision under which the  
471 person obtained any of the education necessary to qualify for a  
472 teacher or administrator license. However, before an agency,  
473 political subdivision or other public or private entity may  
474 recommend the suspension of a license due to the person's default  
475 on a loan, that agency, political subdivision or other public or  
476 private entity must provide the license holder with notice of its  
477 intention to recommend the suspension of the person's license and  
478 an opportunity for the license holder to respond.

479 (b) The person's teacher or administrator license will  
480 remain suspended until the person has: (i) made arrangements  
481 satisfactory to the State Board of Education for meeting the  
482 obligations of the loan, scholarship or loan repayment program; or  
483 (ii) in the case of a default on a loan, made arrangements  
484 satisfactory to the agency, political subdivision or other public  
485 or private entity to which payments are due for the repayment of  
486 the loan.

487 (14) (a) Dismissal or suspension of a licensed employee by  
488 a local school board pursuant to Section 37-9-59 may result in the  
489 suspension or revocation of a license for a length of time which  
490 shall be determined by the commission and based upon the severity  
491 of the offense.

492 (b) Any offense committed or attempted in any other  
493 state shall result in the same penalty as if committed or  
494 attempted in this state.

495 (c) A person may voluntarily surrender a license. The  
496 surrender of such license may result in the commission  
497 recommending any of the above penalties without the necessity of a  
498 hearing. However, any such license which has voluntarily been  
499 surrendered by a licensed employee may only be reinstated by a  
500 majority vote of all members of the commission present at the  
501 meeting called for such purpose.

502 (15) A person whose license has been suspended on any  
503 grounds except criminal grounds may petition for reinstatement of  
504 the license after one (1) year from the date of suspension, or  
505 after one-half (1/2) of the suspended time has lapsed, whichever  
506 is greater. A license suspended or revoked on the criminal  
507 grounds may be reinstated upon petition to the commission filed  
508 after expiration of the sentence and parole or probationary period  
509 imposed upon conviction. A revoked, suspended or surrendered  
510 license may be reinstated upon satisfactory showing of evidence of  
511 rehabilitation. The commission shall require all who petition for  
512 reinstatement to furnish evidence satisfactory to the commission  
513 of good character, good mental, emotional and physical health and  
514 such other evidence as the commission may deem necessary to  
515 establish the petitioner's rehabilitation and fitness to perform  
516 the duties authorized by the license.

517 (16) Reporting procedures and hearing procedures for dealing  
518 with infractions under this section shall be promulgated by the  
519 commission, subject to the approval of the State Board of  
520 Education. The revocation or suspension of a license shall be  
521 effected at the time indicated on the notice of suspension or  
522 revocation. The commission shall immediately notify the  
523 superintendent of the school district or school board where the  
524 teacher or administrator is employed of any disciplinary action



525 and also notify the teacher or administrator of such revocation or  
526 suspension and shall maintain records of action taken. The State  
527 Board of Education may reverse or remand with instructions any  
528 decision of the commission regarding a petition for reinstatement  
529 of a license, and any such decision of the State Board of  
530 Education shall be final.

531       (17) An appeal from the action of the State Board of  
532 Education in denying an application, revoking or suspending a  
533 license or otherwise disciplining any person under the provisions  
534 of this section shall be filed in the Chancery Court of the First  
535 Judicial District of Hinds County on the record made, including a  
536 verbatim transcript of the testimony at the hearing. The appeal  
537 shall be filed within thirty (30) days after notification of the  
538 action of the board is mailed or served and the proceedings in  
539 chancery court shall be conducted as other matters coming before  
540 the court. The appeal shall be perfected upon filing notice of  
541 the appeal and by the prepayment of all costs, including the cost  
542 of preparation of the record of the proceedings by the State Board  
543 of Education, and the filing of a bond in the sum of Two Hundred  
544 Dollars (\$200.00) conditioned that if the action of the board be  
545 affirmed by the chancery court, the applicant or license holder  
546 shall pay the costs of the appeal and the action of the chancery  
547 court.

548       (18) All such programs, rules, regulations, standards and  
549 criteria recommended or authorized by the commission shall become  
550 effective upon approval by the State Board of Education as  
551 designated by appropriate orders entered upon the minutes thereof.

552       (19) The granting of a license shall not be deemed a  
553 property right nor a guarantee of employment in any public school  
554 district. A license is a privilege indicating minimal eligibility  
555 for teaching in the public schools of Mississippi. This section  
556 shall in no way alter or abridge the authority of local school  
557 districts to require greater qualifications or standards of

558 performance as a prerequisite of initial or continued employment  
559 in such districts.

560       (20) In addition to the reasons specified in subsections  
561 (12) through (14) of this section, the board shall be authorized  
562 to suspend the license of any licensee for being out of compliance  
563 with an order for support, as defined in Section 93-11-153. The  
564 procedure for suspension of a license for being out of compliance  
565 with an order for support, and the procedure for the reissuance or  
566 reinstatement of a license suspended for that purpose, and the  
567 payment of any fees for the reissuance or reinstatement of a  
568 license suspended for that purpose, shall be governed by Section  
569 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
570 board in suspending a license when required by Section 93-11-157  
571 or 93-11-163 are not actions from which an appeal may be taken  
572 under this section. Any appeal of a license suspension that is  
573 required by Section 93-11-157 or 93-11-163 shall be taken in  
574 accordance with the appeal procedure specified in Section  
575 93-11-157 or 93-11-163, as the case may be, rather than the  
576 procedure specified in this section. If there is any conflict  
577 between any provision of Section 93-11-157 or 93-11-163 and any  
578 provision of this chapter, the provisions of Section 93-11-157 or  
579 93-11-163, as the case may be, shall control.

580       **SECTION 2.** Section 73-1-29, Mississippi Code of 1972, is  
581 amended as follows:

582       73-1-29. (1) The board, upon satisfactory proof and in  
583 accordance with this chapter and the regulations of the board, may  
584 take the disciplinary actions provided for hereinafter against any  
585 person for any of the following reasons:

586           (a) Violating any of the provisions of Sections 73-1-1  
587 through 73-1-43 or the bylaws, rules, regulations or standards of  
588 ethics or conduct duly adopted by the board pertaining to the  
589 practice of architecture;

590 (b) Obtaining a certificate of registration by fraud,  
591 deceit or misrepresentation;

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

594 (d) Any professional misconduct, as defined by the  
595 board through bylaws, rules and regulations, and standards of  
596 conduct and ethics; (professional misconduct may not be defined to  
597 include bidding by architects for contracts based on price);

598 (e) Practicing or offering to practice architecture on  
599 an expired certificate or while under suspension or revocation of  
600 certificate unless the suspension or revocation is abated through  
601 probation, as provided for hereinafter;

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

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

607 (h) Willfully misleading or defrauding any person  
608 employing him as an architect by any artifice or false statement;  
609 or

610 (i) Having undisclosed financial or personal interests  
611 that compromise his obligation to his client.

612 (2) (a) The board, acting on its own motion or, in the case  
613 of a default on a loan, on the recommendation of the agency,  
614 political subdivision or other public or private entity to which  
615 payments are due, shall suspend the certificate of registration of  
616 any person who defaults on or fails to comply with the  
617 requirements of an educational loan, service conditional  
618 scholarship or loan repayment program obligation that has been  
619 granted or guaranteed by any federal, state or local agency or  
620 political subdivision under which the person obtained any of the  
621 education necessary to qualify for a certificate of registration  
622 under this chapter. However, before an agency, political

623 subdivision or other public or private entity may recommend the  
624 suspension of a certificate of registration due to the person's  
625 default on a loan, that agency, political subdivision or other  
626 public or private entity must provide the certificate holder with  
627 notice of its intention to recommend the suspension of the  
628 person's certificate of registration and an opportunity for the  
629 certificate holder to respond.

630 (b) The person's certificate of registration will  
631 remain suspended until the person has: (i) made arrangements  
632 satisfactory to the board for meeting the obligations of the loan,  
633 scholarship or loan repayment program; or (ii) in the case of a  
634 default on a loan, made arrangements satisfactory to the agency,  
635 political subdivision or other public or private entity to which  
636 payments are due for the repayment of the loan.

637 (3) Any person may prefer charges against any other person  
638 for committing any of the acts set forth in subsection (1) or (2)  
639 of this section. The charges need not be sworn to, may be made  
640 upon actual knowledge or upon information and belief, and must be  
641 filed with the board. If any person licensed under Sections  
642 73-1-1 through 73-1-43 is expelled from membership in any  
643 Mississippi or national professional architectural society or  
644 association, the board shall thereafter cite the person to appear  
645 at a hearing before the board to show cause why disciplinary  
646 action should not be taken against that person.

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

653 No disciplinary action may be taken until the accused has  
654 been furnished both a statement of the charges against him and  
655 notice of the time and place of the hearing thereof, which shall

656 be personally served on the accused or mailed by registered or  
657 certified mail, return receipt requested, to the last known  
658 business or residence address of the accused not less than thirty  
659 (30) days before the date of the hearing.

660 (4) At any hearing held under this section, the board, upon  
661 application and approval of the chancery court, shall have the  
662 power to subpoena witnesses and compel their attendance and may  
663 also require the production of books, papers and other documents,  
664 as provided in this chapter. The hearing shall be conducted  
665 before the full board with the president of the board serving as  
666 the presiding judge. Counsel for the board shall present all  
667 evidence relating to the charges. All evidence shall be presented  
668 under oath, which may be administered by any member of the board,  
669 and thereafter the proceedings may, if necessary, be transcribed  
670 in full by the court reporter and filed as part of the record in  
671 the case. Copies of those transcriptions may be provided to any  
672 party to the proceedings at a cost fixed by the board.

673 All witnesses who are subpoenaed and who appear in any  
674 proceedings before the board shall receive the same fees and  
675 mileage as allowed by law in judicial civil proceedings, and all  
676 those fees shall be taxed as part of the costs in the case.

677 If in any proceeding before the board any witness fails or  
678 refuses to attend upon subpoena issued by the board, refuses to  
679 testify, or refuses to produce any books and papers the production  
680 of which is called for by the subpoena, the attendance of the  
681 witness and the giving of his testimony and the production of the  
682 books and papers shall be enforced by any court of competent  
683 jurisdiction of this state in the manner provided for the  
684 enforcement of attendance and testimony of witnesses in civil  
685 cases in the courts of this state.

686 The accused shall have the right to be present at the hearing  
687 in person, by counsel or other representative, or both. The  
688 accused shall have the right to present evidence and to examine

689 and cross-examine all witnesses. The board may continue or recess  
690 the hearing as may be necessary.

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

698 If a majority of the board finds the accused guilty of the  
699 charges filed, the board may:

700 (a) Issue a public or private reprimand;

701 (b) Suspend or revoke the certificate of the accused,  
702 if the accused is a registrant; or

703 (c) In lieu of or in addition to the reprimand,  
704 suspension or revocation, assess and levy upon the guilty party a  
705 monetary penalty of not less than One Hundred Dollars (\$100.00)  
706 nor more than Five Thousand Dollars (\$5,000.00) for each  
707 violation.

708 (6) A monetary penalty assessed and levied under this  
709 section shall be paid to the board upon the expiration of the  
710 period allowed for appeal of the penalties under this section, or  
711 may be paid sooner if the guilty party elects. Money collected by  
712 the board under this section shall be deposited to the credit of  
713 the special fund created in Section 73-1-43, Mississippi Code of  
714 1972.

715 When payment of the monetary penalty assessed and levied by  
716 the board is delinquent, the board shall have the power to  
717 institute and maintain proceedings in its name for enforcement of  
718 payment in the chancery court of the county of residence of the  
719 guilty party. If the guilty party is a nonresident of the State  
720 of Mississippi, the proceedings shall be in the Chancery Court of  
721 the First Judicial District of Hinds County, Mississippi.

722           (7) When the board has taken a disciplinary action under  
723 this section, the board may stay the action and place the guilty  
724 party on probation for a period not to exceed one (1) year upon  
725 condition that the guilty party shall not further violate either  
726 the laws of the State of Mississippi pertaining to the practice of  
727 architecture or the bylaws, rules and regulations, or standards of  
728 conduct and ethics promulgated by the board.

729           (8) The board may assess and tax any part or all of the  
730 costs of any disciplinary proceedings conducted under this section  
731 against the accused if the accused is found guilty of the charges.

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

737           (10) The board, for sufficient cause, may reissue a revoked  
738 certificate of registration by a majority vote of the board  
739 members; but in no event shall a revoked certificate be issued  
740 within two (2) years of the revocation. A new certificate of  
741 registration required to replace a revoked, lost, mutilated or  
742 destroyed certificate may be issued, subject to the rules of the  
743 board, for a charge not to exceed Ten Dollars (\$10.00).

744           (11) In addition to the reasons specified in subsections (1)  
745 and 2) of this section, the board may suspend the certificate of  
746 registration of any person for being out of compliance with an  
747 order for support, as defined in Section 93-11-153. The procedure  
748 for suspension of a certificate for being out of compliance with  
749 an order for support, and the procedure for the reissuance or  
750 reinstatement of a certificate suspended for that purpose, and the  
751 payment of any fees for the reissuance or reinstatement of a  
752 certificate suspended for that purpose, shall be governed by  
753 Section 93-11-157 or 93-11-163, as the case may be. If there is  
754 any conflict between any provision of Section 93-11-157 or

755 93-11-163 and any provision of this chapter, the provisions of  
756 Section 93-11-157 or 93-11-163, as the case may be, shall control.

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

759 73-2-16. (1) The board shall also have the power to revoke,  
760 suspend or annul the certificate or registration of a landscape  
761 architect or reprimand, censure or otherwise discipline a  
762 landscape architect.

763 (2) The board, upon satisfactory proof and in accordance  
764 with the provisions of this chapter, may take the disciplinary  
765 actions against any registered landscape architect for any of the  
766 following reasons:

767 (a) Violating any of the provisions of Sections 73-2-1  
768 through 73-2-21 or the implementing bylaws, rules, regulations or  
769 standards of ethics or conduct duly adopted and promulgated by the  
770 board pertaining to the practice of landscape architecture;

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

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

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

779 (e) Practicing or offering to practice landscape  
780 architecture on an expired license or while under suspension or  
781 revocation of a license unless said suspension or revocation be  
782 abated through probation;

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

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



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

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

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

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

795       (3) (a) The board, acting on its own motion or, in the case  
796 of a default on a loan, on the recommendation of the agency,  
797 political subdivision or other public or private entity to which  
798 payments are due, shall suspend the certificate of registration of  
799 any person who defaults on or fails to comply with the  
800 requirements of an educational loan, service conditional  
801 scholarship or loan repayment program obligation that has been  
802 granted or guaranteed by any federal, state or local agency or  
803 political subdivision under which the person obtained any of the  
804 education necessary to qualify for a certificate of registration  
805 under this chapter. However, before an agency, political  
806 subdivision or other public or private entity may recommend the  
807 suspension of a certificate of registration due to the person's  
808 default on a loan, that agency, political subdivision or other  
809 public or private entity must provide the certificate holder with  
810 notice of its intention to recommend the suspension of the  
811 person's certificate of registration and an opportunity for the  
812 certificate holder to respond.

813       (b) The person's certificate of registration will  
814 remain suspended until the person has: (i) made arrangements  
815 satisfactory to the board for meeting the obligations of the loan,  
816 scholarship or loan repayment program; or (ii) in the case of a  
817 default on a loan, made arrangements satisfactory to the agency,  
818 political subdivision or other public or private entity to which  
819 payments are due for the repayment of the loan.

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

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

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

843           (5) At any hearing held under the provisions of this  
844 section, the board shall have the power to subpoena witnesses and  
845 compel their attendance and require the production of any books,  
846 papers or documents. The hearing shall be conducted before the  
847 full board with the president of the board serving as the  
848 presiding judge. Counsel for the board shall present all evidence  
849 relating to the charges. All evidence shall be presented under  
850 oath, which may be administered by any member of the board, and  
851 thereafter the proceedings may, if necessary, be transcribed in  
852 full by the court reporter and filed as part of the record in the

853 case. Copies of such transcription may be provided to any party  
854 to the proceedings at a cost to be fixed by the board.

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

859 Where in any proceedings before the board any witness shall  
860 fail or refuse to attend upon subpoena issued by the board, shall  
861 refuse to testify or shall refuse to produce any books and papers,  
862 the production of which is called for by the subpoena, the  
863 attendance of such witness and the giving of his testimony and the  
864 production of the books and papers shall be enforced by any court  
865 of competent jurisdiction of this state in the manner provided for  
866 the enforcement of attendance and testimony of witnesses in civil  
867 cases in the courts of this state.

868 The accused shall have the right to be present at the hearing  
869 in person, by counsel or other representative, or both. The  
870 accused shall have the right to present evidence and to examine  
871 and cross-examine all witnesses. The board is authorized to  
872 continue or recess the hearing as may be necessary.

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

880 If a majority of the board finds the accused guilty of the  
881 charges filed, the board may: (a) issue a public or private  
882 reprimand; (b) suspend or revoke the license of the accused, if  
883 the accused is a registrant; or (c) in lieu of or in addition to  
884 such reprimand, suspension or revocation, assess and levy upon the  
885 guilty party a monetary penalty of not less than One Hundred

886 Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00)  
887 for each violation.

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

894       When payment of a monetary penalty assessed and levied by the  
895 board in accordance with this section is not paid when due, the  
896 board shall have the power to institute and maintain proceedings  
897 in its name for enforcement of payment in the chancery court of  
898 the county and judicial district of the residence of the guilty  
899 party and if the guilty party be a nonresident of the State of  
900 Mississippi, such proceedings shall be in the Chancery Court of  
901 the First Judicial District of Hinds County, Mississippi.

902       (8) When the board has taken a disciplinary action under  
903 this section, the board may, in its discretion, stay such action  
904 and place the guilty party on probation for a period not to exceed  
905 one (1) year upon the condition that the guilty party shall not  
906 further violate either the law of the State of Mississippi  
907 pertaining to the practice of landscape architecture or the  
908 bylaws, rules and regulations, or standards of conduct and ethics  
909 promulgated by the board.

910       (9) The board, in its discretion, may assess and tax any  
911 part or all of the costs of any disciplinary proceedings conducted  
912 under this section against the accused, if the accused is found  
913 guilty of the charges.

914       (10) The power and authority of the board to assess and levy  
915 the monetary penalties provided for in this section shall not be  
916 affected or diminished by any other proceeding, civil or criminal,  
917 concerning the same violation or violations except as provided in  
918 this section.

919       (11) The board, for sufficient cause, may reissue a revoked  
920 license of registration whenever a majority of the board members  
921 vote to do so but in no event shall a revoked license be issued  
922 within two (2) years of the revocation. A new license of  
923 registration required to replace a revoked, lost, mutilated or  
924 destroyed license may be issued, subject to the rules of the  
925 board, for a charge not to exceed Twenty-five Dollars (\$25.00).

926       (12) The board may direct the advisory committee to review  
927 and investigate any charges brought against any landscape  
928 architect under this chapter and to hold the hearings provided for  
929 in this section and to make findings of fact and recommendations  
930 to the board concerning the disposition of such charges.

931       (13) Nothing herein contained shall preclude the board or  
932 advisory committee from initiating proceedings in any case. The  
933 advisory committee shall furnish legal advice and assistance to  
934 the board whenever such service is requested.

935       (14) In addition to the reasons specified in subsections (2)  
936 and (3) of this section, the board shall be authorized to suspend  
937 the license of any licensee for being out of compliance with an  
938 order for support, as defined in Section 93-11-153. The procedure  
939 for suspension of a license for being out of compliance with an  
940 order for support, and the procedure for the reissuance or  
941 reinstatement of a license suspended for that purpose, and the  
942 payment of any fees for the reissuance or reinstatement of a  
943 license suspended for that purpose, shall be governed by Section  
944 93-11-157 or 93-11-163, as the case may be. If there is any  
945 conflict between any provision of Section 93-11-157 or 93-11-163  
946 and any provision of this chapter, the provisions of Section  
947 93-11-157 or 93-11-163, as the case may be, shall control.

948       **SECTION 4.** Section 73-3-327, Mississippi Code of 1972, is  
949 amended as follows:

950       73-3-327. (1) At the conclusion of the hearing the  
951 complaint tribunal, upon the majority vote of the members of the

952 tribunal, shall render a written opinion incorporating a finding  
953 of fact and a judgment thereon. The judgment of the complaint  
954 tribunal may provide the following:

955 (a) Exonerate the accused attorney and dismiss the  
956 complaint.

957 (b) Reprimand and admonish the attorney, as provided in  
958 Section 73-3-319(b) of this article.

959 (c) Suspend the attorney from the practice of law for  
960 any period of time.

961 (d) Permanently disbar the attorney.

962 (2) (a) The Supreme Court, acting on its own motion or, in  
963 the case of a default on a loan, on the recommendation of the  
964 agency, political subdivision or other public or private entity to  
965 which payments are due, shall suspend from the practice of law any  
966 attorney who defaults on or fails to comply with the requirements  
967 of an educational loan, service conditional scholarship or loan  
968 repayment program obligation that has been granted or guaranteed  
969 by any federal, state or local agency or political subdivision  
970 under which the attorney obtained any of the education necessary  
971 to qualify for a license to practice law. However, before an  
972 agency, political subdivision or other public or private entity  
973 may recommend the suspension of an attorney's license to practice  
974 law due to the attorney's default on a loan, that agency,  
975 political subdivision or other public or private entity must  
976 provide the attorney with notice of its intention to recommend the  
977 suspension of the attorney's license and an opportunity for the  
978 attorney to respond.

979 (b) The attorney will remain suspended from the  
980 practice of law until the attorney has: (i) made arrangements  
981 satisfactory to the Supreme Court for meeting the obligations of  
982 the loan, scholarship or loan repayment program; or (ii) in the  
983 case of a default on a loan, made arrangements satisfactory to the

984 agency, political subdivision or other public or private entity to  
985 which payments are due for the repayment of the loan.

986       (3) In cases in which the Clerk of the Supreme Court has  
987 received notice from the division that the attorney is out of  
988 compliance with an order for support, as defined in Section  
989 93-11-153, the Supreme Court shall suspend the attorney from the  
990 practice of law until such time as the attorney may be reinstated  
991 to practice law because of the attorney's compliance with the  
992 requirements of Section 93-11-157 or 93-11-163, as the case may  
993 be.

994       **SECTION 5.** Section 73-4-25, Mississippi Code of 1972, is  
995 amended as follows:

996       73-4-25. (1) The commission of any of the following acts by  
997 a licensee may subject the licensee to the disciplinary provisions  
998 contained herein:

999           (a) Knowingly filing or causing to be filed a false  
1000 application.

1001           (b) Failure to enter into a written contract with a  
1002 seller or consignor prior to placing or permitting advertising for  
1003 an auction sale to be placed.

1004           (c) Failure by the licensee to give the seller or  
1005 consignor a signed receipt for items received for sale at auction,  
1006 either by item or lot number at the time the goods are received,  
1007 unless the goods are to remain in the possession of the seller or  
1008 consignor.

1009           (d) Failure to give the seller or consignor a statement  
1010 or lot description, selling price, purchaser's identity and the  
1011 net proceeds due to the seller or consignor.

1012           (e) Failure to place funds received from an auction  
1013 sale in an escrow or trust account, and failure to make timely  
1014 settlement on escrowed funds. Absent a written agreement to the  
1015 contrary, five (5) business days shall be deemed timely for  
1016 settlement on personal property.

1017 (f) Permitting an unlicensed auctioneer to call for  
1018 bids in an auction sale.

1019 (g) Being convicted of one or more felonies.

1020 (h) Any course of intentional willful or wanton conduct  
1021 by a licensee or such licensee's employees which misleads or  
1022 creates a false impression among the seller, buyer, bidders and  
1023 the auctioneer in the advertising, conducting and closing of an  
1024 auction sale.

1025 (2) (a) The commission, acting on its own motion or, in the  
1026 case of a default on a loan, on the recommendation of the agency,  
1027 political subdivision or other public or private entity to which  
1028 payments are due, shall suspend the license of any person who  
1029 defaults on or fails to comply with the requirements of an  
1030 educational loan, service conditional scholarship or loan  
1031 repayment program obligation that has been granted or guaranteed  
1032 by any federal, state or local agency or political subdivision  
1033 under which the person obtained any of the education necessary to  
1034 qualify for a license under this chapter. However, before an  
1035 agency, political subdivision or other public or private entity  
1036 may recommend the suspension of a license due to the person's  
1037 default on a loan, that agency, political subdivision or other  
1038 public or private entity must provide the license holder with  
1039 notice of its intention to recommend the suspension of the  
1040 person's license and an opportunity for the license holder to  
1041 respond.

1042 (b) The person's license will remain suspended until  
1043 the person has: (i) made arrangements satisfactory to the  
1044 commission for meeting the obligations of the loan, scholarship or  
1045 loan repayment program; or (ii) in the case of a default on a  
1046 loan, made arrangements satisfactory to the agency, political  
1047 subdivision or other public or private entity to which payments  
1048 are due for the repayment of the loan.



1049           (3) In addition to the acts specified in subsections (1) and  
1050 (2) of this section, the commission shall be authorized to suspend  
1051 the license of any licensee for being out of compliance with an  
1052 order for support, as defined in Section 93-11-153. The procedure  
1053 for suspension of a license for being out of compliance with an  
1054 order for support, and the procedure for the reissuance or  
1055 reinstatement of a license suspended for that purpose, and the  
1056 payment of any fees for the reissuance or reinstatement of a  
1057 license suspended for that purpose, shall be governed by Section  
1058 93-11-157 or 93-11-163. If there is any conflict between any  
1059 provision of Section 93-11-157 or 93-11-163 and any provision of  
1060 this chapter, the provisions of Section 93-11-157 or 93-11-163, as  
1061 the case may be, shall control.

1062           **SECTION 6.** Section 73-5-25, Mississippi Code of 1972, is  
1063 amended as follows:

1064           73-5-25. (1) The Board of Barber Examiners may refuse to  
1065 issue, or may suspend definitely or indefinitely, or revoke any  
1066 certificate of registration or license for any one or a  
1067 combination of the following causes:

1068                   (a) Conviction of a felony shown by a certified copy of  
1069 the judgment of court in which such conviction is had, unless upon  
1070 a full and unconditional pardon of such convict, and upon  
1071 satisfactory showing that such convict will in the future conduct  
1072 himself in a law-abiding way.

1073                   (b) Gross malpractice or gross incompetency.

1074                   (c) Continued practice by a person knowingly having an  
1075 infectious or contagious disease.

1076                   (d) Advertising, practicing or attempting to practice  
1077 under a trade name or name other than one's own.

1078                   (e) Habitual drunkenness or habitual addiction to the  
1079 use of morphine, cocaine or habit forming drug.

1080                   (f) Immoral or unprofessional conduct.

1081 (g) Violation of regulations that may be prescribed as  
1082 provided for in Section 73-5-7 and the commission of any of the  
1083 offenses set forth in Section 73-5-43.

1084 (2) (a) The board, acting on its own motion or, in the case  
1085 of a default on a loan, on the recommendation of the agency,  
1086 political subdivision or other public or private entity to which  
1087 payments are due, shall suspend the certificate of registration of  
1088 any person who defaults on or fails to comply with the  
1089 requirements of an educational loan, service conditional  
1090 scholarship or loan repayment program obligation that has been  
1091 granted or guaranteed by any federal, state or local agency or  
1092 political subdivision under which the person obtained any of the  
1093 education necessary to qualify for a certificate of registration  
1094 under this chapter. However, before an agency, political  
1095 subdivision or other public or private entity may recommend the  
1096 suspension of a certificate of registration due to the person's  
1097 default on a loan, that agency, political subdivision or other  
1098 public or private entity must provide the certificate holder with  
1099 notice of its intention to recommend the suspension of the  
1100 person's certificate of registration and an opportunity for the  
1101 certificate holder to respond.

1102 (b) The person's certificate of registration will  
1103 remain suspended until the person has: (i) made arrangements  
1104 satisfactory to the board for meeting the obligations of the loan,  
1105 scholarship or loan repayment program; or (ii) in the case of a  
1106 default on a loan, made arrangements satisfactory to the agency,  
1107 political subdivision or other public or private entity to which  
1108 payments are due for the repayment of the loan.

1109 (3) In addition to the causes specified in subsections (1)  
1110 and (2) of this section, the board shall be authorized to suspend  
1111 the certificate of registration of any person for being out of  
1112 compliance with an order for support, as defined in Section  
1113 93-11-153. The procedure for suspension of a certificate for

1114 being out of compliance with an order for support, and the  
1115 procedure for the reissuance or reinstatement of a certificate  
1116 suspended for that purpose, and the payment of any fees for the  
1117 reissuance or reinstatement of a certificate suspended for that  
1118 purpose, shall be governed by Section 93-11-157 or 93-11-163. If  
1119 there is any conflict between any provision of Section 93-11-157  
1120 or 93-11-163 and any provision of this chapter, the provisions of  
1121 Section 93-11-157 or 93-11-163, as the case may be, shall control.

1122       **SECTION 7.** Section 73-6-19, Mississippi Code of 1972, is  
1123 amended as follows:

1124       73-6-19. (1) The board shall refuse to grant a certificate  
1125 of licensure to any applicant or may cancel, revoke or suspend the  
1126 certificate upon the finding of any of the following facts  
1127 regarding the applicant or licensed practitioner:

1128           (a) Failure to comply with the rules and regulations  
1129 adopted by the State Board of Chiropractic Examiners;

1130           (b) Violation of any of the provisions of this chapter  
1131 or any of the rules and regulations of the State Board of Health  
1132 under this chapter with regard to the operation and use of x-rays;

1133           (c) Fraud or deceit in obtaining a license;

1134           (d) Addiction to the use of alcohol, narcotic drugs, or  
1135 anything that would seriously interfere with the competent  
1136 performance of his professional duties;

1137           (e) Conviction by a court of competent jurisdiction of  
1138 a felony, other than manslaughter or any violation of the United  
1139 States Revenue Code;

1140           (f) Unprofessional and unethical conduct;

1141           (g) Contraction of a contagious disease that may be  
1142 carried for a prolonged period;

1143           (h) Failure to report to the Mississippi Department of  
1144 Human Services or the county attorney any case in which there are  
1145 reasonable grounds to believe that a child has been abused by its  
1146 parent or person responsible for such child's welfare;

1147 (i) Advising a patient to use drugs, prescribing or  
1148 providing drugs for a patient, or advising a patient not to use a  
1149 drug prescribed by a licensed physician or dentist;

1150 (j) Professional incompetency in the practice of  
1151 chiropractic;

1152 (k) Having disciplinary action taken by his peers  
1153 within any professional chiropractic association or society;

1154 (l) Offering to accept or accepting payment for  
1155 services rendered by assignment from any third-party payor after  
1156 offering to accept or accepting whatever the third-party payor  
1157 covers as payment in full, if the effect of the offering or  
1158 acceptance is to eliminate or give the impression of eliminating  
1159 the need for payment by an insured of any required deductions  
1160 applicable in the policy of the insured;

1161 (m) Associating his practice with any chiropractor who  
1162 does not hold a valid chiropractic license in Mississippi, or  
1163 teach chiropractic manipulation to nonqualified persons under  
1164 Section 73-6-13;

1165 (n) Failure to make payment on chiropractic student  
1166 loans;

1167 (o) Failure to follow record keeping requirements  
1168 prescribed in Section 73-6-18; or

1169 (p) If the practitioner is certified to provide animal  
1170 chiropractic treatment, failure to follow guidelines approved by  
1171 the Mississippi Board of Veterinary Medicine.

1172 (2) (a) The board, acting on its own motion or, in the case  
1173 of a default on a loan, on the recommendation of the agency,  
1174 political subdivision or other public or private entity to which  
1175 payments are due, shall suspend the license of any person who  
1176 defaults on or fails to comply with the requirements of an  
1177 educational loan, service conditional scholarship or loan  
1178 repayment program obligation that has been granted or guaranteed  
1179 by any federal, state or local agency or political subdivision

1180 under which the person obtained any of the education necessary to  
1181 qualify for a license under this chapter. However, before an  
1182 agency, political subdivision or other public or private entity  
1183 may recommend the suspension of a license due to the person's  
1184 default on a loan, that agency, political subdivision or other  
1185 public or private entity must provide the license holder with  
1186 notice of its intention to recommend the suspension of the  
1187 person's license and an opportunity for the license holder to  
1188 respond.

1189 (b) The person's license will remain suspended until  
1190 the person has: (i) made arrangements satisfactory to the board  
1191 for meeting the obligations of the loan, scholarship or loan  
1192 repayment program; or (ii) in the case of a default on a loan,  
1193 made arrangements satisfactory to the agency, political  
1194 subdivision or other public or private entity to which payments  
1195 are due for the repayment of the loan.

1196 (3) Any holder of such certificate or any applicant therefor  
1197 against whom is preferred any of the designated charges shall be  
1198 furnished a copy of the complaint and shall receive a formal  
1199 hearing in Jackson, Mississippi, before the board, at which time  
1200 he may be represented by counsel and examine witnesses. The board  
1201 may administer oaths as may be necessary for the proper conduct of  
1202 any such hearing. In addition, the board may issue subpoenas for  
1203 the attendance of witnesses and the production of books and  
1204 papers. The process issued by the board shall extend to all parts  
1205 of the state. Where in any proceeding before the board any  
1206 witness \* \* \* fails or refuses to attend upon subpoena issued by  
1207 the board, \* \* \* refuses to testify, or \* \* \* refuses to produce  
1208 any books and papers, the production of which is called for by the  
1209 subpoena, the attendance of the witness and the giving of his  
1210 testimony and the production of the books and papers shall be  
1211 enforced by any court of competent jurisdiction of this state in

1212 the manner provided for the enforcement of attendance and  
1213 testimony of witnesses in civil cases in the courts of this state.

1214 (4) In addition to any other investigators the board  
1215 employs, the board shall appoint one or more licensed  
1216 chiropractors to act for the board in investigating the conduct  
1217 relating to the competency of a chiropractor, whenever  
1218 disciplinary action is being considered for professional  
1219 incompetence and unprofessional conduct.

1220 (5) Whenever the board finds any person unqualified to  
1221 practice chiropractic because of any of the grounds set forth in  
1222 subsection (1) of this section, after a hearing has been conducted  
1223 as prescribed by this section, the board may enter an order  
1224 imposing one or more of the following:

1225 (a) Deny his application for a license or other  
1226 authorization to practice chiropractic;

1227 (b) Administer a public or private reprimand;

1228 (c) Suspend, limit or restrict his license or other  
1229 authorization to practice chiropractic for up to five (5) years;

1230 (d) Revoke or cancel his license or other authorization  
1231 to practice chiropractic;

1232 (e) Require him to submit to care, counseling or  
1233 treatment by physicians or chiropractors designated by the board,  
1234 as a condition for initial, continued or renewal of licensure or  
1235 other authorization to practice chiropractic;

1236 (f) Require him to participate in a program of  
1237 education prescribed by the board; or

1238 (g) Require him to practice under the direction of a  
1239 chiropractor designated by the board for a specified period of  
1240 time.

1241 (6) Any person whose application for a license or whose  
1242 license to practice chiropractic has been cancelled, revoked or  
1243 suspended by the board within thirty (30) days from the date of  
1244 the final decision shall have the right of a de novo appeal to the

1245 circuit court of his county of residence or the Circuit Court of  
1246 the First Judicial District of Hinds County, Mississippi. If  
1247 there is an appeal, the appeal may, in the discretion of and on  
1248 motion to the circuit court, act as a supersedeas. The circuit  
1249 court shall dispose of the appeal and enter its decision promptly.  
1250 The hearing on the appeal may, in the discretion of the circuit  
1251 judge, be tried in vacation. Either party shall have the right of  
1252 appeal to the Supreme Court as provided by law from any decision  
1253 of the circuit court.

1254       (7) In a proceeding conducted under this section by the  
1255 board for the revocation, suspension or cancellation of a license  
1256 to practice chiropractic, after a hearing has been conducted as  
1257 prescribed by this section, the board shall have the power and  
1258 authority for the grounds stated in subsection (1) of this  
1259 section, with the exception of paragraph (c) thereof, to assess  
1260 and levy upon any person licensed to practice chiropractic in the  
1261 state a monetary penalty in lieu of the revocation, suspension or  
1262 cancellation, as follows:

1263           (a) For the first violation, a monetary penalty of not  
1264 less than Five Hundred Dollars (\$500.00) nor more than One  
1265 Thousand Dollars (\$1,000.00) for each violation.

1266           (b) For the second and each subsequent violation, a  
1267 monetary penalty of not less than One Thousand Dollars (\$1,000.00)  
1268 nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for  
1269 each violation.

1270       The power and authority of the board to assess and levy the  
1271 monetary penalties under this section shall not be affected or  
1272 diminished by any other proceeding, civil or criminal, concerning  
1273 the same violation or violations. A licensee shall have the right  
1274 of appeal from the assessment and levy of a monetary penalty as  
1275 provided in this section to the circuit court under the same  
1276 conditions as a right of appeal is provided for in this section  
1277 for appeals from an adverse ruling, or order, or decision of the

1278 board. Any monetary penalty assessed and levied under this  
1279 section shall not take effect until after the time for appeal has  
1280 expired, and an appeal of the assessment and levy of such a  
1281 monetary penalty shall act as a supersedeas.

1282       (8) In addition to the grounds specified in subsections (1)  
1283 and (2) of this section, the board may suspend the license of any  
1284 licensee for being out of compliance with an order for support, as  
1285 defined in Section 93-11-153. The procedure for suspension of a  
1286 license for being out of compliance with an order for support, and  
1287 the procedure for the reissuance or reinstatement of a license  
1288 suspended for that purpose, and the payment of any fees for the  
1289 reissuance or reinstatement of a license suspended for that  
1290 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
1291 the case may be. Actions taken by the board in suspending a  
1292 license when required by Section 93-11-157 or 93-11-163 are not  
1293 actions from which an appeal may be taken under this section. Any  
1294 appeal of a license suspension that is required by Section  
1295 93-11-157 or 93-11-163 shall be taken in accordance with the  
1296 appeal procedure specified in Section 93-11-157 or 93-11-163, as  
1297 the case may be, rather than the procedure specified in this  
1298 section. If there is any conflict between any provision of  
1299 Section 93-11-157 or 93-11-163 and any provision of this chapter,  
1300 the provisions of Section 93-11-157 or 93-11-163, as the case may  
1301 be, shall control.

1302       **SECTION 8.** Section 73-7-27, Mississippi Code of 1972, is  
1303 amended as follows:

1304       73-7-27. (1) Any complaint may be filed with the board by a  
1305 member or agent of the board or by any person charging any  
1306 licensee of the board with the commission of any of the offenses  
1307 enumerated in subsection (2) or (3) of this section. Such  
1308 complaint shall be in writing, signed by the accuser or accusers,  
1309 and verified under oath, and such complaints shall be investigated  
1310 as set forth in Section 73-7-7. If, after the investigation, the



1311 board through its administrative review agents determines that  
1312 there is not substantial justification to believe that the accused  
1313 licensee has committed any of the offenses enumerated, it may  
1314 dismiss the complaint or may prepare a formal complaint proceeding  
1315 against the licensee as hereinafter provided. When used with  
1316 reference to any complaint filed against a licensee herein, the  
1317 term "not substantial justification" means a complaint that is  
1318 frivolous, groundless in fact or law, or vexatious, as determined  
1319 by unanimous vote of the board. In the event of a dismissal, the  
1320 person filing the accusation and the accused licensee shall be  
1321 given written notice of the board's determination. If the board  
1322 determines there is reasonable cause to believe the accused has  
1323 committed any of those offenses, the secretary of the board shall  
1324 give written notice of such determination to the accused licensee  
1325 and set a day for a hearing as provided in subsection (3) of this  
1326 section.

1327 (2) The board shall have the power to revoke, suspend or  
1328 refuse to issue or renew any license or certificate provided for  
1329 in this chapter, and to fine, place on probation and/or otherwise  
1330 discipline a student or licensee or holder of a certificate, upon  
1331 proof that such person: (a) has not complied with or has violated  
1332 any of the rules and regulations promulgated by the board; (b) has  
1333 not complied with or has violated any of the sections of this  
1334 chapter; (c) has committed fraud or dishonest conduct in the  
1335 taking of the examination herein provided for; (d) has been  
1336 convicted of a felony; (e) has committed grossly unprofessional or  
1337 dishonest conduct; (f) is addicted to the excessive use of  
1338 intoxicating liquors or to the use of drugs to such an extent as  
1339 to render him or her unfit to practice in any of the practices or  
1340 occupations set forth in this chapter; (g) has advertised by means  
1341 of knowingly false or deceptive statements; or (h) has failed to  
1342 display the license or certificate issued to him or her as  
1343 provided for in this chapter; or (i) has been convicted of

1344 violating any of the provisions of this chapter. A conviction of  
1345 violating any of the provisions of this chapter shall be grounds  
1346 for automatic suspension of the license or certificate of such  
1347 person.

1348       (3) (a) The board, acting on its own motion or, in the case  
1349 of a default on a loan, on the recommendation of the agency,  
1350 political subdivision or other public or private entity to which  
1351 payments are due, shall suspend the license of any person who  
1352 defaults on or fails to comply with the requirements of an  
1353 educational loan, service conditional scholarship or loan  
1354 repayment program obligation that has been granted or guaranteed  
1355 by any federal, state or local agency or political subdivision  
1356 under which the person obtained any of the education necessary to  
1357 qualify for a license under this chapter. However, before an  
1358 agency, political subdivision or other public or private entity  
1359 may recommend the suspension of a license due to the person's  
1360 default on a loan, that agency, political subdivision or other  
1361 public or private entity must provide the license holder with  
1362 notice of its intention to recommend the suspension of the  
1363 person's license and an opportunity for the license holder to  
1364 respond.

1365       (b) The person's license will remain suspended until  
1366 the person has: (i) made arrangements satisfactory to the board  
1367 for meeting the obligations of the loan, scholarship or loan  
1368 repayment program; or (ii) in the case of a default on a loan,  
1369 made arrangements satisfactory to the agency, political  
1370 subdivision or other public or private entity to which payments  
1371 are due for the repayment of the loan.

1372       (4) The board shall not revoke, suspend or refuse to issue  
1373 or renew any license or certificate, or fine, place on probation  
1374 or otherwise discipline any person in a disciplinary matter except  
1375 after a hearing of which the applicant or licensee or holder of  
1376 the certificate affected shall be given at least twenty (20) days'

1377 notice in writing, specifying the reason or reasons for denying  
1378 the applicant a license or certificate of registration, or in the  
1379 case of any other disciplinary action, the offense or offenses of  
1380 which the licensee or holder of a certificate of registration is  
1381 charged. Such notice may be served by mailing a copy thereof by  
1382 United States first class certified mail, postage prepaid, to the  
1383 last known residence or business address of such applicant,  
1384 licensee or holder of a certificate. The hearing on such charges  
1385 shall be at such time and place as the board may prescribe.

1386       (5) At such hearings, all witnesses shall be sworn by a  
1387 member of the board, and stenographic notes of the proceedings  
1388 shall be taken. Any party to the proceedings desiring it shall be  
1389 furnished with a copy of such stenographic notes upon payment to  
1390 the board of such fees as it shall prescribe, not exceeding,  
1391 however, the actual costs of transcription.

1392       (6) The board is hereby authorized and empowered to issue  
1393 subpoenas for the attendance of witnesses and the production of  
1394 books and papers. The process issued by the board shall extend to  
1395 all parts of the state and such process shall be served by any  
1396 person designated by the board for such service. The person  
1397 serving such process shall receive such compensation as may be  
1398 allowed by the board, not to exceed the fee prescribed by law for  
1399 similar services. All witnesses who shall be subpoenaed, and who  
1400 shall appear in any proceedings before the board, shall receive  
1401 the same fees and mileage as allowed by law.

1402       (7) Where in any proceeding before the board any witness  
1403 shall fail or refuse to attend upon subpoena issued by the board,  
1404 shall refuse to testify, or shall refuse to produce any books and  
1405 papers, the production of which is called for by the subpoena, the  
1406 attendance of such witness and the giving of his testimony and the  
1407 production of the books and papers shall be enforced by any court  
1408 of competent jurisdiction of this state, in manner as are enforced

1409 the attendance and testimony of witnesses in civil cases in the  
1410 courts of this state.

1411       (8) The board shall conduct the hearing in an orderly and  
1412 continuous manner, granting continuances only when the ends of  
1413 justice may be served. The board shall, within sixty (60) days  
1414 after conclusion of the hearing, reduce its decision to writing  
1415 and forward an attested true copy thereof to the last known  
1416 residence or business address of such applicant, licensee or  
1417 holder of a certificate, by way of United States first class  
1418 certified mail, postage prepaid. Such applicant, licensee, holder  
1419 of a certificate, or person aggrieved shall have the right of  
1420 appeal from an adverse ruling, or order, or decision of the board  
1421 to the chancery court upon forwarding notice of appeal to the  
1422 board within thirty (30) days after the decision of the board is  
1423 mailed in the manner here contemplated. An appeal will not be  
1424 allowed in the event notice of appeal, together with the appeal  
1425 bond hereinafter required, shall not have been forwarded to the  
1426 board within the thirty-day period. Appeal shall be to the  
1427 chancery court of the county and judicial district of the  
1428 residence of the appellant, or to the Chancery Court of the First  
1429 Judicial District of Hinds County, Mississippi, at the election of  
1430 the appellant. The notice of appeal shall elect venue, unless the  
1431 appellant be a nonresident of the State of Mississippi, in which  
1432 event the board shall certify all documents and evidence directly  
1433 to the Chancery Court of the First Judicial District of Hinds  
1434 County for further proceedings. The appeal shall thereupon be  
1435 heard in due course by the court which shall review the record and  
1436 make its determination thereon.

1437       (9) The appellant shall, together with the notice of appeal,  
1438 forward to and post with the board a satisfactory bond in the  
1439 amount of Five Hundred Dollars (\$500.00) for the payment of any  
1440 costs which may be adjudged against him.

1441           (10) In the event of an appeal, the court shall dispose of  
1442 the appeal and enter its decision promptly. The hearing on the  
1443 appeal may, in the discretion of the chancellor, be tried in  
1444 vacation. If there is an appeal, such appeal may, in the  
1445 discretion of and on motion to the chancery court, act as a  
1446 supersedeas. However, any fine imposed by the board under the  
1447 provisions of this chapter shall not take effect until after the  
1448 time for appeal has expired, and an appeal of the imposition of  
1449 such a fine shall act as a supersedeas.

1450           (11) Any fine imposed by the board upon a licensee or holder  
1451 of a certificate shall be in accordance with the following  
1452 schedule:

1453                   (a) For the first violation, a fine of not less than  
1454 Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00)  
1455 for each violation.

1456                   (b) For the second and each subsequent violation, a  
1457 fine of not less than One Hundred Dollars (\$100.00) nor more than  
1458 Four Hundred Dollars (\$400.00) for each violation.

1459           The power and authority of the board to impose such fines  
1460 under this section shall not be affected or diminished by any  
1461 other proceeding, civil or criminal, concerning the same violation  
1462 or violations.

1463           (12) In addition to the reasons specified in subsections (2)  
1464 and (3) of this section, the board shall be authorized to suspend  
1465 the license of any licensee for being out of compliance with an  
1466 order for support, as defined in Section 93-11-153. The procedure  
1467 for suspension of a license for being out of compliance with an  
1468 order for support, and the procedure for the reissuance or  
1469 reinstatement of a license suspended for that purpose, and the  
1470 payment of any fees for the reissuance or reinstatement of a  
1471 license suspended for that purpose, shall be governed by Section  
1472 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
1473 board in suspending a license when required by Section 93-11-157

1474 or 93-11-163 are not actions from which an appeal may be taken  
1475 under this section. Any appeal of a license suspension that is  
1476 required by Section 93-11-157 or 93-11-163 shall be taken in  
1477 accordance with the appeal procedure specified in Section  
1478 93-11-157 or 93-11-163, as the case may be, rather than the  
1479 procedure specified in this section. If there is any conflict  
1480 between any provision of Section 93-11-157 or 93-11-163 and any  
1481 provision of this chapter, the provisions of Section 93-11-157 or  
1482 93-11-163, as the case may be, shall control.

1483 **SECTION 9.** Section 73-9-61, Mississippi Code of 1972, is  
1484 amended as follows:

1485 73-9-61. (1) Upon satisfactory proof, and in accordance  
1486 with statutory provisions elsewhere set out for those hearings and  
1487 protecting the rights of the accused as well as the public, the  
1488 State Board of Dental Examiners may deny the issuance or renewal  
1489 of a license or may revoke or suspend the license of any licensed  
1490 dentist or dental hygienist practicing in the State of  
1491 Mississippi, or take any other action in relation to the license  
1492 as the board may deem proper under the circumstances, for any of  
1493 the following reasons:

1494 (a) Misrepresentation in obtaining a license, or  
1495 attempting to obtain, obtaining, attempting to renew or renewing a  
1496 license or professional credential by making any material  
1497 misrepresentation, including the signing in his or her  
1498 professional capacity any certificate that is known to be false at  
1499 the time he or she makes or signs the certificate.

1500 (b) Willful violation of any of the rules or  
1501 regulations duly promulgated by the board, or of any of the rules  
1502 or regulations duly promulgated by the appropriate dental  
1503 licensure agency of another state or jurisdiction.

1504 (c) Being impaired in the ability to practice dentistry  
1505 or dental hygiene with reasonable skill and safety to patients by  
1506 reason of illness or use of alcohol, drugs, narcotics, chemicals,

1507 or any other type of material or as a result of any mental or  
1508 physical condition.

1509 (d) Administering, dispensing or prescribing any  
1510 prescriptive medication or drug outside the course of legitimate  
1511 professional dental practice.

1512 (e) Being convicted or found guilty of or entering a  
1513 plea of nolo contendere to, regardless of adjudication, a  
1514 violation of any federal or state law regulating the possession,  
1515 distribution or use of any narcotic drug or any drug considered a  
1516 controlled substance under state or federal law, a certified copy  
1517 of the conviction order or judgment rendered by the trial court  
1518 being prima facie evidence thereof, notwithstanding the pendency  
1519 of any appeal.

1520 (f) Practicing incompetently or negligently, regardless  
1521 of whether there is actual harm to the patient.

1522 (g) Being convicted or found guilty of or entering a  
1523 plea of nolo contendere to, regardless of adjudication, a crime in  
1524 any jurisdiction that relates to the practice of dentistry or  
1525 dental hygiene, a certified copy of the conviction order or  
1526 judgment rendered by the trial court being prima facie evidence  
1527 thereof, notwithstanding the pendency of any appeal.

1528 (h) Being convicted or found guilty of or entering a  
1529 plea of nolo contendere to, regardless of adjudication, a felony  
1530 in any jurisdiction, a certified copy of the conviction order or  
1531 judgment rendered by the trial court being prima facie evidence  
1532 thereof, notwithstanding the pendency of any appeal.

1533 (i) Delegating professional responsibilities to a  
1534 person who is not qualified by training, experience or licensure  
1535 to perform them.

1536 (j) The refusal of a licensing authority of another  
1537 state or jurisdiction to issue or renew a license, permit or  
1538 certificate to practice dentistry or dental hygiene in that  
1539 jurisdiction or the revocation, suspension or other restriction

1540 imposed on a license, permit or certificate issued by that  
1541 licensing authority that prevents or restricts practice in that  
1542 jurisdiction, a certified copy of the disciplinary order or action  
1543 taken by the other state or jurisdiction being prima facie  
1544 evidence thereof, notwithstanding the pendency of any appeal.

1545 (k) Surrender of a license or authorization to practice  
1546 dentistry or dental hygiene in another state or jurisdiction when  
1547 the board has reasonable cause to believe that the surrender is  
1548 made to avoid or in anticipation of a disciplinary action.

1549 (l) Any unprofessional conduct to be determined by the  
1550 board on a case-by-case basis, which shall include, but not be  
1551 restricted to, the following:

1552 (i) Committing any crime involving moral  
1553 turpitude.

1554 (ii) Practicing deceit or other fraud upon the  
1555 public.

1556 (iii) Practicing dentistry or dental hygiene under  
1557 a false or assumed name.

1558 (iv) Advertising that is false, deceptive or  
1559 misleading.

1560 (v) Announcing a specialized practice shall be  
1561 considered advertising that tends to deceive or mislead the public  
1562 unless the dentist announcing as a specialist conforms to other  
1563 statutory provisions and the duly promulgated rules or regulations  
1564 of the board pertaining to practice of dentistry in the State of  
1565 Mississippi.

1566 (m) Failure to provide and maintain reasonable sanitary  
1567 facilities and conditions or failure to follow board rules  
1568 regarding infection control.

1569 (n) Committing any act that would constitute sexual  
1570 misconduct upon a patient or upon ancillary staff. For purposes  
1571 of this subsection, the term sexual misconduct means:



1572 (i) Use of the licensee-patient relationship to  
1573 engage or attempt to engage the patient in sexual activity; or

1574 (ii) Conduct of a licensee that is intended to  
1575 intimidate, coerce, influence or trick any person employed by or  
1576 for the licensee in a dental practice or educational setting for  
1577 the purpose of engaging in sexual activity or activity intended  
1578 for the sexual gratification of the licensee.

1579 (o) Violation of a lawful order of the board previously  
1580 entered in a disciplinary or licensure hearing; failure to  
1581 cooperate with any lawful request or investigation by the board;  
1582 or failure to comply with a lawfully issued subpoena of the board.

1583 (p) Willful, obstinate and continuing refusal to  
1584 cooperate with the board in observing its rules and regulations in  
1585 promptly paying all legal license or other fees required by law.

1586 (q) Practicing dentistry or dental hygiene while the  
1587 person's license is suspended.

1588 (2) (a) The board, acting on its own motion or, in the case  
1589 of a default on a loan, on the recommendation of the agency,  
1590 political subdivision or other public or private entity to which  
1591 payments are due, shall suspend the license of any person who  
1592 defaults on or fails to comply with the requirements of an  
1593 educational loan, service conditional scholarship or loan  
1594 repayment program obligation that has been granted or guaranteed  
1595 by any federal, state or local agency or political subdivision  
1596 under which the person obtained any of the education necessary to  
1597 qualify for a license under this chapter. However, before an  
1598 agency, political subdivision or other public or private entity  
1599 may recommend the suspension of a license due to the person's  
1600 default on a loan, that agency, political subdivision or other  
1601 public or private entity must provide the license holder with  
1602 notice of its intention to recommend the suspension of the  
1603 person's license and an opportunity for the license holder to  
1604 respond.

1605           (b) The person's license will remain suspended until  
1606 the person has: (i) made arrangements satisfactory to the board  
1607 for meeting the obligations of the loan, scholarship or loan  
1608 repayment program; or (ii) in the case of a default on a loan,  
1609 made arrangements satisfactory to the agency, political  
1610 subdivision or other public or private entity to which payments  
1611 are due for the repayment of the loan.

1612           (3) In lieu of revocation of a license as provided for in  
1613 subsection (1) of this section, the board may suspend the license  
1614 of the offending dentist or dental hygienist, suspend the sedation  
1615 permit of the offending dentist, or take any other action in  
1616 relation to his or her license as the board may deem proper under  
1617 the circumstances.

1618           (4) When a license to practice dentistry or dental hygiene  
1619 is revoked or suspended by the board, the board may, in its  
1620 discretion, stay the revocation or suspension and simultaneously  
1621 place the licensee on probation upon the condition that the  
1622 licensee shall not violate the laws of the State of Mississippi  
1623 pertaining to the practice of dentistry or dental hygiene and  
1624 shall not violate the rules and regulations of the board and shall  
1625 not violate any terms in relation to his or her license as may be  
1626 set by the board.

1627           (5) In a proceeding conducted under this section by the  
1628 board for the denial, revocation or suspension of a license to  
1629 practice dentistry or dental hygiene, the board shall have the  
1630 power and authority for the grounds stated for that denial,  
1631 revocation or suspension, and in addition thereto or in lieu of  
1632 that denial, revocation or suspension may assess and levy upon any  
1633 person licensed to practice dentistry or dental hygiene in the  
1634 State of Mississippi, a monetary penalty, as follows:

1635           (a) For the first violation of any of subparagraph (a),  
1636 (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection

1637 (1) of this section, a monetary penalty of not less than Fifty  
1638 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

1639 (b) For the second violation of any of subparagraph  
1640 (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of  
1641 subsection (1) of this section, a monetary penalty of not less  
1642 than One Hundred Dollars (\$100.00) nor more than One Thousand  
1643 Dollars (\$1,000.00).

1644 (c) For the third and any subsequent violation of any  
1645 of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o)  
1646 or (q) of subsection (1) of this section, a monetary penalty of  
1647 not less than Five Hundred Dollars (\$500.00) and not more than  
1648 Five Thousand Dollars (\$5,000.00).

1649 (d) For any violation of any of subparagraphs (a)  
1650 through (q) of subsection (1) of this section, those reasonable  
1651 costs that are expended by the board in the investigation and  
1652 conduct of a proceeding for licensure revocation or suspension,  
1653 including, but not limited to, the cost of process service, court  
1654 reporters, expert witnesses and investigators.

1655 (6) The power and authority of the board to assess and levy  
1656 monetary penalties under this section shall not be affected or  
1657 diminished by any other proceeding, civil or criminal, concerning  
1658 the same violation or violations except as provided in this  
1659 section.

1660 (7) A licensee shall have the right of appeal from the  
1661 assessment and levy of a monetary penalty as provided in this  
1662 section under the same conditions as a right of appeal is provided  
1663 elsewhere for appeals from an adverse ruling, order or decision of  
1664 the board.

1665 (8) Any monetary penalty assessed and levied under this  
1666 section shall not take effect until after the time for appeal has  
1667 expired. If there is an appeal, the appeal shall act as a  
1668 supersedeas.

1669       (9) A monetary penalty assessed and levied under this  
1670 section shall be paid to the board by the licensee upon the  
1671 expiration of the period allowed for appeal of those penalties  
1672 under this section or may be paid sooner if the licensee elects.  
1673 With the exception of subsection (5)(d) of this section, monetary  
1674 penalties collected by the board under this section shall be  
1675 deposited to the credit of the General Fund of the State Treasury.  
1676 Any monies collected by the board under subsection (5)(d) of this  
1677 section shall be deposited into the special fund operating account  
1678 of the board.

1679       (10) When payment of a monetary penalty assessed and levied  
1680 by the board against a licensee in accordance with this section is  
1681 not paid by the licensee when due under this section, the board  
1682 shall have power to institute and maintain proceedings in its name  
1683 for enforcement of payment in the chancery court of the county and  
1684 judicial district of residence of the licensee, and if the  
1685 licensee is a nonresident of the State of Mississippi, the  
1686 proceedings shall be in the Chancery Court of the First Judicial  
1687 District of Hinds County, Mississippi.

1688       (11) In addition to the reasons specified in subsections (1)  
1689 and (2) of this section, the board may suspend the license of any  
1690 licensee for being out of compliance with an order for support, as  
1691 defined in Section 93-11-153. The procedure for suspension of a  
1692 license for being out of compliance with an order for support, and  
1693 the procedure for the reissuance or reinstatement of a license  
1694 suspended for that purpose, and the payment of any fees for the  
1695 reissuance or reinstatement of a license suspended for that  
1696 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
1697 the case may be. If there is any conflict between any provision  
1698 of Section 93-11-157 or 93-11-163 and any provision of this  
1699 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
1700 case may be, shall control.

1701           (12) All grounds for disciplinary action, including  
1702 imposition of fines and assessment of costs as enumerated above,  
1703 shall also apply to any other license or permit issued by the  
1704 board under this chapter or regulations duly adopted by the board.

1705           **SECTION 10.** Section 73-10-21, Mississippi Code of 1972, is  
1706 amended as follows:

1707           73-10-21. (1) Rules, regulations and standards.

1708                   (a) The board shall adopt, amend, promulgate and  
1709 enforce such rules, regulations and standards governing dietitians  
1710 as may be necessary to further the accomplishment of the purpose  
1711 of the governing law, and in so doing shall utilize as the basis  
1712 thereof the corresponding recommendations of the advisory council.  
1713 The rules, regulations and minimum standards for licensing of  
1714 dietitians may be amended by the board as deemed necessary. In so  
1715 doing, the board shall utilize as the basis thereof the  
1716 corresponding recommendations of the advisory council.

1717                   (b) The board shall publish and disseminate to all  
1718 licensees, in appropriate manner, the licensure standards  
1719 prescribed by this chapter, any amendments thereto, and such rules  
1720 and regulations as the board may adopt under the authority vested  
1721 by Section 73-38-13, within sixty (60) days of their adoption.

1722                   (2) The board shall adopt a code of ethics for dietitians  
1723 using as the basis thereof the ADA "Code of Ethics for the  
1724 Profession of Dietetics."

1725                   (3) Issuance and renewal of licenses.

1726                           (a) The board shall issue a license to any person who  
1727 meets the requirements of this chapter upon payment of the license  
1728 fee prescribed.

1729                           (b) Upon the first renewal, licenses under this chapter  
1730 shall be valid for two (2) calendar years and shall be subject to  
1731 renewal and shall expire unless renewed in the manner prescribed  
1732 by the rules and regulations of the board, upon the payment of a  
1733 biennial renewal fee to be set at the discretion of the board, but

1734 not to exceed One Hundred Dollars (\$100.00), and the presentation  
1735 of evidence satisfactory to the board that the licensee has met  
1736 such continuing education requirements as the board may require.  
1737 An applicant for license renewal shall demonstrate to the board  
1738 evidence of satisfactory completion of the continuing education  
1739 requirements established by the American Dietetic Association  
1740 and/or other continuing education requirements as may be required  
1741 by the board.

1742 (c) The board may provide for the late renewal of a  
1743 license upon the payment of a late fee in accordance with its  
1744 rules and regulations, but no such late renewal of a license may  
1745 be granted more than one (1) year after its expiration.

1746 (d) A suspended license shall be subject to expiration  
1747 and may be renewed as provided in this section, but that renewal  
1748 shall not entitle the licensee, while the license remains  
1749 suspended and until it is reinstated, to engage in the licensed  
1750 activity, or in any other conduct or activity in violation of the  
1751 order of judgment by which the license was suspended. If a  
1752 license revoked on disciplinary grounds is reinstated, the  
1753 licensee, as a condition of reinstatement, shall pay the renewal  
1754 fee and any late fee that may be applicable.

1755 (4) Denial or revocation of license.

1756 (a) The board may deny or refuse to renew a license, or  
1757 suspend or revoke a license, or issue orders to cease or desist  
1758 from certain conduct, or issue warnings or reprimands where the  
1759 licensee or applicant for license has been convicted of unlawful  
1760 conduct or has demonstrated unprofessional conduct that has  
1761 endangered or is likely to endanger the health, welfare or safety  
1762 of the public. That conduct includes:

1763 (i) Obtaining a license by means of fraud,  
1764 misrepresentation or concealment of material facts;

1765 (ii) Being guilty of unprofessional conduct as  
1766 defined by the rules and established by the board or violating the  
1767 Code of Ethics of the American Dietetic Association;

1768 (iii) Being convicted of a crime in any court  
1769 other than a misdemeanor;

1770 (iv) Violating any lawful order, rule or  
1771 regulation rendered or adopted by the board; or

1772 (v) Violating any provision of this chapter.

1773 (b) The denial, refusal to renew, suspension,  
1774 revocation, order to cease and desist from designated conduct, or  
1775 warning or reprimand may be ordered by the board in a decision  
1776 made after a hearing in the manner provided by the rules and  
1777 regulations adopted by the board. One (1) year from the date of  
1778 the revocation of a license, application may be made to the board  
1779 for reinstatement. The board shall have discretion to accept or  
1780 reject an application for reinstatement and may, but shall not be  
1781 required to, hold a hearing to consider the reinstatement.

1782 (c) (i) The board, acting on its own motion or, in the  
1783 case of a default on a loan, on the recommendation of the agency,  
1784 political subdivision or other public or private entity to which  
1785 payments are due, shall suspend the license of any person who  
1786 defaults on or fails to comply with the requirements of an  
1787 educational loan, service conditional scholarship or loan  
1788 repayment program obligation that has been granted or guaranteed  
1789 by any federal, state or local agency or political subdivision  
1790 under which the person obtained any of the education necessary to  
1791 qualify for a license under this chapter. However, before an  
1792 agency, political subdivision or other public or private entity  
1793 may recommend the suspension of a license due to the person's  
1794 default on a loan, that agency, political subdivision or other  
1795 public or private entity must provide the license holder with  
1796 notice of its intention to recommend the suspension of the

1797 person's license and an opportunity for the license holder to  
1798 respond.

1799 (ii) The person's license will remain suspended  
1800 until the person has: made arrangements satisfactory to the board  
1801 for meeting the obligations of the loan, scholarship or loan  
1802 repayment program; or, in the case of a default on a loan, made  
1803 arrangements satisfactory to the agency, political subdivision or  
1804 other public or private entity to which payments are due for the  
1805 repayment of the loan.

1806 (d) In addition to the reasons specified in paragraphs  
1807 (a) and (c) of this subsection (4), the board may suspend the  
1808 license of any licensee for being out of compliance with an order  
1809 for support, as defined in Section 93-11-153. The procedure for  
1810 suspension of a license for being out of compliance with an order  
1811 for support, and the procedure for the reissuance or reinstatement  
1812 of a license suspended for that purpose, and the payment of any  
1813 fees for the reissuance or reinstatement of a license suspended  
1814 for that purpose, shall be governed by Section 93-11-157 or  
1815 93-11-163, as the case may be. If there is any conflict between  
1816 any provision of Section 93-11-157 or 93-11-163 and any provision  
1817 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
1818 as the case may be, shall control.

1819 (5) Establish fees.

1820 (a) A person licensed under this chapter shall pay to  
1821 the board a fee, not to exceed One Hundred Dollars (\$100.00), to  
1822 be set by the board for the issuance of a license.

1823 (b) Those fees shall be set in such an amount as to  
1824 reimburse the state to the extent feasible for the cost of the  
1825 services rendered.

1826 (6) Collect funds.

1827 (a) The administration of the provisions of this  
1828 chapter shall be financed from income accruing from fees, licenses



1829 and other charges assessed and collected by the board in  
1830 administering this chapter.

1831 (b) The board shall receive and account for all funds  
1832 received and shall keep those funds in a separate fund.

1833 (c) Funds collected under the provisions of this  
1834 chapter shall be used solely for the expenses of the advisory  
1835 council and the board to administer the provisions of this  
1836 chapter. Those funds shall be subject to audit by the State  
1837 Auditor.

1838 (d) Members of the advisory council shall receive no  
1839 compensation for services performed on the council, but may be  
1840 reimbursed for necessary and actual expenses incurred in  
1841 connection with attendance at meetings of the council or for  
1842 authorized business of the council from funds made available for  
1843 that purpose, as provided in Section 25-3-41.

1844 (7) Receive and process complaints.

1845 (a) The board shall have full authority to investigate  
1846 and evaluate each and every applicant applying for a license to  
1847 practice dietetics, with the advice of the advisory council.

1848 (b) The board shall have the authority to issue  
1849 subpoenas, examine witnesses and administer oaths, and shall, at  
1850 its discretion, investigate allegations or practices violating the  
1851 provisions of this chapter, and in so doing shall have power to  
1852 seek injunctive relief to prohibit any person from providing  
1853 professional dietetic services as defined in Section 73-10-3(1)(j)  
1854 without being licensed as provided herein.

1855 (8) A license certificate issued by the board is the  
1856 property of the board and must be surrendered on demand.

1857 **SECTION 11.** Section 73-11-57, Mississippi Code of 1972, is  
1858 amended as follows:

1859 73-11-57. (1) The board may refuse to examine or to issue  
1860 or renew, or may suspend or revoke, any license, or may reprimand  
1861 or place the holder thereof on a term of probation, after proper

1862 hearing, upon finding the holder of such license to be guilty of  
1863 acts of commission or omission including the following:

1864 (a) The employment of fraud or deception in applying  
1865 for a license or in passing the examination provided for in this  
1866 chapter;

1867 (b) The erroneous issuance of a license to any person;

1868 (c) The conviction of a felony by any court in this  
1869 state or any federal court or by the court of any other state or  
1870 territory of the United States;

1871 (d) The practice of embalming under a false name or  
1872 without a license for the practice of funeral service;

1873 (e) The impersonation of another funeral service or  
1874 funeral directing licensee;

1875 (f) The permitting of a person other than a funeral  
1876 service or funeral directing licensee to make arrangements for a  
1877 funeral and/or form of disposition;

1878 (g) Violation of any provision of this chapter or any  
1879 rule or regulation of the board;

1880 (h) Having had a license for the practice of funeral  
1881 service or funeral directing suspended or revoked in any  
1882 jurisdiction, having voluntarily surrendered his license in any  
1883 jurisdiction, having been placed on probation in any jurisdiction,  
1884 having been placed under disciplinary order(s) or other  
1885 restriction in any manner for funeral directing and/or funeral  
1886 service, or operating a funeral establishment (a certified copy of  
1887 the order of suspension, revocation, probation or disciplinary  
1888 action shall be prima facie evidence of such action);

1889 (i) Solicitation of dead human bodies by the licensee,  
1890 his agents, assistants or employees, whether such solicitation  
1891 occurs after death or when death is imminent; if the person  
1892 solicited has made known a desire not to receive the  
1893 communication, or if the solicitation involves coercion, duress or  
1894 harassment, or if the solicitation takes place at the residence of

1895 the client or prospective client, is uninvited by the client or  
1896 prospective client and has not been previously agreed to by the  
1897 client or prospective client; however, this shall not be deemed to  
1898 prohibit general advertising;

1899 (j) Employment directly or indirectly of any  
1900 apprentice, agent, assistant, employee, or other person, on a  
1901 part-time or full-time basis or on commission, for the purpose of  
1902 calling upon individuals or institutions by whose influence dead  
1903 human bodies may be turned over to a particular funeral  
1904 establishment;

1905 (k) Failure to make responses to communications or  
1906 requests of the board within thirty (30) days;

1907 (l) Knowingly performing any act that in any way  
1908 assists an unlicensed person to practice funeral service or  
1909 funeral directing;

1910 (m) Knowingly making a false statement on death  
1911 certificates; or

1912 (n) Unprofessional conduct which includes, but is not  
1913 limited to:

1914 (i) Retaining a dead human body for the payment of  
1915 a fee for the performance of services that are not authorized;

1916 (ii) Knowingly performing any act which in any way  
1917 assists an unlicensed person to practice funeral service or  
1918 funeral directing;

1919 (iii) Being guilty of any dishonorable conduct  
1920 likely to deceive, defraud or harm the public;

1921 (iv) Any act or omission in the practice of  
1922 funeral service or directing which constitutes dishonesty, fraud  
1923 or misrepresentation with the intent to benefit the licensee,  
1924 another person or funeral establishment, or with the intent to  
1925 substantially injure another person, licensee or funeral  
1926 establishment; or

1927                   (v) Any act or conduct, whether the same or of a  
1928 different character than specified above, which constitutes or  
1929 demonstrates bad faith, incompetency or untrustworthiness; or  
1930 dishonest, fraudulent or improper dealing; or any other violation  
1931 of the provisions of this chapter, the rules and regulations  
1932 established by the board or any rule or regulation promulgated by  
1933 the Federal Trade Commission relative to the practice of funeral  
1934 service or funeral directing.

1935           (2) (a) The board, acting on its own motion or, in the case  
1936 of a default on a loan, on the recommendation of the agency,  
1937 political subdivision or other public or private entity to which  
1938 payments are due, shall suspend the license of any person who  
1939 defaults on or fails to comply with the requirements of an  
1940 educational loan, service conditional scholarship or loan  
1941 repayment program obligation that has been granted or guaranteed  
1942 by any federal, state or local agency or political subdivision  
1943 under which the person obtained any of the education necessary to  
1944 qualify for a license under this chapter. However, before an  
1945 agency, political subdivision or other public or private entity  
1946 may recommend the suspension of a license due to the person's  
1947 default on a loan, that agency, political subdivision or other  
1948 public or private entity must provide the license holder with  
1949 notice of its intention to recommend the suspension of the  
1950 person's license and an opportunity for the license holder to  
1951 respond.

1952                   (b) The person's license will remain suspended until  
1953 the person has: (i) made arrangements satisfactory to the board  
1954 for meeting the obligations of the loan, scholarship or loan  
1955 repayment program; or (ii) in the case of a default on a loan,  
1956 made arrangements satisfactory to the agency, political  
1957 subdivision or other public or private entity to which payments  
1958 are due for the repayment of the loan.

1959           (3) The board may, upon satisfactory proof that the  
1960 applicant or licensee has been guilty of any of the offenses \* \* \*  
1961 enumerated in subsection 1 of this section, refuse to examine or  
1962 issue a license to the applicant, or may refuse to renew or revoke  
1963 or suspend the license of the licensee, or place on probation or  
1964 reprimand him, upon a majority vote of the board members, after a  
1965 hearing thereon. The board is vested with full power and  
1966 authority to hold and conduct such hearings, compel the attendance  
1967 of witnesses and the production of books, records and documents,  
1968 issue subpoenas therefor, administer oaths, examine witnesses, and  
1969 do all things necessary to properly conduct such hearings. The  
1970 board may waive the necessity of a hearing if the person accused  
1971 of a violation admits that he has been guilty of such offense.  
1972 Any person who has been refused a license or whose license has  
1973 been revoked or suspended may, within thirty (30) days after the  
1974 decision of the board, file with the board a written notice  
1975 stating that he feels himself aggrieved by such decision and may  
1976 appeal therefrom to the circuit court of the county and judicial  
1977 district of residence of the person, or if the person is a  
1978 nonresident of the State of Mississippi, to the Circuit Court of  
1979 the First Judicial District of Hinds County. Upon the filing of  
1980 such notice, the secretary of the board shall transmit to the  
1981 clerk of the circuit court the records and findings of such  
1982 proceedings. The circuit court shall hear and determine as to  
1983 whether the action of the board was in accord or consistent with  
1984 law, or was arbitrary, unwarranted or in abuse of discretion. An  
1985 appeal from the circuit court judgment or decree may be reviewed  
1986 by the Supreme Court as is provided by law for other appeals. An  
1987 appeal of a decision or order of the board does not act as a  
1988 supersedeas.

1989           (4) In a proceeding conducted under this section by the  
1990 board for the revocation or suspension of a license, the board  
1991 shall have the power and authority for the grounds stated for such

1992 revocation or suspension, and in addition thereto or in lieu of  
1993 such revocation or suspension may assess and levy upon any person  
1994 licensed under this chapter, a monetary penalty, as follows:

1995           (a) For the first violation of any of the subparagraphs  
1996 of subsection (1) of this section, a monetary penalty of Five  
1997 Hundred Dollars (\$500.00).

1998           (b) For the second violation of any of the  
1999 subparagraphs of subsection (1) of this section, a monetary  
2000 penalty of One Thousand Dollars (\$1,000.00).

2001           (c) For the third and any subsequent violation of any  
2002 of the subparagraphs of subsection (1) of this section, a monetary  
2003 penalty of Five Thousand Dollars (\$5,000.00).

2004           (d) For any violation of any of the subparagraphs of  
2005 subsection (1) of this section, those reasonable costs that are  
2006 expended by the board in the investigation and conduct of a  
2007 proceeding for licensure revocation or suspension, including, but  
2008 not limited to, the cost of process service, court reporters,  
2009 expert witnesses and investigators.

2010           (5) The power and authority of the board to assess and levy  
2011 such monetary penalties hereunder shall not be affected or  
2012 diminished by any other proceeding, civil or criminal, concerning  
2013 the same violation or violations except as provided in this  
2014 section.

2015           (6) A licensee shall have the right of appeal from the  
2016 assessment and levy of a monetary penalty as provided in this  
2017 section under the same conditions as a right of appeal is provided  
2018 elsewhere for appeals from an adverse ruling, order or decision of  
2019 the board.

2020           (7) Any monetary penalty assessed and levied under this  
2021 section shall not take effect until after the time for appeal  
2022 shall have expired.

2023           (8) A monetary penalty assessed and levied under this  
2024 section shall be paid to the board by the licensee upon the

2025 expiration of the period allowed for appeal of such penalties  
2026 under this section or may be paid sooner if the licensee elects.  
2027 With the exception of subsection (3)(d) of this section, monetary  
2028 penalties collected by the board under this section shall be  
2029 deposited in the State Treasury to the credit of the State Board  
2030 of Funeral Service. Any monies collected by the board under  
2031 subsection (3)(d) of this section shall be deposited into the  
2032 special fund operating account of the board.

2033 (9) When payment of a monetary penalty assessed and levied  
2034 by the board against a licensee in accordance with this section is  
2035 not paid by the licensee when due under this section, the board  
2036 shall have power to institute and maintain proceedings in its name  
2037 for enforcement of payment in the chancery court of the county and  
2038 judicial district of residence of the licensee, or if the licensee  
2039 is a nonresident of the State of Mississippi, in the Chancery  
2040 Court of the First Judicial District of Hinds County, Mississippi.

2041 (10) In addition to the reasons specified in subsections (1)  
2042 and (2) of this section, the board shall be authorized to suspend  
2043 the license of any licensee for being out of compliance with an  
2044 order for support, as defined in Section 93-11-153. The procedure  
2045 for suspension of a license for being out of compliance with an  
2046 order for support, and the procedure for the reissuance or  
2047 reinstatement of a license suspended for that purpose, and the  
2048 payment of any fees for the reissuance or reinstatement of a  
2049 license suspended for that purpose, shall be governed by Section  
2050 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
2051 board in suspending a license when required by Section 93-11-157  
2052 or 93-11-163 are not actions from which an appeal may be taken  
2053 under this section. Any appeal of a license suspension that is  
2054 required by Section 93-11-157 or 93-11-163 shall be taken in  
2055 accordance with the appeal procedure specified in Section  
2056 93-11-157 or 93-11-163, as the case may be, rather than the  
2057 procedure specified in this section. If there is any conflict

2058 between any provision of Section 93-11-157 or 93-11-163 and any  
2059 provision of this chapter, the provisions of Section 93-11-157 or  
2060 93-11-163, as the case may be, shall control.

2061 **SECTION 12.** Section 73-13-37, Mississippi Code of 1972, is  
2062 amended as follows:

2063 73-13-37. (1) The board, upon satisfactory proof and in  
2064 accordance with the provisions of this chapter and the  
2065 implementing regulations of the board pertaining thereto, is  
2066 authorized to take the disciplinary actions provided for  
2067 hereinafter against any person or firm practicing engineering or  
2068 surveying, including nonregistrants, for any of the following  
2069 reasons:

2070 (a) Violating any of the provisions of Sections 73-13-1  
2071 through 73-13-45 or the implementing bylaws, rules, regulations,  
2072 or standards of ethics or conduct duly adopted and promulgated by  
2073 the board pertaining to the practice of engineering;

2074 (b) Fraud, deceit or misrepresentation in obtaining a  
2075 certificate of licensure;

2076 (c) Gross negligence, malpractice or incompetency;

2077 (d) Any professional misconduct, as defined by the  
2078 board through bylaws, rules and regulations, and standards of  
2079 conduct and ethics;

2080 (e) Practicing or offering to practice engineering on  
2081 an expired certificate or while under suspension or revocation of  
2082 certificate unless said suspension or revocation be abated through  
2083 probation, as provided for hereinafter; or

2084 (f) Addiction to or dependence on alcohol or other  
2085 habit-forming drugs or being an habitual user of alcohol,  
2086 narcotics, barbiturates, amphetamines, hallucinogens, or other  
2087 drugs having similar effect.

2088 (2) (a) The board, acting on its own motion or, in the case  
2089 of a default on a loan, on the recommendation of the agency,  
2090 political subdivision or other public or private entity to which



2091 payments are due, shall suspend the certificate of licensure of  
2092 any person who defaults on or fails to comply with the  
2093 requirements of an educational loan, service conditional  
2094 scholarship or loan repayment program obligation that has been  
2095 granted or guaranteed by any federal, state or local agency or  
2096 political subdivision under which the person obtained any of the  
2097 education necessary to qualify for a certificate of licensure  
2098 under this chapter. However, before an agency, political  
2099 subdivision or other public or private entity may recommend the  
2100 suspension of a certificate of licensure due to the person's  
2101 default on a loan, that agency, political subdivision or other  
2102 public or private entity must provide the certificate holder with  
2103 notice of its intention to recommend the suspension of the  
2104 person's certificate of licensure and an opportunity for the  
2105 certificate holder to respond.

2106 (b) The person's certificate of licensure will remain  
2107 suspended until the person has: (i) made arrangements  
2108 satisfactory to the board for meeting the obligations of the loan,  
2109 scholarship or loan repayment program; or (ii) in the case of a  
2110 default on a loan, made arrangements satisfactory to the agency,  
2111 political subdivision or other public or private entity to which  
2112 payments are due for the repayment of the loan.

2113 (3) Any person may prefer charges against any other person  
2114 practicing engineering or surveying, including nonlicensees, for  
2115 committing any of the acts set forth in subsection (1). Such  
2116 charges shall be sworn to, either upon actual knowledge or upon  
2117 information and belief, and shall be filed with the board. In the  
2118 event any person certified under Sections 73-13-1 through 73-13-45  
2119 is expelled from membership in any Mississippi professional  
2120 engineering society or association, the board shall thereafter  
2121 cite said person to appear at a hearing before the board and to  
2122 show cause why disciplinary action should not be taken against  
2123 him.

2124           The board shall investigate all charges filed with it and,  
2125 upon finding reasonable cause to believe that the charges are not  
2126 frivolous, unfounded or filed in bad faith, may, in its  
2127 discretion, cause a hearing to be held, at a time and place fixed  
2128 by the board, regarding the charges and may compel the accused by  
2129 subpoena to appear before the board to respond to said charges.

2130           No disciplinary action taken hereunder may be taken until the  
2131 accused has been furnished both a statement of the charges against  
2132 him and notice of the time and place of the hearing thereof, which  
2133 shall be personally served on or mailed by registered or certified  
2134 mail, return receipt requested, to the last-known business or  
2135 residence address of the accused not less than thirty (30) days  
2136 prior to the date fixed for the hearing.

2137           Notice on a firm shall be had by notice on the principal or  
2138 officer designated by the firm as having management or supervision  
2139 of the engineering/surveying practice, or on the registered agent  
2140 in the case of a corporation not domiciled in Mississippi.

2141           (4) At any hearing held hereunder, the board shall have the  
2142 power to subpoena witnesses and compel their attendance and may  
2143 also require the production of books, papers, documents, etc., as  
2144 provided elsewhere in this chapter. The board is authorized to  
2145 designate or secure a hearing officer to conduct the hearing. All  
2146 evidence shall be presented under oath, which may be administered  
2147 by any member of the board, and thereafter the proceedings may, if  
2148 necessary, be transcribed in full by the court reporter and filed  
2149 as part of the record in the case. Copies of such transcriptions  
2150 may be provided to any party to the proceedings at a cost to be  
2151 fixed by the board.

2152           All witnesses who shall be subpoenaed and who shall appear in  
2153 any proceedings before the board shall receive the same fees and  
2154 mileage as allowed by law in judicial civil proceedings, and all  
2155 such fees shall be taxed as part of the costs in the case.

2156           Where in any proceeding before the board any witness shall  
2157 fail or refuse to attend upon subpoena issued by the board, shall  
2158 refuse to testify or shall refuse to produce any books and papers,  
2159 the production of which is called for by the subpoena, the  
2160 attendance of such witness and the giving of his testimony and the  
2161 production of the books and papers shall be enforced by any court  
2162 of competent jurisdiction of this state in the manner provided for  
2163 the enforcement of attendance and testimony of witnesses in civil  
2164 cases in the courts of this state.

2165           The accused shall have the right to be present at the hearing  
2166 in person, by counsel or other representative, or both. The board  
2167 is authorized to continue or recess the hearing as may be  
2168 necessary.

2169           (5) At the conclusion of the hearing, the board may either  
2170 decide the issue at that time or take the case under advisement  
2171 for further deliberation. The board shall render its decision not  
2172 more than ninety (90) days after the close of the hearing, and  
2173 shall forward to the last-known business or residence address of  
2174 the accused, by certified or registered mail, return receipt  
2175 requested, a written statement of the decision of the board.

2176           If a majority of the board finds the accused guilty of the  
2177 charges filed, the board may: (a) issue a public or private  
2178 reprimand; (b) require the guilty party to complete a course or  
2179 courses, approved by the board, in ethics or other appropriate  
2180 subjects; (c) suspend or revoke the certificate of the accused, if  
2181 the accused is a licensee; and/or (d) in lieu of or in addition to  
2182 such reprimand, course completion, suspension or revocation,  
2183 assess and levy upon the guilty party a monetary penalty of not  
2184 less than One Hundred Dollars (\$100.00) nor more than Five  
2185 Thousand Dollars (\$5,000.00) for each violation.

2186           (6) A monetary penalty assessed and levied under this  
2187 section shall be paid to the board upon the expiration of the  
2188 period allowed for appeal of such penalties under this section, or

2189 may be paid sooner if the guilty party elects. Money collected by  
2190 the board under this section shall be deposited to the credit of  
2191 the board's special fund in the State Treasury.

2192 When payment of a monetary penalty assessed and levied by the  
2193 board in accordance with this section is not paid when due, the  
2194 board shall have the power to institute and maintain proceedings  
2195 in its name for enforcement of payment in the chancery court of  
2196 the county and judicial district of residence of the guilty party  
2197 and if the guilty party be a nonresident of the State of  
2198 Mississippi, such proceedings shall be in the Chancery Court of  
2199 the First Judicial District of Hinds County, Mississippi.

2200 (7) When the board has taken a disciplinary action under  
2201 this section, the board may, in its discretion, stay such action  
2202 and place the guilty party on probation for a period not to exceed  
2203 one (1) year upon the condition that the guilty party shall not  
2204 further violate either the laws of the State of Mississippi  
2205 pertaining to the practice of engineering or the bylaws, rules and  
2206 regulations, or standards of conduct and ethics promulgated by the  
2207 board.

2208 (8) The board, in its discretion, may assess and tax any  
2209 part or all of the costs of any disciplinary proceedings conducted  
2210 under this section against either the accused, the charging party,  
2211 or both, as it may elect.

2212 (9) The power and authority of the board to assess and levy  
2213 the monetary penalties provided for in this section shall not be  
2214 affected or diminished by any other proceeding, civil or criminal,  
2215 concerning the same violation or violations except as provided in  
2216 this section.

2217 (10) The board, for sufficient cause, may reissue a revoked  
2218 certificate of licensure or authority whenever a majority of the  
2219 board members vote to do so.

2220 (11) Any person or firm aggrieved by an action of the board  
2221 denying or revoking his certificate of licensure or authority or

2222 relicensure as a professional engineer or his certificate of  
2223 enrollment as an engineer intern, or who is aggrieved by the  
2224 action of the board as a result of disciplinary proceedings  
2225 conducted under this section may appeal therefrom to the chancery  
2226 court of either the county wherein the appellant resides or the  
2227 Chancery Court of the First Judicial District of Hinds County, at  
2228 the election of the appellant. If the appellant is a nonresident  
2229 of this state, the appeal shall be made to the Chancery Court of  
2230 the First Judicial District of Hinds County. Such appeal shall be  
2231 perfected before the board by the filing with the board of a  
2232 notice of appeal to the chancery court. The court shall require a  
2233 bond in an amount not to exceed One Thousand Dollars (\$1,000.00)  
2234 conditioned to pay all costs which may be adjudged against the  
2235 appellant. The notice of appeal shall be filed not later than  
2236 thirty (30) days after the decision of the board is forwarded to  
2237 the guilty party, as provided hereinabove.

2238 All appeals perfected hereunder shall not act as a  
2239 supersedeas, and shall be made to the chancery court solely upon  
2240 the record made before the board during the disciplinary hearing.  
2241 When the appeal shall have been properly perfected as provided  
2242 herein, the board shall cause the record of the proceedings  
2243 conducted before it to be compiled, certified and filed with the  
2244 chancery court. The briefing schedule shall be the same as for  
2245 appeals to the Supreme Court. The chancery court shall be  
2246 required to rule on the case within sixty (60) days of the close  
2247 of briefing. All procedures and penalties provided for in this  
2248 section shall apply to nonlicensees as well as licensees.

2249 (12) In addition to the reasons specified in subsections (1)  
2250 and (2) of this section, the board shall be authorized to suspend  
2251 the certificate of licensure of any person for being out of  
2252 compliance with an order for support, as defined in Section  
2253 93-11-153. The procedure for suspension of a certificate for  
2254 being out of compliance with an order for support, and the

2255 procedure for the reissuance or reinstatement of a certificate  
2256 suspended for that purpose, and the payment of any fees for the  
2257 reissuance or reinstatement of a certificate suspended for that  
2258 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
2259 the case may be. Actions taken by the board in suspending a  
2260 certificate when required by Section 93-11-157 or 93-11-163 are  
2261 not actions from which an appeal may be taken under this section.  
2262 Any appeal of a suspension of a certificate that is required by  
2263 Section 93-11-157 or 93-11-163 shall be taken in accordance with  
2264 the appeal procedure specified in Section 93-11-157 or 93-11-163,  
2265 as the case may be, rather than the procedure specified in this  
2266 section. If there is any conflict between any provision of  
2267 Section 93-11-157 or 93-11-163 and any provision of this chapter,  
2268 the provisions of Section 93-11-157 or 93-11-163, as the case may  
2269 be, shall control.

2270       (13) Any board member whose objectivity in a disciplinary  
2271 proceeding is impaired shall either recuse himself from sitting as  
2272 a member of the board in a formal disciplinary hearing in that  
2273 proceeding or be disqualified therefrom. In the event a  
2274 disciplinary proceeding is brought against a member or former  
2275 member of the board, no member of the board who has served  
2276 concurrently with the respondent in the disciplinary proceeding  
2277 shall sit as a member of the board in a formal disciplinary  
2278 hearing in that proceeding. If, after recusal or disqualification  
2279 of board members as provided herein, there does not remain a  
2280 quorum of the board to sit for a disciplinary hearing, the board  
2281 shall have the power to select, in accordance with duly  
2282 promulgated regulations of the board, substitute panel members  
2283 from slates of candidates established by the Mississippi  
2284 Engineering Society and the Mississippi Association of  
2285 Professional Surveyors to the extent necessary to achieve the  
2286 number of panel members equivalent to a quorum of the board.  
2287 Substitute panel members must meet the qualifications of board

2288 members as provided in Section 73-13-7 and shall receive  
2289 compensation as provided for board members in Section 73-13-9.

2290 **SECTION 13.** Section 73-14-35, Mississippi Code of 1972, is  
2291 amended as follows:

2292 73-14-35. (1) Any person registered under this chapter may  
2293 have his license or certificate revoked or suspended for a fixed  
2294 period to be determined by the board for any of the following  
2295 causes:

2296 (a) Being convicted of an offense involving moral  
2297 turpitude. The record of such conviction, or certified copy  
2298 thereof from the clerk of the court where such conviction occurred  
2299 or by the judge of that court, shall be sufficient evidence to  
2300 warrant revocation or suspension.

2301 (b) By securing a license or certificate under this  
2302 chapter through fraud or deceit.

2303 (c) For unethical conduct or for gross ignorance or  
2304 inefficiency in the conduct of his practice.

2305 (d) For knowingly practicing while suffering with a  
2306 contagious or infectious disease.

2307 (e) For the use of a false name or alias in the  
2308 practice of his profession.

2309 (f) For violating any of the provisions of this chapter  
2310 or any rules or regulations promulgated pursuant to this chapter.

2311 (g) For violating the provisions of any applicable  
2312 federal laws or regulations.

2313 (h) Discipline by another jurisdiction if at least one  
2314 (1) of the grounds for the discipline is the same or substantially  
2315 equivalent to those set forth in this chapter or rules and  
2316 regulations promulgated pursuant to this chapter.

2317 (2) (a) The board, acting on its own motion or, in the case  
2318 of a default on a loan, on the recommendation of the agency,  
2319 political subdivision or other public or private entity to which  
2320 payments are due, shall suspend the license of any person who

2321 defaults on or fails to comply with the requirements of an  
2322 educational loan, service conditional scholarship or loan  
2323 repayment program obligation that has been granted or guaranteed  
2324 by any federal, state or local agency or political subdivision  
2325 under which the person obtained any of the education necessary to  
2326 qualify for a license under this chapter. However, before an  
2327 agency, political subdivision or other public or private entity  
2328 may recommend the suspension of a license due to the person's  
2329 default on a loan, that agency, political subdivision or other  
2330 public or private entity must provide the license holder with  
2331 notice of its intention to recommend the suspension of the  
2332 person's license and an opportunity for the license holder to  
2333 respond.

2334 (b) The person's license will remain suspended until  
2335 the person has: (i) made arrangements satisfactory to the board  
2336 for meeting the obligations of the loan, scholarship or loan  
2337 repayment program; or (ii) in the case of a default on a loan,  
2338 made arrangements satisfactory to the agency, political  
2339 subdivision or other public or private entity to which payments  
2340 are due for the repayment of the loan.

2341 (3) In addition to the causes specified in subsections (1)  
2342 and (2) of this section, the board shall be authorized to suspend  
2343 the license of any licensee for being out of compliance with an  
2344 order for support, as defined in Section 93-11-153. The procedure  
2345 for suspension of a license for being out of compliance with an  
2346 order for support, and the procedure for the reissuance or  
2347 reinstatement of a license suspended for that purpose, and the  
2348 payment of any fees for the reissuance or reinstatement of a  
2349 license suspended for that purpose, shall be governed by Section  
2350 93-11-157 or 93-11-163, as the case may be. If there is any  
2351 conflict between any provision of Section 93-11-157 or 93-11-163  
2352 and any provision of this chapter, the provisions of Section  
2353 93-11-157 or 93-11-163, as the case may be, shall control.



2354           **SECTION 14.** Section 73-15-29, Mississippi Code of 1972, is  
2355 amended as follows:

2356           73-15-29. (1) The board shall have power to revoke, suspend  
2357 or refuse to renew any license issued by the board, or to revoke  
2358 or suspend any privilege to practice, or to deny an application  
2359 for a license, or to fine, place on probation and/or discipline a  
2360 licensee, in any manner specified in this chapter, upon proof that  
2361 such person:

2362           (a) Has committed fraud or deceit in securing or  
2363 attempting to secure such license;

2364           (b) Has been convicted of felony, or a crime involving  
2365 moral turpitude or has had accepted by a court a plea of nolo  
2366 contendere to a felony or a crime involving moral turpitude (a  
2367 certified copy of the judgment of the court of competent  
2368 jurisdiction of such conviction or pleas shall be prima facie  
2369 evidence of such conviction);

2370           (c) Has negligently or willfully acted in a manner  
2371 inconsistent with the health or safety of the persons under the  
2372 licensee's care;

2373           (d) Has had a license or privilege to practice as a  
2374 registered nurse or a licensed practical nurse suspended or  
2375 revoked in any jurisdiction, has voluntarily surrendered such  
2376 license or privilege to practice in any jurisdiction, has been  
2377 placed on probation as a registered nurse or licensed practical  
2378 nurse in any jurisdiction or has been placed under a disciplinary  
2379 order(s) in any manner as a registered nurse or licensed practical  
2380 nurse in any jurisdiction, (a certified copy of the order of  
2381 suspension, revocation, probation or disciplinary action shall be  
2382 prima facie evidence of such action);

2383           (e) Has negligently or willfully practiced nursing in a  
2384 manner that fails to meet generally accepted standards of such  
2385 nursing practice;

2386 (f) Has negligently or willfully violated any order,  
2387 rule or regulation of the board pertaining to nursing practice or  
2388 licensure;

2389 (g) Has falsified or in a repeatedly negligent manner  
2390 made incorrect entries or failed to make essential entries on  
2391 records;

2392 (h) Is addicted to or dependent on alcohol or other  
2393 habit-forming drugs or is a habitual user of narcotics,  
2394 barbiturates, amphetamines, hallucinogens, or other drugs having  
2395 similar effect, or has misappropriated any medication;

2396 (i) Has a physical, mental or emotional condition that  
2397 renders the licensee unable to perform nursing services or duties  
2398 with reasonable skill and safety;

2399 (j) Has engaged in any other conduct, whether of the  
2400 same or of a different character from that specified in this  
2401 chapter, that would constitute a crime as defined in Title 97 of  
2402 the Mississippi Code of 1972, as now or hereafter amended, and  
2403 that relates to such person's employment as a registered nurse or  
2404 licensed practical nurse;

2405 (k) Engages in conduct likely to deceive, defraud or  
2406 harm the public;

2407 (l) Engages in any unprofessional conduct as identified  
2408 by the board in its rules; or

2409 (m) Has violated any provision of this chapter.

2410 (2) (a) The board, acting on its own motion or, in the case  
2411 of a default on a loan, on the recommendation of the agency,  
2412 political subdivision or other public or private entity to which  
2413 payments are due, shall suspend the license of any person who  
2414 defaults on or fails to comply with the requirements of an  
2415 educational loan, service conditional scholarship or loan  
2416 repayment program obligation that has been granted or guaranteed  
2417 by any federal, state or local agency or political subdivision  
2418 under which the person obtained any of the education necessary to

2419 qualify for a license under this chapter. However, before an  
2420 agency, political subdivision or other public or private entity  
2421 may recommend the suspension of a license due to the person's  
2422 default on a loan, that agency, political subdivision or other  
2423 public or private entity must provide the license holder with  
2424 notice of its intention to recommend the suspension of the  
2425 person's license and an opportunity for the license holder to  
2426 respond.

2427 (b) The person's license will remain suspended until  
2428 the person has: (i) made arrangements satisfactory to the board  
2429 for meeting the obligations of the loan, scholarship or loan  
2430 repayment program; or (ii) in the case of a default on a loan,  
2431 made arrangements satisfactory to the agency, political  
2432 subdivision or other public or private entity to which payments  
2433 are due for the repayment of the loan.

2434 (3) When the board finds any person unqualified because of  
2435 any of the grounds set forth in subsection (1) of this section, it  
2436 may enter an order imposing one or more of the following  
2437 penalties:

2438 (a) Denying application for a license or other  
2439 authorization to practice nursing or practical nursing;

2440 (b) Administering a reprimand;

2441 (c) Suspending or restricting the license or other  
2442 authorization to practice as a registered nurse or licensed  
2443 practical nurse for up to two (2) years without review;

2444 (d) Revoking the license or other authorization to  
2445 practice nursing or practical nursing;

2446 (e) Requiring the discipline to submit to care,  
2447 counseling or treatment by persons and/or agencies approved or  
2448 designated by the board as a condition for initial, continued or  
2449 renewed licensure or other authorization to practice nursing or  
2450 practical nursing;

2451 (f) Requiring the discipline to participate in a  
2452 program of education prescribed by the board as a condition for  
2453 initial, continued or renewed licensure or other authorization to  
2454 practice;

2455 (g) Requiring the discipline to practice under the  
2456 supervision of a registered nurse for a specified period of time;  
2457 or

2458 (h) Imposing a fine not to exceed Five Hundred Dollars  
2459 (\$500.00).

2460 (4) In addition to the grounds specified in subsections (1)  
2461 and (2) of this section, the board shall be authorized to suspend  
2462 the license or privilege to practice of any licensee for being out  
2463 of compliance with an order for support, as defined in Section  
2464 93-11-153. The procedure for suspension of a license or privilege  
2465 to practice for being out of compliance with an order for support,  
2466 and the procedure for the reissuance or reinstatement of a license  
2467 or privilege to practice suspended for that purpose, and the  
2468 payment of any fees for the reissuance or reinstatement of a  
2469 license or privilege to practice suspended for that purpose, shall  
2470 be governed by Section 93-11-157 or 93-11-163, as the case may be.  
2471 If there is any conflict between any provision of Section  
2472 93-11-157 or 93-11-163 and any provision of this chapter, the  
2473 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
2474 shall control.

2475 (5) If the public health, safety or welfare imperatively  
2476 requires emergency action and the board incorporates a finding to  
2477 that effect in an order, the board may order summary suspension of  
2478 a license pending proceedings for revocation or other action.  
2479 These proceedings shall be promptly instituted and determined by  
2480 the board.

2481 **SECTION 15.** Section 73-17-15, Mississippi Code of 1972, is  
2482 amended as follows:

2483           73-17-15. (1) The board is authorized to investigate either  
2484 on the basis of complaints filed with it, or on its own  
2485 initiative, instances of suspected violations of this chapter of  
2486 any nature, including but not limited to: performing the duties  
2487 of a nursing home administrator without a license; the providing  
2488 of false information to the board either incident to an  
2489 application for a license, incident to a hearing, or otherwise;  
2490 maladministration; unethical conduct; incompetence; the conviction  
2491 of a licensee of a felony; the misappropriation of funds; or of  
2492 any other matter reflecting unfavorably upon the holder of a  
2493 license under this chapter or an applicant therefor. On the basis  
2494 of information developed during such an investigation, the board  
2495 may: (a) revoke, suspend, or refuse to renew any license issued  
2496 by the board; (b) deny an application for a license; or (c)  
2497 reprimand, place on probation, and/or take any other action in  
2498 relation to a license, as the board may deem proper under the  
2499 circumstances. Whenever the results of such an investigation are  
2500 filed, the executive director of the board shall set a day for a  
2501 hearing, and shall transmit to the licensee a true copy of all  
2502 papers filed with the board relating to such investigation and  
2503 shall notify the licensee that on the day fixed for hearing he may  
2504 appear and show cause, if any, why his license should not be  
2505 revoked, suspended, or other action taken in relation to his  
2506 license. Such notice shall be transmitted to the licensee by  
2507 certified United States mail to the address of such licensee  
2508 appearing of record with the board.

2509           (2) (a) The board, acting on its own motion or, in the case  
2510 of a default on a loan, on the recommendation of the agency,  
2511 political subdivision or other public or private entity to which  
2512 payments are due, shall suspend the license of any person who  
2513 defaults on or fails to comply with the requirements of an  
2514 educational loan, service conditional scholarship or loan  
2515 repayment program obligation that has been granted or guaranteed

2516 by any federal, state or local agency or political subdivision  
2517 under which the person obtained any of the education necessary to  
2518 qualify for a license under this chapter. However, before an  
2519 agency, political subdivision or other public or private entity  
2520 may recommend the suspension of a license due to the person's  
2521 default on a loan, that agency, political subdivision or other  
2522 public or private entity must provide the license holder with  
2523 notice of its intention to recommend the suspension of the  
2524 person's license and an opportunity for the license holder to  
2525 respond.

2526           (b) The person's license will remain suspended until  
2527 the person has: (i) made arrangements satisfactory to the board  
2528 for meeting the obligations of the loan, scholarship or loan  
2529 repayment program; or (ii) in the case of a default on a loan,  
2530 made arrangements satisfactory to the agency, political  
2531 subdivision or other public or private entity to which payments  
2532 are due for the repayment of the loan.

2533           (3) The board, upon finding and determining that any person  
2534 represents himself to be a nursing home administrator or performs  
2535 any or all of the services, acts or duties of a nursing home  
2536 administrator as defined in this chapter without a license, is  
2537 authorized to petition the chancery court of the county in which  
2538 such unauthorized acts have been, are being or may be committed,  
2539 for writ or writs of injunction prohibiting such unauthorized  
2540 acts. This provision is supplemental and in addition to the penal  
2541 provisions set forth in Section 73-17-13.

2542           (4) Any licensee whose license has been revoked or  
2543 suspended, or who has been placed on probation or reprimanded  
2544 after a contested hearing may appeal such action of the board to  
2545 the chancery court of the county in which such nursing home  
2546 administrator is practicing, which appeal shall not be a de novo  
2547 appeal but shall be determined upon an official transcript of the  
2548 record of the contested hearing. Appeals to the chancery court

2549 shall be taken within ten (10) days from the date of the board's  
2550 order and shall be taken, perfected, heard and determined either  
2551 in termtime or in vacation, and such appeals shall be heard and  
2552 disposed of promptly by the court. Appeals from the board shall  
2553 be taken and perfected by the filing of a bond in the sum of Two  
2554 Hundred Fifty Dollars (\$250.00) with two (2) sureties, or with a  
2555 surety company qualified to do business in Mississippi as surety,  
2556 conditioned to pay the costs of the appeal. Such bond shall be  
2557 payable to the state and shall be approved by the clerk of the  
2558 chancery court. Such bond may be enforced in its name as other  
2559 judicial bonds filed in the chancery court, and judgment may be  
2560 entered upon such bonds and process and execution shall issue upon  
2561 such judgments as provided by law in other cases. Upon approval  
2562 of the bond by the clerk of the chancery court, the clerk shall  
2563 give notice to the board of the appeal from the decision of the  
2564 board. It thereupon shall be the duty of the board through its  
2565 duly authorized representative to promptly transmit to the clerk  
2566 of the chancery court in which the appeal is pending a certified  
2567 copy of the order of the board and all documents filed relating to  
2568 the board's action against such licensee, together with a  
2569 transcript of the testimony, both oral and documentary, introduced  
2570 for consideration by the board both in support of and in  
2571 opposition to such action, which appeal shall be docketed by the  
2572 clerk and shall be determined by the court based upon such record.  
2573 If there is an appeal, such appeal may, in the discretion of and  
2574 on motion to the chancery court, act as a supersedeas. The  
2575 chancery court shall dispose of the appeal and enter its decision  
2576 promptly. The hearing on the appeal may, in the discretion of the  
2577 chancellor, be tried in vacation.

2578       (5) Appeals from the decision of the chancery court may be  
2579 taken by either the board or the licensee to the Supreme Court as  
2580 in the case of appeals generally from the chancery court to the  
2581 Supreme Court.

2582           (6) In addition to the reasons specified in subsections (1)  
2583 and (2) of this section, the board shall be authorized to suspend  
2584 the license of any licensee for being out of compliance with an  
2585 order for support, as defined in Section 93-11-153. The procedure  
2586 for suspension of a license for being out of compliance with an  
2587 order for support, and the procedure for the reissuance or  
2588 reinstatement of a license suspended for that purpose, and the  
2589 payment of any fees for the reissuance or reinstatement of a  
2590 license suspended for that purpose, shall be governed by Section  
2591 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
2592 board in revoking a license when required by Section 93-11-157 or  
2593 93-11-163 are not actions from which an appeal may be taken under  
2594 this section. Any appeal of a license suspension that is required  
2595 by Section 93-11-157 or 93-11-163 shall be taken in accordance  
2596 with the appeal procedure specified in Section 93-11-157 or  
2597 93-11-163, as the case may be, rather than the procedure specified  
2598 in this section. If there is any conflict between any provision of  
2599 Section 93-11-157 or 93-11-163 and any provision of this chapter,  
2600 the provisions of Section 93-11-157 or 93-11-163, as the case may  
2601 be, shall control.

2602           **SECTION 16.** Section 73-19-23, Mississippi Code of 1972, is  
2603 amended as follows:

2604           73-19-23. (1) The board shall refuse to grant a certificate  
2605 of licensure to any applicant and may cancel, revoke or suspend  
2606 the operation of any certificate by it granted for any or all of  
2607 the following reasons, to wit: unprofessional and unethical  
2608 conduct or the conviction of a crime involving moral turpitude,  
2609 habitual intemperance in the use of ardent spirits, or stimulants,  
2610 narcotics, or any other substance that impairs the intellect and  
2611 judgment to such an extent as to incapacitate one for the  
2612 performance of the duties of an optometrist. The certificate of  
2613 licensure of any person can be revoked for violating any section  
2614 of this chapter.



2615           (2) The board may take disciplinary action against a  
2616 licensee for any unlawful acts, which shall include violations of  
2617 regulations promulgated by the board, as well as the following  
2618 acts:

2619           (a) Fraud or misrepresentation in applying for or  
2620 procuring an optometric license or in connection with applying for  
2621 or procuring periodic renewal of an optometric license.

2622           (b) Cheating on or attempting to subvert the optometric  
2623 licensing examination(s).

2624           (c) The conviction of a felony in this state or any  
2625 other jurisdiction, or the entry of guilty or nolo contendere plea  
2626 to a felony charge.

2627           (d) The conviction of a felony as defined by federal  
2628 law, or the entry of a guilty or nolo contendere plea to a felony  
2629 charge.

2630           (e) Conduct likely to deceive, defraud or harm the  
2631 public.

2632           (f) Making a false or misleading statement regarding  
2633 his or her skill or the efficacy or value of the medicine, device,  
2634 treatment or remedy prescribed by him or her or used at his or her  
2635 direction in the treatment of any disease or other condition.

2636           (g) Willfully or negligently violating the  
2637 confidentiality between doctor and patient, except as required by  
2638 law.

2639           (h) Negligence or gross incompetence in the practice of  
2640 optometry as determined by the board.

2641           (i) Being found mentally incompetent or insane by any  
2642 court of competent jurisdiction.

2643           (j) The use of any false, fraudulent, deceptive or  
2644 misleading statement in any document connected with the practice  
2645 of optometry.

2646           (k) Aiding or abetting the practice of optometry by an  
2647 unlicensed, incompetent or impaired person.

2648           (1) Commission of any act of sexual abuse, misconduct  
2649 or exploitation related to the licensee's practice of optometry.  
2650           (m) Being addicted or habituated to a drug or  
2651 intoxicant.  
2652           (n) Violating any state or federal law or regulation  
2653 relating to a drug legally classified as a controlled substance.  
2654           (o) Obtaining any fee by fraud, deceit or  
2655 misrepresentation.  
2656           (p) Disciplinary action of another state or  
2657 jurisdiction against a licensee or other authorization to practice  
2658 optometry based upon acts or conduct by the licensee similar to  
2659 acts or conduct that would constitute grounds for action as  
2660 defined in this chapter, a certified copy of the record of the  
2661 action taken by the other state or jurisdiction being conclusive  
2662 evidence thereof.  
2663           (q) Failure to report to the board the relocation of  
2664 his or her office in or out of the jurisdiction, or to furnish  
2665 floor plans as required by regulation.  
2666           (r) Violation of any provision(s) of the Optometry  
2667 Practice Act or the rules and regulations of the board or of an  
2668 action, stipulation or agreement of the board.  
2669           (s) To advertise in a manner that tends to deceive,  
2670 mislead or defraud the public.  
2671           (t) The designation of any person licensed under this  
2672 chapter, other than by the terms "optometrist," "Doctor of  
2673 Optometry" or "O.D."  
2674           (u) To knowingly submit or cause to be submitted any  
2675 misleading, deceptive or fraudulent representation on a claim  
2676 form, bill or statement.  
2677           (v) To practice or attempt to practice optometry while  
2678 his or her license is suspended.  
2679           (3) (a) The board, acting on its own motion or, in the case  
2680 of a default on a loan, on the recommendation of the agency,

2681 political subdivision or other public or private entity to which  
2682 payments are due, shall suspend the certificate of licensure of  
2683 any person who defaults on or fails to comply with the  
2684 requirements of an educational loan, service conditional  
2685 scholarship or loan repayment program obligation that has been  
2686 granted or guaranteed by any federal, state or local agency or  
2687 political subdivision under which the person obtained any of the  
2688 education necessary to qualify for a certificate of licensure  
2689 under this chapter. However, before an agency, political  
2690 subdivision or other public or private entity may recommend the  
2691 suspension of a certificate of licensure due to the person's  
2692 default on a loan, that agency, political subdivision or other  
2693 public or private entity must provide the certificate holder with  
2694 notice of its intention to recommend the suspension of the  
2695 person's certificate of licensure and an opportunity for the  
2696 certificate holder to respond.

2697 (b) The person's certificate of licensure will remain  
2698 suspended until the person has: (i) made arrangements  
2699 satisfactory to the board for meeting the obligations of the loan,  
2700 scholarship or loan repayment program; or (ii) in the case of a  
2701 default on a loan, made arrangements satisfactory to the agency,  
2702 political subdivision or other public or private entity to which  
2703 payments are due for the repayment of the loan.

2704 (4) Any person who is holder of a certificate of licensure  
2705 or who is an applicant for examination for a certificate of  
2706 licensure, against whom is preferred any charges, shall be  
2707 furnished by the board with a copy of the complaint and shall have  
2708 a hearing in Jackson, Mississippi, before the board, at which  
2709 hearing he may be represented by counsel. At the hearing  
2710 witnesses may be examined for and against the accused respecting  
2711 the \* \* \* charges, and the hearing orders or appeals will be  
2712 conducted according to the procedure now provided in Section  
2713 73-25-27. The suspension of a certificate of licensure, by reason

2714 of the use of stimulants or narcotics may be removed when the  
2715 holder thereof has been adjudged by the \* \* \* board to be cured  
2716 and capable of practicing optometry.

2717       (5) In addition to the reasons specified in subsections (1)  
2718 through (3) of this section, the board may suspend the license of  
2719 any licensee for being out of compliance with an order for  
2720 support, as defined in Section 93-11-153. The procedure for  
2721 suspension of a license for being out of compliance with an order  
2722 for support, and the procedure for the reissuance or reinstatement  
2723 of a license suspended for that purpose, and the payment of any  
2724 fees for the reissuance or reinstatement of a license suspended  
2725 for that purpose, shall be governed by Section 93-11-157 or  
2726 93-11-163, as the case may be. If there is any conflict between  
2727 any provision of Section 93-11-157 or 93-11-163 and any provision  
2728 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
2729 as the case may be, shall control.

2730       **SECTION 17.** Section 73-21-97, Mississippi Code of 1972, is  
2731 amended as follows:

2732       73-21-97. (1) The board may refuse to issue or renew, or  
2733 may suspend, reprimand, revoke or restrict the license,  
2734 registration or permit of any person upon one or more of the  
2735 following grounds:

2736               (a) Unprofessional conduct as defined by the rules and  
2737 regulations of the board;

2738               (b) Incapacity of a nature that prevents a pharmacist  
2739 from engaging in the practice of pharmacy with reasonable skill,  
2740 confidence and safety to the public;

2741               (c) Being found guilty by a court of competent  
2742 jurisdiction of one or more of the following:

2743                       (i) A felony;

2744                       (ii) Any act involving moral turpitude or gross  
2745 immorality; or

2746 (iii) Violation of pharmacy or drug laws of this  
2747 state or rules or regulations pertaining thereto, or of statutes,  
2748 rules or regulations of any other state or the federal government;  
2749 (d) Fraud or intentional misrepresentation by a  
2750 licensee or permit holder in securing the issuance or renewal of a  
2751 license or permit;  
2752 (e) Engaging or aiding and abetting an individual to  
2753 engage in the practice of pharmacy without a license;  
2754 (f) Violation of any of the provisions of this chapter  
2755 or rules or regulations adopted under this chapter;  
2756 (g) Failure to comply with lawful orders of the board;  
2757 (h) Negligently or willfully acting in a manner  
2758 inconsistent with the health or safety of the public;  
2759 (i) Addiction to or dependence on alcohol or controlled  
2760 substances or the unauthorized use or possession of controlled  
2761 substances;  
2762 (j) Misappropriation of any prescription drug;  
2763 (k) Being found guilty by the licensing agency in  
2764 another state of violating the statutes, rules or regulations of  
2765 that jurisdiction; or  
2766 (l) The unlawful or unauthorized possession of a  
2767 controlled substance.  
2768 (2) In lieu of suspension, revocation or restriction of a  
2769 license as provided for above, the board may warn or reprimand the  
2770 offending pharmacist.  
2771 (3) (a) The board, acting on its own motion or, in the case  
2772 of a default on a loan, on the recommendation of the agency,  
2773 political subdivision or other public or private entity to which  
2774 payments are due, shall suspend the pharmacist's license of any  
2775 person who defaults on or fails to comply with the requirements of  
2776 an educational loan, service conditional scholarship or loan  
2777 repayment program obligation that has been granted or guaranteed  
2778 by any federal, state or local agency or political subdivision

2779 under which the person obtained any of the education necessary to  
2780 qualify for a pharmacist's license under this chapter. However,  
2781 before an agency, political subdivision or other public or private  
2782 entity may recommend the suspension of a pharmacist's license due  
2783 to the person's default on a loan, that agency, political  
2784 subdivision or other public or private entity must provide the  
2785 license holder with notice of its intention to recommend the  
2786 suspension of the person's license and an opportunity for the  
2787 license holder to respond.

2788 (b) The pharmacist's license will remain suspended  
2789 until the person has: (i) made arrangements satisfactory to the  
2790 board for meeting the obligations of the loan, scholarship or loan  
2791 repayment program; or (ii) in the case of a default on a loan,  
2792 made arrangements satisfactory to the agency, political  
2793 subdivision or other public or private entity to which payments  
2794 are due for the repayment of the loan.

2795 (4) In addition to the grounds specified in subsections (1)  
2796 and (3) of this section, the board may suspend the license,  
2797 registration or permit of any person for being out of compliance  
2798 with an order for support, as defined in Section 93-11-153. The  
2799 procedure for suspension of a license, registration or permit for  
2800 being out of compliance with an order for support, and the  
2801 procedure for the reissuance or reinstatement of a license,  
2802 registration or permit suspended for that purpose, and the payment  
2803 of any fees for the reissuance or reinstatement of a license,  
2804 registration or permit suspended for that purpose, shall be  
2805 governed by Section 93-11-157 or 93-11-163, as the case may be.  
2806 If there is any conflict between any provision of Section  
2807 93-11-157 or 93-11-163 and any provision of this chapter, the  
2808 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
2809 shall control.

2810 **SECTION 18.** Section 73-23-59, Mississippi Code of 1972, is  
2811 amended as follows:

2812           73-23-59. (1) Licensees subject to this chapter shall  
2813 conduct their activities, services and practice in accordance with  
2814 this chapter and any rules promulgated pursuant hereto. Licensees  
2815 may be subject to the exercise of the disciplinary sanction  
2816 enumerated in Section 73-23-64 if the board finds that a licensee  
2817 is guilty of any of the following:

2818           (a) Negligence in the practice or performance of  
2819 professional services or activities;

2820           (b) Engaging in dishonorable, unethical or  
2821 unprofessional conduct of a character likely to deceive, defraud  
2822 or harm the public in the course of professional services or  
2823 activities;

2824           (c) Perpetrating or cooperating in fraud or material  
2825 deception in obtaining or renewing a license or attempting the  
2826 same;

2827           (d) Being convicted of any crime which has a  
2828 substantial relationship to the licensee's activities and services  
2829 or an essential element of which is misstatement, fraud or  
2830 dishonesty;

2831           (e) Being convicted of any crime which is a felony  
2832 under the laws of this state or the United States;

2833           (f) Engaging in or permitting the performance of  
2834 unacceptable services personally or by others working under the  
2835 licensee's supervision due to the licensee's deliberate or  
2836 negligent act or acts or failure to act, regardless of whether  
2837 actual damage or damages to the public is established;

2838           (g) Continued practice although the licensee has become  
2839 unfit to practice as a physical therapist or physical therapist  
2840 assistant due to: (i) failure to keep abreast of current  
2841 professional theory or practice; or (ii) physical or mental  
2842 disability; the entry of an order or judgment by a court of  
2843 competent jurisdiction that a licensee is in need of mental  
2844 treatment or is incompetent shall constitute mental disability; or

2845 (iii) addiction or severe dependency upon alcohol or other drugs  
2846 which may endanger the public by impairing the licensee's ability  
2847 to practice;

2848 (h) Having disciplinary action taken against the  
2849 licensee's license in another state;

2850 (i) Making differential, detrimental treatment against  
2851 any person because of race, color, creed, sex, religion or  
2852 national origin;

2853 (j) Engaging in lewd conduct in connection with  
2854 professional services or activities;

2855 (k) Engaging in false or misleading advertising;

2856 (l) Contracting, assisting or permitting unlicensed  
2857 persons to perform services for which a license is required under  
2858 this chapter;

2859 (m) Violation of any probation requirements placed on a  
2860 license by the board;

2861 (n) Revealing confidential information except as may be  
2862 required by law;

2863 (o) Failing to inform clients of the fact that the  
2864 client no longer needs the services or professional assistance of  
2865 the licensee;

2866 (p) Charging excessive or unreasonable fees or engaging  
2867 in unreasonable collection practices;

2868 (q) For treating or attempting to treat ailments or  
2869 other health conditions of human beings other than by physical  
2870 therapy as authorized by this chapter;

2871 (r) Except as authorized in Section 73-23-35(3), for  
2872 applying or offering to apply physical therapy, exclusive of  
2873 initial evaluation or screening and exclusive of education or  
2874 consultation for the prevention of physical and mental disability  
2875 within the scope of physical therapy, other than upon the referral  
2876 of a licensed physician, dentist, osteopath, podiatrist,  
2877 chiropractor or nurse practitioner; or for acting as a physical



2878 therapist assistant other than under the direct, on-site  
2879 supervision of a licensed physical therapist;

2880 (s) Violations of the current codes of conduct for  
2881 physical therapists and physical therapy assistants adopted by the  
2882 American Physical Therapy Association;

2883 (t) Violations of any rules or regulations promulgated  
2884 pursuant to this chapter.

2885 (2) The board may order a licensee to submit to a reasonable  
2886 physical or mental examination if the licensee's physical or  
2887 mental capacity to practice safely is at issue in a disciplinary  
2888 proceeding.

2889 (3) Failure to comply with a board order to submit to a  
2890 physical or mental examination shall render a licensee subject to  
2891 the summary suspension procedures described in Section 73-23-64.

2892 (4) (a) The board, acting on its own motion or, in the case  
2893 of a default on a loan, on the recommendation of the agency,  
2894 political subdivision or other public or private entity to which  
2895 payments are due, shall suspend the license of any person who  
2896 defaults on or fails to comply with the requirements of an  
2897 educational loan, service conditional scholarship or loan  
2898 repayment program obligation that has been granted or guaranteed  
2899 by any federal, state or local agency or political subdivision  
2900 under which the person obtained any of the education necessary to  
2901 qualify for a license under this chapter. However, before an  
2902 agency, political subdivision or other public or private entity  
2903 may recommend the suspension of a license due to the person's  
2904 default on a loan, that agency, political subdivision or other  
2905 public or private entity must provide the license holder with  
2906 notice of its intention to recommend the suspension of the  
2907 person's license and an opportunity for the license holder to  
2908 respond.

2909 (b) The person's license will remain suspended until  
2910 the person has: (i) made arrangements satisfactory to the board

2911 for meeting the obligations of the loan, scholarship or loan  
2912 repayment program; or (ii) in the case of a default on a loan,  
2913 made arrangements satisfactory to the agency, political  
2914 subdivision or other public or private entity to which payments  
2915 are due for the repayment of the loan.

2916 (5) In addition to the reasons specified in subsections (1)  
2917 and (4) of this section, the board shall be authorized to suspend  
2918 the license of any licensee for being out of compliance with an  
2919 order for support, as defined in Section 93-11-153. The procedure  
2920 for suspension of a license for being out of compliance with an  
2921 order for support, and the procedure for the reissuance or  
2922 reinstatement of a license suspended for that purpose, and the  
2923 payment of any fees for the reissuance or reinstatement of a  
2924 license suspended for that purpose, shall be governed by Section  
2925 93-11-157 or 93-11-163, as the case may be. If there is any  
2926 conflict between any provision of Section 93-11-157 or 93-11-163  
2927 and any provision of this chapter, the provisions of Section  
2928 93-11-157 or 93-11-163, as the case may be, shall control.

2929 (6) This section shall stand repealed on July 1, 2008.

2930 **SECTION 19.** Section 73-24-24, Mississippi Code of 1972, is  
2931 amended as follows:

2932 73-24-24. (1) Licensees subject to this chapter shall  
2933 conduct their activities, services and practice in accordance with  
2934 this chapter and any rules promulgated pursuant hereto. Licenses  
2935 may be subject to the exercise of the disciplinary sanction  
2936 enumerated in Section 73-24-25 if the board finds that a licensee  
2937 is guilty of any of the following:

2938 (a) Negligence in the practice or performance of  
2939 professional services or activities;

2940 (b) Engaging in dishonorable, unethical or  
2941 unprofessional conduct of a character likely to deceive, defraud  
2942 or harm the public in the course of professional services or  
2943 activities;

2944 (c) Perpetrating or cooperating in fraud or material  
2945 deception in obtaining or renewing a license or attempting the  
2946 same;

2947 (d) Being convicted of any crime that has a substantial  
2948 relationship to the licensee's activities and services or an  
2949 essential element of which is misstatement, fraud or dishonesty;

2950 (e) Being convicted of any crime that is a felony under  
2951 the laws of this state or the United States;

2952 (f) Engaging in or permitting the performance of  
2953 unacceptable services personally or by others working under the  
2954 licensee's supervision due to the licensee's deliberate or  
2955 negligent act or acts or failure to act, regardless of whether  
2956 actual damage or damages to the public is established;

2957 (g) Continued practice although the licensee has become  
2958 unfit to practice as an occupational therapist or occupational  
2959 therapist assistant due to:

2960 (i) Failure to keep abreast of current  
2961 professional theory or practice; \* \* \*

2962 (ii) Physical or mental disability; the entry of  
2963 an order or judgment by a court of competent jurisdiction that a  
2964 licensee is in need of mental treatment or is incompetent shall  
2965 constitute mental disability; or

2966 (iii) Addiction or severe dependency upon alcohol  
2967 or other drugs that may endanger the public by impairing the  
2968 licensee's ability to practice;

2969 (h) Having disciplinary action taken against the  
2970 licensee's license in another state;

2971 (i) Making differential, detrimental treatment against  
2972 any person because of race, color, creed, sex, religion or  
2973 national origin;

2974 (j) Engaging in lewd conduct in connection with  
2975 professional services or activities;

2976 (k) Engaging in false or misleading advertising;

2977           (1) Contracting, assisting or permitting unlicensed  
2978 persons to perform services for which a license is required under  
2979 this chapter;

2980           (m) Violation of any probation requirements placed on a  
2981 license by the board;

2982           (n) Revealing confidential information except as may be  
2983 required by law;

2984           (o) Failing to inform clients of the fact that the  
2985 client no longer needs the services or professional assistance of  
2986 the licensee;

2987           (p) Charging excessive or unreasonable fees or engaging  
2988 in unreasonable collection practices;

2989           (q) For treating or attempting to treat ailments or  
2990 other health conditions of human beings other than by occupational  
2991 therapy as authorized by this chapter;

2992           (r) For practice or activities considered to be  
2993 unprofessional conduct as defined by the rules and regulations;

2994           (s) Violations of the current codes of conduct for  
2995 occupational therapists and occupational therapy assistants  
2996 adopted by the American Occupational Therapy Association;

2997           (t) Violations of any rules or regulations promulgated  
2998 pursuant to this chapter.

2999           (2) (a) The board, acting on its own motion or, in the case  
3000 of a default on a loan, on the recommendation of the agency,  
3001 political subdivision or other public or private entity to which  
3002 payments are due, shall suspend the license of any person who  
3003 defaults on or fails to comply with the requirements of an  
3004 educational loan, service conditional scholarship or loan  
3005 repayment program obligation that has been granted or guaranteed  
3006 by any federal, state or local agency or political subdivision  
3007 under which the person obtained any of the education necessary to  
3008 qualify for a license under this chapter. However, before an  
3009 agency, political subdivision or other public or private entity

3010 may recommend the suspension of a license due to the person's  
3011 default on a loan, that agency, political subdivision or other  
3012 public or private entity must provide the license holder with  
3013 notice of its intention to recommend the suspension of the  
3014 person's license and an opportunity for the license holder to  
3015 respond.

3016 (b) The person's license will remain suspended until  
3017 the person has: (i) made arrangements satisfactory to the board  
3018 for meeting the obligations of the loan, scholarship or loan  
3019 repayment program; or (ii) in the case of a default on a loan,  
3020 made arrangements satisfactory to the agency, political  
3021 subdivision or other public or private entity to which payments  
3022 are due for the repayment of the loan.

3023 (3) The board may order a licensee to submit to a reasonable  
3024 physical or mental examination if the licensee's physical or  
3025 mental capacity to practice safely is at issue in a disciplinary  
3026 proceeding.

3027 (4) Failure to comply with a board order to submit to a  
3028 physical or mental examination shall render a licensee subject to  
3029 the summary suspension procedures described in Section 73-24-25.

3030 **SECTION 20.** Section 73-25-29, Mississippi Code of 1972, is  
3031 amended as follows:

3032 73-25-29. (1) The grounds for the nonissuance, suspension,  
3033 revocation or restriction of a license or the denial of  
3034 reinstatement or renewal of a license are:

3035 (a) Habitual personal use of narcotic drugs, or any  
3036 other drug having addiction-forming or addiction-sustaining  
3037 liability.

3038 (b) Habitual use of intoxicating liquors, or any  
3039 beverage, to an extent that affects professional competency.

3040 (c) Administering, dispensing or prescribing any  
3041 narcotic drug, or any other drug having addiction-forming or

3042 addiction-sustaining liability otherwise than in the course of  
3043 legitimate professional practice.

3044           (d) Conviction of violation of any federal or state law  
3045 regulating the possession, distribution or use of any narcotic  
3046 drug or any drug considered a controlled substance under state or  
3047 federal law, a certified copy of the conviction order or judgment  
3048 rendered by the trial court being prima facie evidence thereof,  
3049 notwithstanding the pendency of any appeal.

3050           (e) Procuring, or attempting to procure, or aiding in,  
3051 an abortion that is not medically indicated.

3052           (f) Conviction of a felony or misdemeanor involving  
3053 moral turpitude, a certified copy of the conviction order or  
3054 judgment rendered by the trial court being prima facie evidence  
3055 thereof, notwithstanding the pendency of any appeal.

3056           (g) Obtaining or attempting to obtain a license by  
3057 fraud or deception.

3058           (h) Unprofessional conduct, which includes, but is not  
3059 limited to:

3060                   (i) Practicing medicine under a false or assumed  
3061 name or impersonating another practitioner, living or dead.

3062                   (ii) Knowingly performing any act that in any way  
3063 assists an unlicensed person to practice medicine.

3064                   (iii) Making or willfully causing to be made any  
3065 flamboyant claims concerning the licensee's professional  
3066 excellence.

3067                   (iv) Being guilty of any dishonorable or unethical  
3068 conduct likely to deceive, defraud or harm the public.

3069                   (v) Obtaining a fee as personal compensation or  
3070 gain from a person on fraudulent representation a disease or  
3071 injury condition generally considered incurable by competent  
3072 medical authority in the light of current scientific knowledge and  
3073 practice can be cured or offering, undertaking, attempting or

3074 agreeing to cure or treat the same by a secret method, which he  
3075 refuses to divulge to the board upon request.

3076           (vi) Use of any false, fraudulent or forged  
3077 statement or document, or the use of any fraudulent, deceitful,  
3078 dishonest or immoral practice in connection with any of the  
3079 licensing requirements, including the signing in his professional  
3080 capacity any certificate that is known to be false at the time he  
3081 makes or signs the certificate.

3082           (vii) Failing to identify a physician's school of  
3083 practice in all professional uses of his name by use of his earned  
3084 degree or a description of his school of practice.

3085           (i) The refusal of a licensing authority of another  
3086 state or jurisdiction to issue or renew a license, permit or  
3087 certificate to practice medicine in that jurisdiction or the  
3088 revocation, suspension or other restriction imposed on a license,  
3089 permit or certificate issued by that licensing authority which  
3090 prevents or restricts practice in that jurisdiction, a certified  
3091 copy of the disciplinary order or action taken by the other state  
3092 or jurisdiction being prima facie evidence thereof,  
3093 notwithstanding the pendency of any appeal.

3094           (j) Surrender of a license or authorization to practice  
3095 medicine in another state or jurisdiction or surrender of  
3096 membership on any medical staff or in any medical or professional  
3097 association or society while under disciplinary investigation by  
3098 any of those authorities or bodies for acts or conduct similar to  
3099 acts or conduct that would constitute grounds for action as  
3100 defined in this section.

3101           (k) Final sanctions imposed by the United States  
3102 Department of Health and Human Services, Office of Inspector  
3103 General or any successor federal agency or office, based upon a  
3104 finding of incompetency, gross misconduct or failure to meet  
3105 professionally recognized standards of health care; a certified  
3106 copy of the notice of final sanction being prima facie evidence

3107 thereof. As used in this paragraph, the term "final sanction"  
3108 means the written notice to a physician from the United States  
3109 Department of Health and Human Services, Officer of Inspector  
3110 General or any successor federal agency or office, that implements  
3111 the exclusion.

3112 (l) Failure to furnish the board, its investigators or  
3113 representatives information legally requested by the board.

3114 (m) Violation of any provision(s) of the Medical  
3115 Practice Act or the rules and regulations of the board or of any  
3116 order, stipulation or agreement with the board.

3117 (2) (a) The board, acting on its own motion or, in the case  
3118 of a default on a loan, on the recommendation of the agency,  
3119 political subdivision or other public or private entity to which  
3120 payments are due, shall suspend the license of any person who  
3121 defaults on or fails to comply with the requirements of an  
3122 educational loan, service conditional scholarship or loan  
3123 repayment program obligation that has been granted or guaranteed  
3124 by any federal, state or local agency or political subdivision  
3125 under which the person obtained any of the education necessary to  
3126 qualify for a license under this chapter. However, before an  
3127 agency, political subdivision or other public or private entity  
3128 may recommend the suspension of a license due to the person's  
3129 default on a loan, that agency, political subdivision or other  
3130 public or private entity must provide the license holder with  
3131 notice of its intention to recommend the suspension of the  
3132 person's license and an opportunity for the license holder to  
3133 respond.

3134 (b) The person's license will remain suspended until  
3135 the person has: (i) made arrangements satisfactory to the board  
3136 for meeting the obligations of the loan, scholarship or loan  
3137 repayment program; or (ii) in the case of a default on a loan,  
3138 made arrangements satisfactory to the agency, political



3139 subdivision or other public or private entity to which payments  
3140 are due for the repayment of the loan.

3141       (3) In addition to the grounds specified in subsections (1)  
3142 and (2) of this section, the board may suspend the license of any  
3143 licensee for being out of compliance with an order for support, as  
3144 defined in Section 93-11-153. The procedure for suspension of a  
3145 license for being out of compliance with an order for support, and  
3146 the procedure for the reissuance or reinstatement of a license  
3147 suspended for that purpose, and the payment of any fees for the  
3148 reissuance or reinstatement of a license suspended for that  
3149 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
3150 the case may be. If there is any conflict between any provision  
3151 of Section 93-11-157 or 93-11-163 and any provision of this  
3152 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
3153 case may be, shall control.

3154       **SECTION 21.** Section 73-26-5, Mississippi Code of 1972, is  
3155 amended as follows:

3156       73-26-5. (1) The board shall promulgate and publish  
3157 reasonable rules and regulations necessary to enable it to  
3158 discharge its functions and to enforce the provisions of law  
3159 regulating the practice of physician assistants. Those rules  
3160 shall include, but are not limited to:

3161       (a) Qualifications for licensure for physician  
3162 assistants;

3163       (b) Scope of practice of physician assistants;

3164       (c) Supervision of physician assistants;

3165       (d) Identification of physician assistants;

3166       (e) Grounds for disciplinary actions and discipline of  
3167 physician assistants; and

3168       (f) Setting and charging reasonable fees for licensure  
3169 and license renewals for physician assistants. However, nothing  
3170 in this chapter or in rules adopted by the board shall authorize  
3171 physician assistants to administer or monitor general inhaled

3172 anesthesia, epidural anesthesia, spinal anesthesia or monitored  
3173 anesthesia as utilized in surgical procedures.

3174       (2) (a) The board, acting on its own motion or, in the case  
3175 of a default on a loan, on the recommendation of the agency,  
3176 political subdivision or other public or private entity to which  
3177 payments are due, shall suspend the license of any person who  
3178 defaults on or fails to comply with the requirements of an  
3179 educational loan, service conditional scholarship or loan  
3180 repayment program obligation that has been granted or guaranteed  
3181 by any federal, state or local agency or political subdivision  
3182 under which the person obtained any of the education necessary to  
3183 qualify for a license under this chapter. However, before an  
3184 agency, political subdivision or other public or private entity  
3185 may recommend the suspension of a license due to the person's  
3186 default on a loan, that agency, political subdivision or other  
3187 public or private entity must provide the license holder with  
3188 notice of its intention to recommend the suspension of the  
3189 person's license and an opportunity for the license holder to  
3190 respond.

3191       (b) The person's license will remain suspended until  
3192 the person has: (i) made arrangements satisfactory to the board  
3193 for meeting the obligations of the loan, scholarship or loan  
3194 repayment program; or (ii) in the case of a default on a loan,  
3195 made arrangements satisfactory to the agency, political  
3196 subdivision or other public or private entity to which payments  
3197 are due for the repayment of the loan.

3198       (3) If the board appoints a task force or committee to  
3199 address physician assistant regulation, at least one (1) member of  
3200 the task force shall be a nurse practitioner who is a member of  
3201 the Mississippi Board of Nursing or a nurse practitioner appointee  
3202 selected by the board from a list of three (3) recommendations  
3203 submitted by the Mississippi Nurses Association, and at least one  
3204 (1) member shall be a physician assistant selected by the board

3205 from a list of three (3) recommendations submitted by the  
3206 Mississippi Academy of Physician Assistants.

3207 **SECTION 22.** Section 73-27-13, Mississippi Code of 1972, is  
3208 amended as follows:

3209 73-27-13. (1) The State Board of Medical Licensure may  
3210 refuse to issue, suspend, revoke or otherwise restrict any license  
3211 provided for in this chapter, with the advice of the advisory  
3212 committee, based upon the following grounds:

3213 (a) Habitual personal use of narcotic drugs, or any  
3214 other drug having addiction-forming or addiction-sustaining  
3215 liability.

3216 (b) Habitual use of intoxicating liquors, or any  
3217 beverage, to an extent that affects professional competency.

3218 (c) Administering, dispensing or prescribing any  
3219 narcotic drug, or any other drug having addiction-forming or  
3220 addiction-sustaining liability otherwise than in the course of  
3221 legitimate professional practice.

3222 (d) Conviction of violation of any federal or state law  
3223 regulating the possession, distribution or use of any narcotic  
3224 drug or any drug considered a controlled substance under state or  
3225 federal law.

3226 (e) Performing any medical diagnosis or treatment  
3227 outside the scope of podiatry as defined in Section 73-27-1.

3228 (f) Conviction of a felony or misdemeanor involving  
3229 moral turpitude.

3230 (g) Obtaining or attempting to obtain a license by  
3231 fraud or deception.

3232 (h) Unprofessional conduct, which includes, but is not  
3233 limited to:

3234 (i) Practicing medicine under a false or assumed  
3235 name or impersonating another practitioner, living or dead.

3236 (ii) Knowingly performing any act that in any way  
3237 assists an unlicensed person to practice podiatry.

3238 (iii) Making or willfully causing to be made any  
3239 flamboyant claims concerning the licensee's professional  
3240 excellence.

3241 (iv) Being guilty of any dishonorable or unethical  
3242 conduct likely to deceive, defraud or harm the public.

3243 (v) Obtaining a fee as personal compensation or  
3244 gain from a person on fraudulent representation a disease or  
3245 injury condition generally considered incurable by competent  
3246 medical authority in the light of current scientific knowledge and  
3247 practice can be cured or offering, undertaking, attempting or  
3248 agreeing to cure or treat the same by a secret method, which he  
3249 refuses to divulge to the board upon request.

3250 (vi) Use of any false, fraudulent or forged  
3251 statement or document, or the use of any fraudulent, deceitful,  
3252 dishonest or immoral practice in connection with any of the  
3253 licensing requirements, including the signing in his professional  
3254 capacity any certificate that is known to be false at the time he  
3255 makes or signs the certificate.

3256 (vii) Failing to identify a podiatrist's school of  
3257 practice in all professional uses of his name by use of his earned  
3258 degree or a description of his school of practice.

3259 (i) The refusal of a licensing authority of another  
3260 state to issue or renew a license, permit or certificate to  
3261 practice podiatry in that state or the revocation, suspension or  
3262 other restriction imposed on a license, permit or certificate  
3263 issued by that licensing authority which prevents or restricts  
3264 practice in that state.

3265 (2) (a) The board, acting on its own motion or, in the case  
3266 of a default on a loan, on the recommendation of the agency,  
3267 political subdivision or other public or private entity to which  
3268 payments are due, shall suspend the license of any person who  
3269 defaults on or fails to comply with the requirements of an  
3270 educational loan, service conditional scholarship or loan

3271 repayment program obligation that has been granted or guaranteed  
3272 by any federal, state or local agency or political subdivision  
3273 under which the person obtained any of the education necessary to  
3274 qualify for a license under this chapter. However, before an  
3275 agency, political subdivision or other public or private entity  
3276 may recommend the suspension of a license due to the person's  
3277 default on a loan, that agency, political subdivision or other  
3278 public or private entity must provide the license holder with  
3279 notice of its intention to recommend the suspension of the  
3280 person's license and an opportunity for the license holder to  
3281 respond.

3282           (b) The person's license will remain suspended until  
3283 the person has: (i) made arrangements satisfactory to the board  
3284 for meeting the obligations of the loan, scholarship or loan  
3285 repayment program; or (ii) in the case of a default on a loan,  
3286 made arrangements satisfactory to the agency, political  
3287 subdivision or other public or private entity to which payments  
3288 are due for the repayment of the loan.

3289           (3) Upon the nonissuance, suspension or revocation of a  
3290 license to practice podiatry, the board may, in its discretion and  
3291 with the advice of the advisory committee, reissue a license after  
3292 a lapse of six (6) months. No advertising shall be permitted  
3293 except regular professional cards.

3294           (4) In its investigation of whether the license of a  
3295 podiatrist should be suspended, revoked or otherwise restricted,  
3296 the board may inspect patient records in accordance with the  
3297 provisions of Section 73-25-28.

3298           (5) In addition to the grounds specified in subsections (1)  
3299 and (2) of this section, the board may suspend the license of any  
3300 licensee for being out of compliance with an order for support, as  
3301 defined in Section 93-11-153. The procedure for suspension of a  
3302 license for being out of compliance with an order for support, and  
3303 the procedure for the reissuance or reinstatement of a license

3304 suspended for that purpose, and the payment of any fees for the  
3305 reissuance or reinstatement of a license suspended for that  
3306 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
3307 the case may be. If there is any conflict between any provision  
3308 of Section 93-11-157 or 93-11-163 and any provision of this  
3309 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
3310 case may be, shall control.

3311 **SECTION 23.** Section 73-29-31, Mississippi Code of 1972, is  
3312 amended as follows:

3313 73-29-31. (1) The board may refuse to issue or may suspend  
3314 or revoke a license on any one or more of the following grounds:

3315 (a) For failing to inform a subject to be examined as  
3316 to the nature of the examination;

3317 (b) For failing to inform a subject to be examined that  
3318 his participation in the examination is voluntary;

3319 (c) Material misstatement in the application for  
3320 original license or in the application for any renewal license  
3321 under this chapter;

3322 (d) Willful disregard or violation of this chapter or  
3323 of any regulation or rule issued pursuant thereto, including, but  
3324 not limited to, willfully making a false report concerning an  
3325 examination for polygraph examination purposes;

3326 (e) If the holder of any license has been adjudged  
3327 guilty of the commission of a felony or a misdemeanor involving  
3328 moral turpitude;

3329 (f) Making any willful misrepresentation or false  
3330 promises or causing to be printed any false or misleading  
3331 advertisement for the purpose of directly or indirectly obtaining  
3332 business or trainees;

3333 (g) Having demonstrated unworthiness or incompetency to  
3334 act as a polygraph examiner as defined by this chapter;

3335           (h) Allowing one's license under this chapter to be  
3336 used by any unlicensed person in violation of the provisions of  
3337 this chapter;

3338           (i) Willfully aiding or abetting another in the  
3339 violation of this chapter or any regulation or rule issued  
3340 pursuant thereto;

3341           (j) Where the license holder has been adjudged by a  
3342 court of competent jurisdiction as habitual drunkard, mentally  
3343 incompetent, or in need of a conservator;

3344           (k) Failing, within a reasonable time, to provide  
3345 information requested by the secretary as the result of a formal  
3346 complaint to the board which would indicate a violation of this  
3347 chapter;

3348           (l) Failing to inform the subject of the results of the  
3349 examination if so requested; or

3350           (m) With regard to any polygraph examiner employed for  
3351 a fee and not employed by a governmental law enforcement agency or  
3352 the Mississippi Department of Corrections:

3353           (i) Requiring a subject, prior to taking the  
3354 examination or as a condition of receiving the results of the  
3355 examination, to waive any rights or causes of action he may have  
3356 or which may accrue in favor of the subject arising out of or  
3357 resulting from the administration of the examination; except the  
3358 examiner may require, prior to the examination or as a condition  
3359 of receiving the results of the examination, a subject to waive  
3360 any rights or causes of action that may accrue against the  
3361 examiner as a result of any use made of the results of the  
3362 examination by the person who employed the examiner;

3363           (ii) Requiring a subject to acknowledge that his  
3364 examination is not done for purposes of employment when, in fact,  
3365 the results of the examination are to be submitted to an employer  
3366 or an agent of an employer; or

3367 (iii) Reporting the results of an examination to  
3368 any person not authorized to receive the results of the  
3369 examination except for the person who employed the examiner,  
3370 unless authorized in writing by the subject.

3371 (2) (a) The board, acting on its own motion or, in the case  
3372 of a default on a loan, on the recommendation of the agency,  
3373 political subdivision or other public or private entity to which  
3374 payments are due, shall suspend the license of any person who  
3375 defaults on or fails to comply with the requirements of an  
3376 educational loan, service conditional scholarship or loan  
3377 repayment program obligation that has been granted or guaranteed  
3378 by any federal, state or local agency or political subdivision  
3379 under which the person obtained any of the education necessary to  
3380 qualify for a license under this chapter. However, before an  
3381 agency, political subdivision or other public or private entity  
3382 may recommend the suspension of a license due to the person's  
3383 default on a loan, that agency, political subdivision or other  
3384 public or private entity must provide the license holder with  
3385 notice of its intention to recommend the suspension of the  
3386 person's license and an opportunity for the license holder to  
3387 respond.

3388 (b) The person's license will remain suspended until  
3389 the person has: (i) made arrangements satisfactory to the board  
3390 for meeting the obligations of the loan, scholarship or loan  
3391 repayment program; or (ii) in the case of a default on a loan,  
3392 made arrangements satisfactory to the agency, political  
3393 subdivision or other public or private entity to which payments  
3394 are due for the repayment of the loan.

3395 (3) In addition to the grounds specified in subsections (1)  
3396 and (2) of this section, the board shall be authorized to suspend  
3397 the license of any licensee for being out of compliance with an  
3398 order for support, as defined in Section 93-11-153. The procedure  
3399 for suspension of a license for being out of compliance with an



3400 order for support, and the procedure for the reissuance or  
3401 reinstatement of a license suspended for that purpose, and the  
3402 payment of any fees for the reissuance or reinstatement of a  
3403 license suspended for that purpose, shall be governed by Section  
3404 93-11-157 or 93-11-163, as the case may be. If there is any  
3405 conflict between any provision of Section 93-11-157 or 93-11-163  
3406 and any provision of this chapter, the provisions of Section  
3407 93-11-157 or 93-11-163, as the case may be, shall control.

3408       **SECTION 24.** Section 73-30-21, Mississippi Code of 1972, is  
3409 amended as follows:

3410       73-30-21. (1) The board may, after notice and opportunity  
3411 for a hearing, suspend, revoke or refuse to issue or renew a  
3412 license or may reprimand the license holder, upon a determination  
3413 by the board that the license holder or applicant for licensure  
3414 has:

3415               (a) Been adjudged by any court to be mentally  
3416 incompetent or have had a guardian of person appointed;

3417               (b) Been convicted of a felony;

3418               (c) Sworn falsely under oath or affirmation;

3419               (d) Obtained a license or certificate by fraud, deceit  
3420 or other misrepresentation;

3421               (e) Engaged in the conduct of professional counseling  
3422 in a grossly negligent or incompetent manner;

3423               (f) Intentionally violated any provision of this  
3424 chapter;

3425               (g) Violated any rules or regulations of the board; or

3426               (h) Aided or assisted another in falsely obtaining a  
3427 license under this chapter.

3428       (2) (a) The board, acting on its own motion or, in the case  
3429 of a default on a loan, on the recommendation of the agency,  
3430 political subdivision or other public or private entity to which  
3431 payments are due, shall suspend the license of any person who  
3432 defaults on or fails to comply with the requirements of an

3433 educational loan, service conditional scholarship or loan  
3434 repayment program obligation that has been granted or guaranteed  
3435 by any federal, state or local agency or political subdivision  
3436 under which the person obtained any of the education necessary to  
3437 qualify for a license under this chapter. However, before an  
3438 agency may recommend the suspension of a license due to the  
3439 person's default on a loan, that agency, political subdivision or  
3440 other public or private entity must provide the license holder  
3441 with notice of its intention to recommend the suspension of the  
3442 person's license and an opportunity for the license holder to  
3443 respond.

3444           (b) The person's license will remain suspended until  
3445 the person has: (i) made arrangements satisfactory to the board  
3446 for meeting the obligations of the loan, scholarship or loan  
3447 repayment program; or (ii) in the case of a default on a loan,  
3448 made arrangements satisfactory to the agency, political  
3449 subdivision or other public or private entity to which payments  
3450 are due for the repayment of the loan.

3451           (3) No revoked license may be reinstated within twelve (12)  
3452 months after the revocation. Reinstatement thereafter shall be  
3453 upon such conditions as the board may prescribe, which may  
3454 include, without being limited to, successful passing of the  
3455 examination required by this chapter.

3456           (4) A license certificate issued by the board is the  
3457 property of the board and must be surrendered on demand.

3458           (5) The chancery court is \* \* \* vested with the jurisdiction  
3459 and power to enjoin the unlawful practice of counseling and/or the  
3460 false representation as a licensed counselor in a proceeding  
3461 brought by the board or any members thereof or by any citizen of  
3462 this state.

3463           (6) In addition to the reasons specified in subsections (1)  
3464 and (2) of this section, the board may suspend the license of any  
3465 licensee for being out of compliance with an order for support, as

3466 defined in Section 93-11-153. The procedure for suspension of a  
3467 license for being out of compliance with an order for support, and  
3468 the procedure for the reissuance or reinstatement of a license  
3469 suspended for that purpose, and the payment of any fees for the  
3470 reissuance or reinstatement of a license suspended for that  
3471 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
3472 the case may be. If there is any conflict between any provision  
3473 of Section 93-11-157 or 93-11-163 and any provision of this  
3474 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
3475 case may be, shall control.

3476       **SECTION 25.** Section 73-31-21, Mississippi Code of 1972, is  
3477 amended as follows:

3478       73-31-21. (1) The board, by an affirmative vote of at least  
3479 four (4) of its seven (7) members, shall withhold, deny, revoke or  
3480 suspend any license issued or applied for in accordance with the  
3481 provisions of this chapter, or otherwise discipline a licensed  
3482 psychologist, upon proof that the applicant or licensed  
3483 psychologist:

3484           (a) Has violated the current code of ethics of the  
3485 American Psychological Association or other codes of ethical  
3486 standards adopted by the board; or

3487           (b) Has been convicted of a felony or any offense  
3488 involving moral turpitude, the record of conviction being  
3489 conclusive evidence thereof; or

3490           (c) Is using any narcotic or any alcoholic beverage to  
3491 an extent or in a manner dangerous to any other person or the  
3492 public, or to an extent that the use impairs his ability to  
3493 perform the work of a professional psychologist with safety to the  
3494 public; or

3495           (d) Has impersonated another person holding a  
3496 psychologist license or allowed another person to use his license;  
3497 or

3498           (e) Has used fraud or deception in applying for a  
3499 license or in taking an examination provided for in this chapter;  
3500 or

3501           (f) Has accepted commissions or rebates or other forms  
3502 of remuneration for referring clients to other professional  
3503 persons; or

3504           (g) Has allowed his name or license issued under this  
3505 chapter to be used in connection with any person or persons who  
3506 perform psychological services outside of the area of their  
3507 training, experience or competence; or

3508           (h) Is legally adjudicated mentally incompetent, the  
3509 record of the adjudication being conclusive evidence thereof; or

3510           (i) Has willfully or negligently violated any of the  
3511 provisions of this chapter. The board may recover from any person  
3512 disciplined under this chapter, the costs of investigation,  
3513 prosecution, and adjudication of the disciplinary action.

3514           (2) (a) The board, acting on its own motion or, in the case  
3515 of a default on a loan, on the recommendation of the agency,  
3516 political subdivision or other public or private entity to which  
3517 payments are due, shall suspend the license of any person who  
3518 defaults on or fails to comply with the requirements of an  
3519 educational loan, service conditional scholarship or loan  
3520 repayment program obligation that has been granted or guaranteed  
3521 by an federal, state or local agency or political subdivision  
3522 under which the person obtained any of the education necessary to  
3523 qualify for a license under this chapter. However, before an  
3524 agency, political subdivision or other public or private entity  
3525 may recommend the suspension of a license due to the person's  
3526 default on a loan, that agency, political subdivision or other  
3527 public or private entity must provide the license holder with  
3528 notice of its intention to recommend the suspension of the  
3529 person's license and an opportunity for the license holder to  
3530 respond.

3531           (b) The person's license will remain suspended until  
3532 the person has: (i) made arrangements satisfactory to the board  
3533 for meeting the obligations of the loan, scholarship or loan  
3534 repayment program; or (ii) in the case of a default on a loan,  
3535 made arrangements satisfactory to the agency, political  
3536 subdivision or other public or private entity to which payments  
3537 are due for the repayment of the loan.

3538           (3) Notice shall be effected by registered mail or personal  
3539 service setting forth the particular reasons for the proposed  
3540 action and fixing a date not less than thirty (30) days nor more  
3541 than sixty (60) days from the date of the mailing or the service,  
3542 at which time the applicant or licentiate shall be given an  
3543 opportunity for a prompt and fair hearing. For the purpose of the  
3544 hearing the board, acting by and through its executive secretary,  
3545 may subpoena persons and papers on its own behalf and on behalf of  
3546 the applicant or licentiate, may administer oaths and may take  
3547 testimony. That testimony, when properly transcribed, together  
3548 with the papers and exhibits, shall be admissible in evidence for  
3549 or against the applicant or licentiate. At the hearing applicant  
3550 or licentiate may appear by counsel and personally in his own  
3551 behalf. Any person sworn and examined by a witness in the hearing  
3552 shall not be held to answer criminally, nor shall any papers or  
3553 documents produced by the witness be competent evidence in any  
3554 criminal proceedings against the witness other than for perjury in  
3555 delivering his evidence. On the basis of any such hearing, or  
3556 upon default of applicant or licentiate, the board shall make a  
3557 determination specifying its findings of fact and conclusions of  
3558 law. A copy of that determination shall be sent by registered  
3559 mail or served personally upon the applicant or licentiate. The  
3560 decision of the board denying, revoking or suspending the license  
3561 shall become final thirty (30) days after so mailed or served  
3562 unless within that period the licentiate appeals the decision to  
3563 the chancery court, under the provisions hereof, and the

3564 proceedings in chancery shall be conducted as other matters coming  
3565 before the court. All proceedings and evidence, together with  
3566 exhibits, presented at the hearing before the board if there is an  
3567 appeal shall be admissible in evidence in the court.

3568 (4) The board may subpoena persons and papers on its own  
3569 behalf and on behalf of the respondent, may administer oaths and  
3570 may compel the testimony of witnesses. It may issue commissions  
3571 to take testimony, and testimony so taken and sworn to shall be  
3572 admissible in evidence for and against the respondent. The board  
3573 shall be entitled to the assistance of the chancery court or the  
3574 chancellor in vacation, which, on petition by the board, shall  
3575 issue ancillary subpoenas and petitions and may punish as for  
3576 contempt of court if there is noncompliance therewith.

3577 (5) Every order and judgment of the board shall take effect  
3578 immediately on its promulgation unless the board in the order or  
3579 judgment fixes a probationary period for applicant or licentiate.  
3580 The order and judgment shall continue in effect unless upon appeal  
3581 the court by proper order or decree terminates it earlier. The  
3582 board may make public its order and judgments in such manner and  
3583 form as it deems proper. It shall, in event of the suspension or  
3584 revocation of a license, direct the clerk of the circuit court of  
3585 the county in which that license was recorded to cancel the  
3586 record.

3587 (6) Nothing in this section shall be construed as limiting  
3588 or revoking the authority of any court or of any licensing or  
3589 registering officer or board, other than the Mississippi Board of  
3590 Psychology, to suspend, revoke and reinstate licenses and to  
3591 cancel registrations under the provisions of Section 41-29-311.

3592 (7) Suspension by the board of the license of a psychologist  
3593 shall be for a period not exceeding one (1) year. At the end of  
3594 this period the board shall reevaluate the suspension, and shall  
3595 either reinstate or revoke the license. A person whose license  
3596 has been revoked under the provisions of this section may reapply

3597 for license after more than two (2) years have elapsed from the  
3598 date the denial or revocation is legally effective.

3599       (8) In addition to the reasons specified in subsections (1)  
3600 and (2) of this section, the board may be authorized to suspend  
3601 the license of any licensee for being out of compliance with an  
3602 order for support, as defined in Section 93-11-153. The procedure  
3603 for suspension of a license for being out of compliance with an  
3604 order for support, and the procedure for the reissuance or  
3605 reinstatement of a license suspended for that purpose, and the  
3606 payment of any fees for the reissuance or reinstatement of a  
3607 license suspended for that purpose, shall be governed by Section  
3608 93-11-157. Actions taken by the board in suspending a license  
3609 when required by Section 93-11-157 or 93-11-163 are not actions  
3610 from which an appeal may be taken under this section. Any appeal  
3611 of a license suspension that is required by Section 93-11-157 or  
3612 93-11-163 shall be taken in accordance with the appeal procedure  
3613 specified in Section 93-11-157 or 93-11-163, as the case may be,  
3614 rather than the procedure specified in this section. If there is  
3615 any conflict between any provision of Section 93-11-157 or  
3616 93-11-163 and any provision of this chapter, the provisions of  
3617 Section 93-11-157 or 93-11-163, as the case may be, shall control.

3618       (9) This section shall stand repealed from and after July 1,  
3619 2011.

3620       **SECTION 26.** Section 73-33-11, Mississippi Code of 1972, is  
3621 amended as follows:

3622       73-33-11. (1) The Mississippi State Board of Public  
3623 Accountancy may revoke, suspend or take other appropriate action  
3624 with respect to any license or permit issued under this chapter  
3625 for any unprofessional conduct by the licensee or permit holder,  
3626 or for other sufficient cause, provided written notice has been  
3627 sent by registered mail (with the addressee's receipt required) to  
3628 the holder thereof, twenty (20) days before any hearing thereon,  
3629 stating the cause for the contemplated action and appointing a day

3630 and a place for a full hearing thereon by the board. No  
3631 certificate or license may be cancelled or revoked until a hearing  
3632 has been given to the holder thereof according to law. \* \* \* After  
3633 the hearing, the board may, in its discretion, suspend such a  
3634 certified public accountant from practice as a certified public  
3635 accountant in this state.

3636 (2) The members of the board may sit as a trial board; \* \* \*  
3637 administer oaths (or affirmations); \* \* \* summon any witness  
3638 and \* \* \* compel his attendance and/or his testimony, under oath  
3639 (or affirmation) before the board; \* \* \* compel the production  
3640 before it, of any book, paper or document by the owner or  
3641 custodian thereof; and/or \* \* \* compel any officer to produce,  
3642 at the hearing a copy of any public record (not privileged from  
3643 public inspection by law) in his official custody, certified to,  
3644 by him. The board shall elect one (1) of its members to serve as  
3645 clerk, to issue summons and other processes, and to certify copies  
3646 of its records or, the board may delegate those duties to the  
3647 executive director.

3648 (3) The accused may appear in person and/or by counsel or,  
3649 in the instance of a firm permit holder through its manager and/or  
3650 counsel to defend the charges. If the accused does not appear or  
3651 answer, judgment may be entered by default, provided the board  
3652 finds that proper service was made on the accused.

3653 (4) The minutes of the board shall be recorded in an  
3654 appropriate minute book permanently maintained by the board at its  
3655 office.

3656 (5) In a proceeding conducted under this section by the  
3657 board for disciplinary action against a licensee or permit holder,  
3658 those reasonable costs that are expended by the board in the  
3659 investigation and conduct of a proceeding for discipline,  
3660 including, but not limited to, the cost of service of process,  
3661 court reporters, expert witnesses, investigators and legal fees



3662 may be imposed by the board on the accused, the charging party or  
3663 both.

3664 Those costs shall be paid to the board upon the expiration of  
3665 the period allowed for appeal of the penalties under this section,  
3666 or may be paid sooner if the guilty party elects.

3667 (6) Money collected by the board under this section shall be  
3668 deposited to the credit of the board's special fund in the State  
3669 Treasury. When payment of a monetary penalty assessed by the  
3670 board under this section is not paid when due, the board shall  
3671 have the power to institute and maintain proceedings in its name  
3672 for enforcement of payment in the Chancery Court of the First  
3673 Judicial District of Hinds County, Mississippi, or in the chancery  
3674 court of the county where the respondent resides.

3675 (7) In case of a decision adverse to the accused, appeal  
3676 shall be made within thirty (30) days from the day on which the  
3677 decision is made to the Circuit Court of the First Judicial  
3678 District of Hinds County, Mississippi, or in the circuit court of  
3679 the county in which the accused resides. In the case of a  
3680 nonresident licensee, the appeal shall be made to the First  
3681 Judicial District of Hinds County, Mississippi. The order of the  
3682 board shall not take effect until the expiration of the thirty  
3683 (30) days.

3684 (8) In case of an appeal, bond for costs in the circuit  
3685 court shall be given as in other cases; and the order of the board  
3686 shall not take effect until the appeal has been finally disposed  
3687 of by the court or courts.

3688 (9) The board may, at any time, reinstate a license or  
3689 permit if it finds that the reinstatement is justified.

3690 (10) (a) The board, acting on its own motion or, in the  
3691 case of a default on a loan, on the recommendation of the agency,  
3692 political subdivision or other public or private entity to which  
3693 payments are due, shall suspend the license of any person who  
3694 defaults on or fails to comply with the requirements of an

3695 educational loan, service conditional scholarship or loan  
3696 repayment program obligation that has been granted or guaranteed  
3697 by any federal, state or local agency or political subdivision  
3698 under which the person obtained any of the education necessary to  
3699 qualify for a license under this chapter. However, before an  
3700 agency, political subdivision or other public or private entity  
3701 may recommend the suspension of a license due to the person's  
3702 default on a loan, that agency, political subdivision or other  
3703 public or private entity must provide the license holder with  
3704 notice of its intention to recommend the suspension of the  
3705 person's license and an opportunity for the license holder to  
3706 respond.

3707 (b) The person's license will remain suspended until  
3708 the person has: (i) made arrangements satisfactory to the board  
3709 for meeting the obligations of the loan, scholarship or loan  
3710 repayment program; or (ii) in the case of a default on a loan,  
3711 made arrangements satisfactory to the agency, political  
3712 subdivision or other public or private entity to which payments  
3713 are due for the repayment of the loan.

3714 (11) In addition to the reasons specified in subsections (1)  
3715 and (10) of this section, the board may suspend the license of any  
3716 licensee for being out of compliance with an order for support, as  
3717 defined in Section 93-11-153. The procedure for suspension of a  
3718 license for being out of compliance with an order for support, and  
3719 the procedure for the reissuance or reinstatement of a license  
3720 suspended for that purpose, and the payment of any fees for the  
3721 reissuance or reinstatement of a license suspended for that  
3722 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
3723 the case may be. Actions taken by the board in suspending a  
3724 license when required by Section 93-11-157 or 93-11-163 are not  
3725 actions from which an appeal may be taken under this section. Any  
3726 appeal of a license suspension that is required by Section  
3727 93-11-157 or 93-11-163 shall be taken in accordance with the

3728 appeal procedure specified in Section 93-11-157 or 93-11-163, as  
3729 the case may be, rather than the procedure specified in this  
3730 section. If there is any conflict between any provision of  
3731 Section 93-11-157 or 93-11-163 and any provision of this chapter,  
3732 the provisions of Section 93-11-157 or 93-11-163, as the case may  
3733 be, shall control.

3734         **SECTION 27.** Section 73-34-35, Mississippi Code of 1972, is  
3735 amended as follows:

3736         73-34-35. (1) An application for licensure or renewal may  
3737 be denied, and the rights of any licensed appraiser or licensed  
3738 certified real estate appraiser may be revoked or suspended, or  
3739 the holder of the license may be otherwise disciplined, in  
3740 accordance with the provisions of this chapter for any of the  
3741 following acts or omissions:

3742             (a) Failing to meet the minimum qualifications for  
3743 licensure established pursuant to this chapter;

3744             (b) Procuring or attempting to procure licensure  
3745 pursuant to this chapter by knowingly making a false statement,  
3746 submitting false information or making a material  
3747 misrepresentation in an application filed with the commission or  
3748 procuring or attempting to procure licensure through any form of  
3749 fraud or misrepresentation;

3750             (c) Paying money other than the fees provided for by  
3751 this chapter to any member or employee of the commission or the  
3752 board to procure licensure under this chapter;

3753             (d) An act or omission in the practice of real estate  
3754 appraising which constitutes dishonesty, fraud or  
3755 misrepresentation with the intent to substantially benefit the  
3756 licensee or another person or with the intent to substantially  
3757 injure another person;

3758             (e) Entry of a final civil or criminal judgment against  
3759 a licensee on grounds of fraud, misrepresentation or deceit;

3760 (f) Conviction, including a conviction based upon a  
3761 plea or finding of guilty, of a crime which is substantially  
3762 related to the qualifications, functions or duties of a person  
3763 developing real estate appraisals and communicating real estate  
3764 appraisals to others;

3765 (g) Engaging in the business of real estate appraising  
3766 under an assumed or fictitious name not properly registered in  
3767 this state;

3768 (h) Paying a finder's fee or a referral fee;

3769 (i) Making a false or misleading statement in that  
3770 portion of a written appraisal report that deals with professional  
3771 qualifications or in any testimony concerning professional  
3772 qualifications;

3773 (j) Issuing an appraisal on any real property in which  
3774 the appraiser has an interest through fee simple ownership,  
3775 leasehold, rental agreement or auction agreement;

3776 (k) Taking a listing for the sale of a property within  
3777 ninety (90) days of appraising such property, except as may be  
3778 otherwise agreed upon by all parties and disclosed in the listing  
3779 agreement; or

3780 (l) Any act or conduct, whether the same or of a  
3781 different character than specified above, which constitutes or  
3782 demonstrates bad faith, incompetency or untrustworthiness; or  
3783 dishonest, fraudulent or improper dealing; or any other violation  
3784 of the provisions of this chapter and of rules and regulations  
3785 established by the board.

3786 (2) (a) The board, acting on its own motion or, in the case  
3787 of a default on a loan, on the recommendation of the agency,  
3788 political subdivision or other public or private entity to which  
3789 payments are due, shall suspend the license of any person who  
3790 defaults on or fails to comply with the requirements of an  
3791 educational loan, service conditional scholarship or loan  
3792 repayment program obligation that has been granted or guaranteed

3793 by any federal, state or local agency or political subdivision  
3794 under which the person obtained any of the education necessary to  
3795 qualify for a license under this chapter. However, before an  
3796 agency, political subdivision or other public or private entity  
3797 may recommend the suspension of a license due to the person's  
3798 default on a loan, that agency, political subdivision or other  
3799 public or private entity must provide the license holder with  
3800 notice of its intention to recommend the suspension of the  
3801 person's license and an opportunity for the license holder to  
3802 respond.

3803 (b) The person's license will remain suspended until  
3804 the person has: (i) made arrangements satisfactory to the board  
3805 for meeting the obligations of the loan, scholarship or loan  
3806 repayment program; or (ii) in the case of a default on a loan,  
3807 made arrangements satisfactory to the agency, political  
3808 subdivision or other public or private entity to which payments  
3809 are due for the repayment of the loan.

3810 (3) In addition to the reasons specified in subsections (1)  
3811 and (2) of this section, the board shall be authorized to suspend  
3812 the license of any licensee for being out of compliance with an  
3813 order for support, as defined in Section 93-11-153. The procedure  
3814 for suspension of a license for being out of compliance with an  
3815 order for support, and the procedure for the reissuance or  
3816 reinstatement of a license suspended for that purpose, and the  
3817 payment of any fees for the reissuance or reinstatement of a  
3818 license suspended for that purpose, shall be governed by Section  
3819 93-11-157 or 93-11-163, as the case may be. If there is any  
3820 conflict between any provision of Section 93-11-157 or 93-11-163  
3821 and any provision of this chapter, the provisions of Section  
3822 93-11-157 or 93-11-163, as the case may be, shall control.

3823 **SECTION 28.** Section 73-35-21, Mississippi Code of 1972, is  
3824 amended as follows:

3825           73-35-21. (1) The commission may, upon its own motion and  
3826 shall upon the verified complaint in writing of any person, hold a  
3827 hearing for the refusal of license or for the suspension or  
3828 revocation of a license previously issued, or for such other  
3829 action as the commission deems appropriate. The commission shall  
3830 have full power to refuse a license for cause or to revoke or  
3831 suspend a license where it has been obtained by false or  
3832 fraudulent representation, or where the licensee in performing or  
3833 attempting to perform any of the acts mentioned herein, is deemed  
3834 to be guilty of:

3835           (a) Making any substantial misrepresentation in  
3836 connection with a real estate transaction;

3837           (b) Making any false promises of a character likely to  
3838 influence, persuade or induce;

3839           (c) Pursuing a continued and flagrant course of  
3840 misrepresentation or making false promises through agents or  
3841 salespersons or any medium of advertising or otherwise;

3842           (d) Any misleading or untruthful advertising;

3843           (e) Acting for more than one (1) party in a transaction  
3844 or receiving compensation from more than one (1) party in a  
3845 transaction, or both, without the knowledge of all parties for  
3846 whom he acts;

3847           (f) Failing, within a reasonable time, to account for  
3848 or to remit any monies coming into his possession which belong to  
3849 others, or commingling of monies belonging to others with his own  
3850 funds. Every responsible broker procuring the execution of an  
3851 earnest money contract or option or other contract who shall take  
3852 or receive any cash or checks shall deposit, within a reasonable  
3853 period of time, the sum or sums so received in a trust or escrow  
3854 account in a bank or trust company pending the consummation or  
3855 termination of the transaction. "Reasonable time" in this context  
3856 means by the close of business of the next banking day;

3857 (g) Entering a guilty plea or conviction in a court of  
3858 competent jurisdiction of this state, or any other state or the  
3859 United States of any felony;

3860 (h) Displaying a "for sale" or "for rent" sign on any  
3861 property without the owner's consent;

3862 (i) Failing to furnish voluntarily, at the time of  
3863 signing, copies of all listings, contracts and agreements to all  
3864 parties executing the same;

3865 (j) Paying any rebate, profit or commission to any  
3866 person other than a real estate broker or salesperson licensed  
3867 under the provisions of this chapter;

3868 (k) Inducing any party to a contract, sale or lease to  
3869 break such contract for the purpose of substituting in lieu  
3870 thereof a new contract, where such substitution is motivated by  
3871 the personal gain of the licensee;

3872 (l) Accepting a commission or valuable consideration as  
3873 a real estate salesperson for the performance of any of the acts  
3874 specified in this chapter from any person, except his employer who  
3875 must be a licensed real estate broker; or

3876 (m) Any act or conduct, whether of the same or a  
3877 different character than hereinabove specified, which constitutes  
3878 or demonstrates bad faith, incompetency or untrustworthiness, or  
3879 dishonest, fraudulent or improper dealing.

3880 (2) (a) The board, acting on its own motion or, in the case  
3881 of a default on a loan, on the recommendation of the agency,  
3882 political subdivision or other public or private entity to which  
3883 payments are due, shall suspend the license of any person who  
3884 defaults on or fails to comply with the requirements of an  
3885 educational loan, service conditional scholarship or loan  
3886 repayment program obligation that has been granted or guaranteed  
3887 by any federal, state or local agency or political subdivision  
3888 under which the person obtained any of the education necessary to  
3889 qualify for a license under this chapter. However, before an

3890 agency, political subdivision or other public or private entity  
3891 may recommend the suspension of a license due to the person's  
3892 default on a loan, that agency, political subdivision or other  
3893 public or private entity must provide the license holder with  
3894 notice of its intention to recommend the suspension of the  
3895 person's license and an opportunity for the license holder to  
3896 respond.

3897           (b) The person's license will remain suspended until  
3898 the person has: (i) made arrangements satisfactory to the board  
3899 for meeting the obligations of the loan, scholarship or loan  
3900 repayment program; or (ii) in the case of a default on a loan,  
3901 made arrangements satisfactory to the agency, political  
3902 subdivision or other public or private entity to which payments  
3903 are due for the repayment of the loan.

3904           (3) No real estate broker shall practice law or give legal  
3905 advice directly or indirectly unless the broker is a duly licensed  
3906 attorney under the laws of this state. He shall not act as a  
3907 public conveyancer nor give advice or opinions as to the legal  
3908 effect of instruments nor give opinions concerning the validity of  
3909 title to real estate; nor shall he prevent or discourage any party  
3910 to a real estate transaction from employing the services of an  
3911 attorney; nor shall a broker undertake to prepare documents fixing  
3912 and defining the legal rights of parties to a transaction.

3913 However, when acting as a broker, he may use an earnest money  
3914 contract form. A real estate broker shall not participate in  
3915 attorney's fees, unless the broker is a duly licensed attorney  
3916 under the laws of this state and performs legal services in  
3917 addition to brokerage services.

3918           (4) It is expressly provided that it is not the intent and  
3919 purpose of the Mississippi Legislature to prevent a license from  
3920 being issued to any person who is found to be of good reputation,  
3921 is able to give bond, and who has lived in the State of



3922 Mississippi for the required period or is otherwise qualified  
3923 under this chapter.

3924       (5) In addition to the reasons specified in subsections (1)  
3925 and (2) of this section, the commission shall be authorized to  
3926 suspend the license of any licensee for being out of compliance  
3927 with an order for support, as defined in Section 93-11-153. The  
3928 procedure for suspension of a license for being out of compliance  
3929 with an order for support, and the procedure for the reissuance or  
3930 reinstatement of a license suspended for that purpose, and the  
3931 payment of any fees for the reissuance or reinstatement of a  
3932 license suspended for that purpose, shall be governed by Section  
3933 93-11-157 or 93-11-163, as the case may be. If there is any  
3934 conflict between any provision of Section 93-11-157 or 93-11-163  
3935 and any provision of this chapter, the provisions of Section  
3936 93-11-157 or 93-11-163, as the case may be, shall control.

3937       (6) Nothing in this chapter shall prevent an associate  
3938 broker or salesperson from owning any lawfully constituted  
3939 business organization, including, but not limited to, a  
3940 corporation, limited liability company or limited liability  
3941 partnership, for the purpose of receiving payments contemplated in  
3942 this chapter. The business organization shall not be required to  
3943 be licensed under this chapter and shall not engage in any other  
3944 activity requiring a real estate license.

3945       **SECTION 29.** Section 73-36-33, Mississippi Code of 1972, is  
3946 amended as follows:

3947       73-36-33. (1) The board shall have the power, after notice  
3948 and hearing, to suspend or revoke the license of any registrant  
3949 who (a) is found guilty by the board of fraud or gross negligence  
3950 in the practice of professional forestry; (b) fails to comply with  
3951 board rules and regulations; (c) is found guilty by the board of  
3952 unprofessional or unethical conduct; or (d) has had his license  
3953 suspended or revoked for cause in another jurisdiction.

3954           (2) (a) The board, acting on its own motion or, in the case  
3955 of a default on a loan, on the recommendation of the agency,  
3956 political subdivision or other public or private entity to which  
3957 payments are due, shall suspend the license of any person who  
3958 defaults on or fails to comply with the requirements of an  
3959 educational loan, service conditional scholarship or loan  
3960 repayment program obligation that has been granted or guaranteed  
3961 by any federal, state or local agency or political subdivision  
3962 under which the person obtained any of the education necessary to  
3963 qualify for a license under this chapter. However, before an  
3964 agency, political subdivision or other public or private entity  
3965 may recommend the suspension of a license due to the person's  
3966 default on a loan, that agency, political subdivision or other  
3967 public or private entity must provide the license holder with  
3968 notice of its intention to recommend the suspension of the  
3969 person's license and an opportunity for the license holder to  
3970 respond.

3971           (b) The person's license will remain suspended until  
3972 the person has: (i) made arrangements satisfactory to the board  
3973 for meeting the obligations of the loan, scholarship or loan  
3974 repayment program; or (ii) in the case of a default on a loan,  
3975 made arrangements satisfactory to the agency, political  
3976 subdivision or other public or private entity to which payments  
3977 are due for the repayment of the loan.

3978           (3) Any person may prefer charges of fraud or gross  
3979 negligence in connection with any forestry practice against any  
3980 registrant. Such charges shall be in writing, shall be sworn to  
3981 by the person making them, and shall be filed with the secretary  
3982 of the board. All charges shall be heard by the board pursuant to  
3983 its rules and regulations without undue delay.

3984           (4) Any applicant whose license is suspended or revoked by  
3985 the board may apply for a review of the proceedings with reference  
3986 to such suspension or revocation by appealing to the Chancery

3987 Court of the First Judicial District of Hinds County, Mississippi,  
3988 provided a notice of appeal is filed by such applicant with the  
3989 clerk of said court within sixty (60) days from entry of an order  
3990 by the board suspending or revoking his license, provided said  
3991 applicant files with said notice of appeal a bond to be approved  
3992 by the court assuring the prompt payment of any and all costs of  
3993 said appeal, said amount to be fixed by the court. Upon the  
3994 filing of such notice of appeal and posting of such bond, the  
3995 clerk of the said court shall notify the secretary of the board  
3996 thereof and the record of the proceedings involved shall be  
3997 prepared by the secretary and forwarded to the court within a  
3998 period of sixty (60) days from such notice by the clerk. The  
3999 court shall thereupon review the proceedings on the record  
4000 presented and may hear such additional testimony as to the court  
4001 may appear material and dispose of the appeal in termtime or in  
4002 vacation, and the court may sustain or dismiss the appeal, or  
4003 modify or vacate the order complained of, but in case the order is  
4004 modified or vacated, the court may also, in its discretion, remand  
4005 the matter to the board for such further proceedings not  
4006 inconsistent with the court's order as, in the opinion of the  
4007 court, justice may require. The decision of the chancery court  
4008 may be appealed as other cases to the Supreme Court.

4009       (5) The board is authorized to secure, by contract, the  
4010 services of an investigator when deemed necessary by the board to  
4011 properly consider any charge then before it. The board may, at  
4012 its discretion, establish a program of routine inspections.

4013       (6) In addition to the reasons specified in subsections (1)  
4014 and (2) of this section, the board shall be authorized to suspend  
4015 the license of any licensee for being out of compliance with an  
4016 order for support, as defined in Section 93-11-153. The procedure  
4017 for suspension of a license for being out of compliance with an  
4018 order for support, and the procedure for the reissuance or  
4019 reinstatement of a license suspended for that purpose, and the

4020 payment of any fees for the reissuance or reinstatement of a  
4021 license suspended for that purpose, shall be governed by Section  
4022 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
4023 board in suspending a license when required by Section 93-11-157  
4024 or 93-11-163 are not actions from which an appeal may be taken  
4025 under this section. Any appeal of a license suspension that is  
4026 required by Section 93-11-157 or 93-11-163 shall be taken in  
4027 accordance with the appeal procedure specified in Section  
4028 93-11-157 or 93-11-163, as the case may be, rather than the  
4029 procedure specified in this section. If there is any conflict  
4030 between any provision of Section 93-11-157 or 93-11-163 and any  
4031 provision of this chapter, the provisions of Section 93-11-157 or  
4032 93-11-163, as the case may be, shall control.

4033 **SECTION 30.** Section 73-38-27, Mississippi Code of 1972, is  
4034 amended as follows:

4035 73-38-27. (1) The board may refuse to issue or renew a  
4036 license, or may suspend or revoke a license where the licensee or  
4037 applicant for license has been guilty of unprofessional conduct  
4038 which has endangered or is likely to endanger the health, welfare  
4039 or safety of the public. Such unprofessional conduct may result  
4040 from:

4041 (a) Negligence in the practice or performance of  
4042 professional services or activities;

4043 (b) Engaging in dishonorable, unethical or  
4044 unprofessional conduct of a character likely to deceive, defraud  
4045 or harm the public in the course of professional services or  
4046 activities;

4047 (c) Perpetrating or cooperating in fraud or material  
4048 deception in obtaining or renewing a license or attempting the  
4049 same;

4050 (d) Being convicted of any crime which has a  
4051 substantial relationship to the licensee's activities and services

4052 or an essential element of which is misstatement, fraud or  
4053 dishonesty;

4054 (e) Being convicted of any crime which is a felony  
4055 under the laws of this state or the United States;

4056 (f) Engaging in or permitting the performance of  
4057 unacceptable services personally or by others working under the  
4058 licensee's supervision due to the licensee's deliberate or  
4059 negligent act or acts or failure to act, regardless of whether  
4060 actual damage or damages to the public is established;

4061 (g) Continued practice although the licensee has become  
4062 unfit to practice as a speech-language pathologist or audiologist  
4063 due to: (i) failure to keep abreast of current professional  
4064 theory or practice; or (ii) physical or mental disability; the  
4065 entry of an order or judgment by a court of competent jurisdiction  
4066 that a licensee is in need of mental treatment or is incompetent  
4067 shall constitute mental disability; or (iii) addiction or severe  
4068 dependency upon alcohol or other drugs which may endanger the  
4069 public by impairing the licensee's ability to practice;

4070 (h) Having disciplinary action taken against the  
4071 licensee's license in another state;

4072 (i) Making differential, detrimental treatment against  
4073 any person because of race, color, creed, sex, religion or  
4074 national origin;

4075 (j) Engaging in lewd conduct in connection with  
4076 professional services or activities;

4077 (k) Engaging in false or misleading advertising;

4078 (l) Contracting, assisting or permitting unlicensed  
4079 persons to perform services for which a license is required under  
4080 this chapter;

4081 (m) Violation of any probation requirements placed on a  
4082 license by the board;

4083 (n) Revealing confidential information except as may be  
4084 required by law;

4085           (o) Failing to inform clients of the fact that the  
4086 client no longer needs the services or professional assistance of  
4087 the licensee;

4088           (p) Charging excessive or unreasonable fees or engaging  
4089 in unreasonable collection practices;

4090           (q) For treating or attempting to treat ailments or  
4091 other health conditions of human beings other than by speech or  
4092 audiology therapy as authorized by this chapter;

4093           (r) For applying or offering to apply speech or  
4094 audiology therapy, exclusive of initial evaluation or screening  
4095 and exclusive of education or consultation for the prevention of  
4096 physical and mental disability within the scope of speech or  
4097 audiology therapy, or for acting as a speech-language pathologist  
4098 or audiologist, or speech-language pathologist or audiologist aide  
4099 other than under the direct, on-site supervision of a licensed  
4100 speech-language pathologist or audiologist;

4101           (s) Violations of the current codes of conduct for  
4102 speech-language pathologists or audiologists, and speech-language  
4103 pathologist or audiologist assistants adopted by the American  
4104 Speech-Language-Hearing Association;

4105           (t) Violations of any rules or regulations promulgated  
4106 pursuant to this chapter.

4107           (2) (a) The board, acting on its own motion or, in the case  
4108 of a default on a loan, on the recommendation of the agency,  
4109 political subdivision or other public or private entity to which  
4110 payments are due, shall suspend the license of any person who  
4111 defaults on or fails to comply with the requirements of an  
4112 educational loan, service conditional scholarship or loan  
4113 repayment program obligation that has been granted or guaranteed  
4114 by any federal, state or local agency or political subdivision  
4115 under which the person obtained any of the education necessary to  
4116 qualify for a license under this chapter. However, before an  
4117 agency, political subdivision or other public or private entity

4118 may recommend the suspension of a license due to the person's  
4119 default on a loan, that agency, political subdivision or other  
4120 public or private entity must provide the license holder with  
4121 notice of its intention to recommend the suspension of the  
4122 person's license and an opportunity for the license holder to  
4123 respond.

4124 (b) The person's license will remain suspended until  
4125 the person has: (i) made arrangements satisfactory to the board  
4126 for meeting the obligations of the loan, scholarship or loan  
4127 repayment program; or (ii) in the case of a default on a loan,  
4128 made arrangements satisfactory to the agency, political  
4129 subdivision or other public or private entity to which payments  
4130 are due for the repayment of the loan.

4131 (3) The board may order a licensee to submit to a reasonable  
4132 physical or mental examination if the licensee's physical or  
4133 mental capacity to practice safely is at issue in a disciplinary  
4134 proceeding.

4135 (4) In addition to the reasons specified in subsections (1)  
4136 and (2) of this section, the board shall be authorized to suspend  
4137 the license of any licensee for being out of compliance with an  
4138 order for support, as defined in Section 93-11-153. The procedure  
4139 for suspension of a license for being out of compliance with an  
4140 order for support, and the procedure for the reissuance or  
4141 reinstatement of a license suspended for that purpose, and the  
4142 payment of any fees for the reissuance or reinstatement of a  
4143 license suspended for that purpose, shall be governed by Section  
4144 93-11-157 or 93-11-163, as the case may be. If there is any  
4145 conflict between any provision of Section 93-11-157 or 93-11-163  
4146 and any provision of this chapter, the provisions of Section  
4147 93-11-157 or 93-11-163, as the case may be, shall control.

4148 **SECTION 31.** Section 73-39-77, Mississippi Code of 1972, is  
4149 amended as follows:

4150           73-39-77. (1) Upon a written complaint sworn to by any  
4151 person, the board, in its sole discretion, may, after a hearing,  
4152 revoke, suspend or limit for a certain time a license, impose an  
4153 administrative fine not to exceed One Thousand Dollars (\$1,000.00)  
4154 for each separate offense, or otherwise discipline any licensed  
4155 veterinarian for any of the following reasons:

4156           (a) The employment of fraud, misrepresentation or  
4157 deception in obtaining a license.

4158           (b) The inability to practice veterinary medicine with  
4159 reasonable skill and safety because of a physical or mental  
4160 disability, including deterioration of mental capacity, loss of  
4161 motor skills or abuse of drugs or alcohol of sufficient degree to  
4162 diminish the person's ability to deliver competent patient care.

4163           (c) The use of advertising or solicitation that is  
4164 false or misleading.

4165           (d) Conviction of the following in any federal court or  
4166 in the courts of this state or any other jurisdiction, regardless  
4167 of whether the sentence is deferred:

4168                   (i) Any felony;

4169                   (ii) Any crime involving cruelty, abuse or neglect  
4170 of animals, including bestiality;

4171                   (iii) Any crime of moral turpitude;

4172                   (iv) Any crime involving unlawful sexual contact,  
4173 child abuse, the use or threatened use of a weapon, the infliction  
4174 of injury, indecent exposure, perjury, false reporting, criminal  
4175 impersonation, forgery and any other crime involving a lack of  
4176 truthfulness, veracity or honesty, intimidation of a victim or  
4177 witness, larceny, or alcohol or drugs.

4178           For the purposes of this paragraph, a plea of guilty or a  
4179 plea of nolo contendere accepted by the court shall be considered  
4180 as a conviction.

4181           (e) Incompetence, gross negligence or other malpractice  
4182 in the practice of veterinary medicine.



4183                   (f) Aiding the unlawful practice of veterinary  
4184 medicine.

4185                   (g) Fraud or dishonesty in the application or reporting  
4186 of any test for disease in animals.

4187                   (h) Failure to report, as required by law, or making  
4188 false or misleading report of, any contagious or infectious  
4189 disease.

4190                   (i) Failure to keep accurate patient records.

4191                   (j) Dishonesty or gross negligence in the performance  
4192 of food safety inspections or in the issuance of any health or  
4193 inspection certificates.

4194                   (k) Failure to keep veterinary premises and equipment,  
4195 including practice vehicles, in a clean and sanitary condition.

4196                   (l) Failure to permit the board or its agents to enter  
4197 and inspect veterinary premises and equipment, including practice  
4198 vehicles, as set by rules promulgated by the board.

4199                   (m) Revocation, suspension or limitation of a license  
4200 to practice veterinary medicine by another state, territory or  
4201 district of the United States.

4202                   (n) Loss or suspension of accreditation by any federal  
4203 or state agency.

4204                   (o) Unprofessional conduct as defined in regulations  
4205 adopted by the board.

4206                   (p) The dispensing, distribution, prescription or  
4207 administration of any veterinary prescription drug, or the  
4208 extralabel use of any drug in the absence of a  
4209 veterinarian-client-patient relationship.

4210                   (q) Violations of state or federal drug laws.

4211                   (r) Violations of any order of the board.

4212                   (s) Violations of this chapter or of the rules  
4213 promulgated under this chapter.

4214                   (2) A certified copy of any judgment of conviction or  
4215 finding of guilt by a court of competent jurisdiction or by a

4216 governmental agency, or agency authorized to issue licenses or  
4217 permits, including the United States Department of Agriculture,  
4218 Animal and Plant Health Inspection Service, the Mississippi Board  
4219 of Animal Health and the Mississippi Board of Health, of a  
4220 veterinarian or veterinary technician of any matters listed in  
4221 this section shall be admissible in evidence in any hearing held  
4222 by the board to discipline such veterinarian or technician and  
4223 shall constitute prima facie evidence of the commission of any  
4224 such act.

4225 (3) (a) The board, acting on its own motion or, in the case  
4226 of a default on a loan, on the recommendation of the agency,  
4227 political subdivision or other public or private entity to which  
4228 payments are due, shall suspend the license of any person who  
4229 defaults on or fails to comply with the requirements of an  
4230 educational loan, service conditional scholarship or loan  
4231 repayment program obligation that has been granted or guaranteed  
4232 by any federal, state or local agency or political subdivision  
4233 under which the person obtained any of the education necessary to  
4234 qualify for a license under this chapter. However, before an  
4235 agency, political subdivision or other public or private entity  
4236 may recommend the suspension of a license due to the person's  
4237 default on a loan, that agency, political subdivision or other  
4238 public or private entity must provide the license holder with  
4239 notice of its intention to recommend the suspension of the  
4240 person's license and an opportunity for the license holder to  
4241 respond.

4242 (b) The person's license will remain suspended until  
4243 the person has: (i) made arrangements satisfactory to the board  
4244 for meeting the obligations of the loan, scholarship or loan  
4245 repayment program; or (ii) in the case of a default on a loan,  
4246 made arrangements satisfactory to the agency, political  
4247 subdivision or other public or private entity to which payments  
4248 are due for the repayment of the loan.

4249           **SECTION 32.** Section 73-42-13, Mississippi Code of 1972, is  
4250 amended as follows:

4251           73-42-13. (1) The Secretary of State may suspend, revoke or  
4252 refuse to renew a registration for conduct that would have  
4253 justified denial of registration under Section 73-42-11(3).

4254           (2) The Secretary of State may deny, suspend, revoke or  
4255 refuse to renew a registration only after proper notice and an  
4256 opportunity for a hearing.

4257           (3) (a) The Secretary of State, acting on the secretary's  
4258 own motion or, in the case of a default on a loan, on the  
4259 recommendation of the agency, political subdivision or other  
4260 public or private entity to which payments are due, shall suspend  
4261 the license of any person who defaults on or fails to comply with  
4262 the requirements of an educational loan, service conditional  
4263 scholarship or loan repayment program obligation that has been  
4264 granted or guaranteed by any federal, state or local agency or  
4265 political subdivision under which the person obtained any of the  
4266 education necessary to qualify for a license under this chapter.  
4267 However, before an agency, political subdivision or other public  
4268 or private entity may recommend the suspension of a license due to  
4269 the person's default on a loan, that agency, political subdivision  
4270 or other public or private entity must provide the license holder  
4271 with notice of its intention to recommend the suspension of the  
4272 person's license and an opportunity for the license holder to  
4273 respond.

4274           (b) The person's license will remain suspended until  
4275 the person has: (i) made arrangements satisfactory to the  
4276 Secretary of State for meeting the obligations of the loan,  
4277 scholarship or loan repayment program; or (ii) in the case of a  
4278 default on a loan, made arrangements satisfactory to the agency,  
4279 political subdivision or other public or private entity to which  
4280 payments are due for the repayment of the loan.

4281           (4) (a) The Secretary of State shall appoint at least one  
4282 (1) hearing officer for the purpose of holding hearings, compiling  
4283 evidence and rendering decisions under this section and Section  
4284 73-42-11. The hearing officer shall fix the date for adjudicatory  
4285 hearings and notify the athlete agent involved. Such hearing  
4286 shall be held at a location to be designated by the hearing  
4287 officer, not less than fifteen (15) nor more than thirty (30) days  
4288 after the mailing of notice to the athlete agent involved. At the  
4289 conclusion of the hearing, the hearing officer shall take  
4290 appropriate action regarding the registration of the athlete agent  
4291 involved.

4292           (b) Any athlete agent whose application for  
4293 registration has been denied or not renewed, or whose registration  
4294 has been revoked or suspended by the hearing officer, within  
4295 thirty (30) days after the date of such final decision, shall have  
4296 the right of a trial de novo on appeal to the Circuit Court of the  
4297 First Judicial District of Hinds County, Mississippi. Either  
4298 party shall have the right of appeal to the Supreme Court as  
4299 provided by law from any decision of the circuit court. No  
4300 athlete agent shall be allowed to deliver services to a  
4301 Mississippi NCAA athlete while any such appeal is pending.

4302           (5) In addition to the reasons specified in subsections (1)  
4303 through (3) of this section, the secretary shall be authorized to  
4304 suspend the registration of any person for being out of compliance  
4305 with an order for support, as defined in Section 93-11-153. The  
4306 procedure for suspension of a registration for being out of  
4307 compliance with an order for support, and the procedure for the  
4308 reissuance or reinstatement of a registration suspended for that  
4309 purpose, and the payment of any fees for the reissuance or  
4310 reinstatement of a registration suspended for that purpose, shall  
4311 be governed by Section 93-11-157 or 93-11-163, as the case may be.  
4312 Actions taken by the secretary in suspending the registration of a  
4313 person when required by Section 93-11-157 are not actions from

4314 which an appeal may be taken under this section. Any appeal of a  
4315 registration suspension that is required by Section 93-11-157 or  
4316 93-11-163 shall be taken in accordance with the appeal procedure  
4317 specified in Section 93-11-157 or 93-11-163, as the case may be,  
4318 rather than the procedure specified in this section. If there is  
4319 any conflict between any provision of Section 93-11-157 or  
4320 93-11-163 and any provision of this chapter, the provisions of  
4321 Section 93-11-157 or 93-11-163, as the case may be, shall control.

4322 **SECTION 33.** Section 73-53-17, Mississippi Code of 1972, is  
4323 amended as follows:

4324 73-53-17. (1) Licensees subject to this chapter shall  
4325 conduct their activities, services and practice in accordance with  
4326 this chapter and any rules promulgated pursuant hereto. Licensees  
4327 may be subject to the exercise of the disciplinary sanctions  
4328 enumerated in Section 73-53-23 if the board finds that a licensee  
4329 is guilty of any of the following:

4330 (a) Negligence in the practice or performance of  
4331 professional services or activities;

4332 (b) Engaging in dishonorable, unethical or  
4333 unprofessional conduct of a character likely to deceive, defraud  
4334 or harm the public in the course of professional services or  
4335 activities;

4336 (c) Perpetrating or cooperating in fraud or material  
4337 deception in obtaining or renewing a license or attempting the  
4338 same;

4339 (d) Being convicted of any crime that has a substantial  
4340 relationship to the licensee's activities and services or an  
4341 essential element of which is misstatement, fraud or dishonesty;

4342 (e) Being convicted of any crime that is a felony under  
4343 the laws of this state or of the United States;

4344 (f) Engaging in or permitting the performance of  
4345 unacceptable services personally or by assistants working under  
4346 the licensee's supervision due to the licensee's deliberate or

4347 grossly negligent act or acts or failure to act, regardless of  
4348 whether actual damage or damages to the public is established;

4349 (g) Continued practice although the licensee has become  
4350 unfit to practice social work due to: (i) failure to keep abreast  
4351 of current professional theory or practice; or (ii) physical or  
4352 mental disability; the entry of an order or judgment by a court of  
4353 competent jurisdiction that a licensee is in need of mental  
4354 treatment or is incompetent shall constitute mental disability; or  
4355 (iii) addiction or severe dependency upon alcohol or other drugs  
4356 that may endanger the public by impairing the licensee's ability  
4357 to practice;

4358 (h) Having disciplinary action taken against the  
4359 licensee's license in another state;

4360 (i) Making differential, detrimental treatment against  
4361 any person because of race, color, creed, sex, religion or  
4362 national origin;

4363 (j) Engaging in lewd conduct in connection with  
4364 professional services or activities;

4365 (k) Engaging in false or misleading advertising;

4366 (l) Contracting, assisting or permitting unlicensed  
4367 persons to perform services for which a license is required under  
4368 this chapter;

4369 (m) Violation of any probation requirements placed on a  
4370 licensee by the board;

4371 (n) Revealing confidential information except as may be  
4372 required by law;

4373 (o) Failing to inform clients of the fact that the  
4374 client no longer needs the services or professional assistance of  
4375 the licensee;

4376 (p) Charging excessive or unreasonable fees or engaging  
4377 in unreasonable collection practices.

4378 (2) (a) The board, acting on its own motion or, in the case  
4379 of a default on a loan, on the recommendation of the agency,

4380 political subdivision or other public or private entity to which  
4381 payments are due, shall suspend the license of any person who  
4382 defaults on or fails to comply with the requirements of an  
4383 educational loan, service conditional scholarship or loan  
4384 repayment program obligation that has been granted or guaranteed  
4385 by any federal, state or local agency or political subdivision  
4386 under which the person obtained any of the education necessary to  
4387 qualify for a license under this chapter. However, before an  
4388 agency, political subdivision or other public or private entity  
4389 may recommend the suspension of a license due to the person's  
4390 default on a loan, that agency, political subdivision or other  
4391 public or private entity must provide the license holder with  
4392 notice of its intention to recommend the suspension of the  
4393 person's license and an opportunity for the license holder to  
4394 respond.

4395 (b) The person's license will remain suspended until  
4396 the person has: (i) made arrangements satisfactory to the board  
4397 for meeting the obligations of the loan, scholarship or loan  
4398 repayment program; or (ii) in the case of a default on a loan,  
4399 made arrangements satisfactory to the agency, political  
4400 subdivision or other public or private entity to which payments  
4401 are due for the repayment of the loan.

4402 (3) The board may order a licensee to submit to a reasonable  
4403 physical or mental examination if the licensee's physical or  
4404 mental capacity to practice safely is at issue in a disciplinary  
4405 proceeding.

4406 (4) Failure to comply with a board order to submit to a  
4407 physical or mental examination shall render a licensee subject to  
4408 the summary suspension procedures described in Section 73-53-23.

4409 (5) In addition to the reasons specified in subsections (1)  
4410 and (2) of this section, the board may suspend the license of any  
4411 licensee for being out of compliance with an order for support, as  
4412 defined in Section 93-11-153. The procedure for suspension of a

4413 license for being out of compliance with an order for support, and  
4414 the procedure for the reissuance or reinstatement of a license  
4415 suspended for that purpose, and the payment of any fees for the  
4416 reissuance or reinstatement of a license suspended for that  
4417 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
4418 the case may be. If there is any conflict between any provision  
4419 of Section 93-11-157 or 93-11-163 and any provision of this  
4420 chapter, the provisions of Section 93-11-157 or 93-11-163, as the  
4421 case may be, shall control.

4422       **SECTION 34.** Section 73-54-29, Mississippi Code of 1972, is  
4423 amended as follows:

4424       73-54-29. (1) Licensees subject to this chapter shall  
4425 conduct their activities, services and practice in accordance with  
4426 this chapter and any rules promulgated pursuant under this  
4427 chapter. Licensees may be subject to the exercise of the  
4428 disciplinary sanctions enumerated in Section 73-53-23 if the board  
4429 finds that a licensee is guilty of any of the actions listed in  
4430 Section 73-53-17(1) or is guilty of any of the following:

4431           (a) Violation of any provision of this chapter or any  
4432 rules or regulations of the board adopted under the provisions of  
4433 this chapter.

4434           (b) Other just and sufficient cause that renders a  
4435 person unfit to practice marriage and family therapy as determined  
4436 by the board but not limited to:

4437                   (i) Habitual use of alcohol or drugs to an extent  
4438 that affects professional competence;

4439                   (ii) Adjudication as being mentally incompetent by  
4440 a court of competent jurisdiction;

4441                   (iii) Practicing in a manner detrimental to the  
4442 public health and welfare;

4443                   (iv) Revocation of a license or certification by a  
4444 licensing agency or by a certifying professional organization; or



4445 (v) Any other violation of this chapter or the  
4446 code of ethical standards of the American Association of Marriage  
4447 and Family Therapy or other ethical standards adopted by the board  
4448 under the provisions of this chapter.

4449 (2) (a) The board, acting on its own motion or, in the case  
4450 of a default on a loan, on the recommendation of the agency,  
4451 political subdivision or other public or private entity to which  
4452 payments are due, shall suspend the license of any person who  
4453 defaults on or fails to comply with the requirements of an  
4454 educational loan, service conditional scholarship or loan  
4455 repayment program obligation that has been granted or guaranteed  
4456 by any federal, state or local agency or political subdivision  
4457 under which the person obtained any of the education necessary to  
4458 qualify for a license under this chapter. However, before an  
4459 agency, political subdivision or other public or private entity  
4460 may recommend the suspension of a license due to the person's  
4461 default on a loan, that agency, political subdivision or other  
4462 public or private entity must provide the license holder with  
4463 notice of its intention to recommend the suspension of the  
4464 person's license and an opportunity for the license holder to  
4465 respond.

4466 (b) The person's license will remain suspended until  
4467 the person has: (i) made arrangements satisfactory to the board  
4468 for meeting the obligations of the loan, scholarship or loan  
4469 repayment program; or (ii) in the case of a default on a loan,  
4470 made arrangements satisfactory to the agency, political  
4471 subdivision or other public or private entity to which payments  
4472 are due for the repayment of the loan.

4473 **SECTION 35.** Section 73-55-19, Mississippi Code of 1972, is  
4474 amended as follows:

4475 73-55-19. (1) Any person licensed under this chapter may  
4476 have his license revoked or suspended for a fixed period to be  
4477 determined by the board for any of the following causes:

4478           (a) Being convicted of an offense involving moral  
4479 turpitude. The record of such conviction, or certified copy  
4480 thereof from the clerk of the court where such conviction occurred  
4481 or by the judge of that court, shall be sufficient evidence to  
4482 warrant revocation or suspension.

4483           (b) By securing a license under this chapter through  
4484 fraud or deceit.

4485           (c) For unethical conduct or for gross ignorance or  
4486 inefficiency in the conduct of his practice.

4487           (d) For knowingly practicing while suffering with a  
4488 contagious or infectious disease.

4489           (e) For the use of a false name or alias in the  
4490 practice of his profession.

4491           (f) For violating any of the provisions of this  
4492 chapter.

4493           (2) (a) The board, acting on its own motion or, in the case  
4494 of a default on a loan, on the recommendation of the agency,  
4495 political subdivision or other public or private entity to which  
4496 payments are due, shall suspend the license of any person who  
4497 defaults on or fails to comply with the requirements of an  
4498 educational loan, service conditional scholarship or loan  
4499 repayment program obligation that has been granted or guaranteed  
4500 by any federal, state or local agency or political subdivision  
4501 under which the person obtained any of the education necessary to  
4502 qualify for a license under this chapter. However, before an  
4503 agency, political subdivision or other public or private entity  
4504 may recommend the suspension of a license due to the person's  
4505 default on a loan, that agency, political subdivision or other  
4506 public or private entity must provide the license holder with  
4507 notice of its intention to recommend the suspension of the  
4508 person's license and an opportunity for the license holder to  
4509 respond.

4510           (b) The person's license will remain suspended until  
4511 the person has: (i) made arrangements satisfactory to the board  
4512 for meeting the obligations of the loan, scholarship or loan  
4513 repayment program; or (ii) in the case of a default on a loan,  
4514 made arrangements satisfactory to the agency, political  
4515 subdivision or other public or private entity to which payments  
4516 are due for the repayment of the loan.

4517           (3) Any person, whose license is sought to be revoked or  
4518 suspended under the provisions of this chapter, shall be given  
4519 thirty (30) days' notice, in writing, enumerating the charges and  
4520 specifying a date for public hearing thereon. The hearing shall  
4521 be held in the county where the person's business is conducted.  
4522 The board may issue subpoenas, compel the attendance and testimony  
4523 of witnesses, and place them under oath, the same as any court of  
4524 competent jurisdiction where the hearing takes place.

4525           (4) At all hearings the board may designate in writing one  
4526 or more persons deemed competent by the board to conduct the  
4527 hearing as trial examiner or trial committee, with the decision to  
4528 be rendered in accordance with the provisions of subsection (5) of  
4529 this section.

4530           (5) After a hearing has been completed the trial examiner or  
4531 trial committee who conducted the hearing shall proceed to  
4532 consider the case and, as soon as practicable, shall render a  
4533 decision. In any case, the decision must be rendered within sixty  
4534 (60) days after the hearing. The decision shall contain:

4535                   (a) The findings of fact made by the trial examiner or  
4536 trial committee;

4537                   (b) Conclusions of law reached by the trial examiner or  
4538 trial committee; and

4539                   (c) The order based upon these findings of fact and  
4540 conclusions of law.

4541           (6) From any revocation or suspension, the person charged  
4542 may, within thirty (30) days thereof, appeal to the chancery court  
4543 of the county where the hearing was held.

4544           (7) Notice of appeals shall be filed in the office of the  
4545 clerk of the court, who shall issue a writ of certiorari directed  
4546 to the board, commanding it within ten (10) days after service  
4547 thereof to certify to such court its entire record in the matter  
4548 in which the appeal has been taken. The appeal shall thereupon be  
4549 heard in the due course by said court without a jury, and the  
4550 court shall review the record and make its determination of the  
4551 cause between the parties.

4552           (8) If there is an appeal, such appeal may, in the  
4553 discretion of and on motion to the chancery court, act as a  
4554 supersedeas. The chancery court shall dispose of the appeal and  
4555 enter its decision promptly. The hearing on the appeal may, in  
4556 the discretion of the chancellor, be tried in vacation.

4557           (9) Any person taking an appeal shall post a satisfactory  
4558 bond in the amount of Two Hundred Dollars (\$200.00) for payment of  
4559 any costs which may be adjudged against him.

4560           (10) In addition to the reasons specified in subsections (1)  
4561 and (2) of this section, the board shall be authorized to suspend  
4562 the license of any licensee for being out of compliance with an  
4563 order for support, as defined in Section 93-11-153. The procedure  
4564 for suspension of a license for being out of compliance with an  
4565 order for support, and the procedure for the reissuance or  
4566 reinstatement of a license suspended for that purpose, and the  
4567 payment of any fees for the reissuance or reinstatement of a  
4568 license suspended for that purpose, shall be governed by Section  
4569 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
4570 board in suspending a license when required by Section 93-11-157  
4571 or 93-11-163 are not actions from which an appeal may be taken  
4572 under this section. Any appeal of a license suspension that is  
4573 required by Section 93-11-157 or 93-11-163 shall be taken in

4574 accordance with the appeal procedure specified in Section  
4575 93-11-157 or 93-11-163, as the case may be, rather than the  
4576 procedure specified in this section. If there is any conflict  
4577 between any provision of Section 93-11-157 or 93-11-163 and any  
4578 provision of this chapter, the provisions of Section 93-11-157 or  
4579 93-11-163, as the case may be, shall control.

4580         **SECTION 36.** Section 73-57-31, Mississippi Code of 1972, is  
4581 amended as follows:

4582         73-57-31. (1) The board may revoke, suspend or refuse to  
4583 renew any license or permit, or place on probation, or otherwise  
4584 reprimand a licensee or permit holder, or deny a license to an  
4585 applicant if it finds that person:

4586             (a) Is guilty of fraud or deceit in procuring or  
4587 attempting to procure a license or renewal of a license to  
4588 practice respiratory care.

4589             (b) Is unfit or incompetent by reason of negligence,  
4590 habits or other causes of incompetency.

4591             (c) Is habitually intemperate in the use of alcoholic  
4592 beverages.

4593             (d) Is addicted to, or has improperly obtained,  
4594 possessed, used or distributed habit-forming drugs or narcotics.

4595             (e) Is guilty of dishonest or unethical conduct.

4596             (f) Has practiced respiratory care after his license or  
4597 permit has expired or has been suspended.

4598             (g) Has practiced respiratory care under cover of any  
4599 permit or license illegally or fraudulently obtained or issued.

4600             (h) Has violated or aided or abetted others in  
4601 violation of any provision of this chapter.

4602         (2) (a) The board, acting on its own motion or, in the case  
4603 of a default on a loan, on the recommendation of the agency,  
4604 political subdivision or other public or private entity to which  
4605 payments are due, shall suspend the license of any person who  
4606 defaults on or fails to comply with the requirements of an

4607 educational loan, service conditional scholarship or loan  
4608 repayment program obligation that has been granted or guaranteed  
4609 by any federal, state or local agency or political subdivision  
4610 under which the person obtained any of the education necessary to  
4611 qualify for a license under this chapter. However, before an  
4612 agency, political subdivision or other public or private entity  
4613 may recommend the suspension of a license due to the person's  
4614 default on a loan, that agency, political subdivision or other  
4615 public or private entity must provide the license holder with  
4616 notice of its intention to recommend the suspension of the  
4617 person's license and an opportunity for the license holder to  
4618 respond.

4619 (b) The person's license will remain suspended until  
4620 the person has: (i) made arrangements satisfactory to the board  
4621 for meeting the obligations of the loan, scholarship or loan  
4622 repayment program; or (ii) in the case of a default on a loan,  
4623 made arrangements satisfactory to the agency, political  
4624 subdivision or other public or private entity to which payments  
4625 are due for the repayment of the loan.

4626 (3) In addition to the reasons specified in subsections (1)  
4627 and (2) of this section, the board may suspend the license or  
4628 permit of any licensee or permit holder for being out of  
4629 compliance with an order for support, as defined in Section  
4630 93-11-153. The procedure for suspension of a license or permit  
4631 for being out of compliance with an order for support, and the  
4632 procedure for the reissuance or reinstatement of a license or  
4633 permit suspended for that purpose, and the payment of any fees for  
4634 the reissuance or reinstatement of a license or permit suspended  
4635 for that purpose, shall be governed by Section 93-11-157 or  
4636 93-11-163, as the case may be. If there is any conflict between  
4637 any provision of Section 93-11-157 or 93-11-163 and any provision  
4638 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
4639 as the case may be, shall control.

4640           **SECTION 37.** Section 73-59-13, Mississippi Code of 1972, is  
4641 amended as follows:

4642           73-59-13. (1) The board, upon satisfactory proof and in  
4643 accordance with the provisions of this chapter and the regulations  
4644 of the board pertaining thereto, is authorized to take the  
4645 disciplinary actions provided for in this section against any  
4646 person for any of the following reasons:

4647           (a) Violating any of the provisions of this chapter or  
4648 the rules or regulations of the board pertaining to the work of  
4649 residential building or residential improvement;

4650           (b) Fraud, deceit or misrepresentation in obtaining a  
4651 license;

4652           (c) Gross negligence or misconduct;

4653           (d) Engaging in work of residential building or  
4654 residential improvement on an expired license or while under  
4655 suspension or revocation of license unless the suspension or  
4656 revocation be abated in accordance with this chapter;

4657           (e) Loaning a license to an unlicensed person;

4658           (f) Failing to maintain workers' compensation  
4659 insurance, if applicable; or

4660           (g) Failing to pay for goods or services for which the  
4661 builder is contractually bound.

4662           (2) (a) The board, acting on its own motion or, in the case  
4663 of a default on a loan, on the recommendation of the agency,  
4664 political subdivision or other public or private entity to which  
4665 payments are due, shall suspend the license of any person who  
4666 defaults on or fails to comply with the requirements of an  
4667 educational loan, service conditional scholarship or loan  
4668 repayment program obligation that has been granted or guaranteed  
4669 by any federal, state or local agency or political subdivision  
4670 under which the person obtained any of the education necessary to  
4671 qualify for a license under this chapter. However, before an  
4672 agency, political subdivision or other public or private entity

4673 may recommend the suspension of a license due to the person's  
4674 default on a loan, that agency, political subdivision or other  
4675 public or private entity must provide the license holder with  
4676 notice of its intention to recommend the suspension of the  
4677 person's license and an opportunity for the license holder to  
4678 respond.

4679 (b) The person's license will remain suspended until  
4680 the person has: (i) made arrangements satisfactory to the board  
4681 for meeting the obligations of the loan, scholarship or loan  
4682 repayment program; or (ii) in the case of a default on a loan,  
4683 made arrangements satisfactory to the agency, political  
4684 subdivision or other public or private entity to which payments  
4685 are due for the repayment of the loan.

4686 (3) Any person, including members of the board, may prefer  
4687 charges against any other person for committing any of the acts  
4688 set forth in subsection (1) of this section. Such charges shall  
4689 be sworn to, either upon actual knowledge or upon information and  
4690 belief, and shall be filed with the board.

4691 The board shall investigate all charges filed with it and,  
4692 upon finding reasonable cause to believe that the charges are not  
4693 frivolous, unfounded or filed in bad faith, may, in its  
4694 discretion, cause a hearing to be held, at a time and place fixed  
4695 by the board, regarding the charges and may compel the accused by  
4696 subpoena to appear before the board to respond to such charges.

4697 The board shall send a certified inspector to inspect the  
4698 building or structure which is the subject of a complaint or the  
4699 board may use a county certified building inspector from the  
4700 county where the building or structure is located to inspect the  
4701 building or structure which is the subject of a complaint. The  
4702 report of the inspector shall be used in the investigation and the  
4703 determination of the board. The provisions above shall only apply  
4704 to hearings.



4705           No disciplinary action may be taken until the accused has  
4706 been furnished both a statement of the charges against him and  
4707 notice of the time and place of the hearing thereon, which shall  
4708 be personally served on such accused or mailed by certified mail,  
4709 return receipt requested, to the last known business or residence  
4710 address of the accused not less than thirty (30) days prior to the  
4711 date fixed for the hearing. The complaining party shall be  
4712 notified of the place and time of the hearing by mail to the last  
4713 known business or residence address of the complaining party not  
4714 less than thirty (30) days prior to the date fixed for the  
4715 hearing.

4716           (4) At any hearing held hereunder, the board shall have the  
4717 power to subpoena witnesses and compel their attendance and may  
4718 also require the production of books, papers, documents or other  
4719 materials which may be pertinent to the proceedings. The board  
4720 may designate or secure a hearing officer to conduct the hearing.  
4721 All evidence shall be presented under oath, which may be  
4722 administered by any member of the board, and thereafter the  
4723 proceedings may, if necessary, be transcribed in full by a court  
4724 reporter and filed as part of the record in the case. Copies of  
4725 such transcriptions may be provided to any party to the  
4726 proceedings at a price reflecting actual cost, to be fixed by the  
4727 board.

4728           All witnesses who are subpoenaed and appear in any  
4729 proceedings before the board shall receive the same fees and  
4730 mileage as allowed by law to witnesses in county, circuit and  
4731 chancery court pursuant to Section 25-7-47, and all such fees  
4732 shall be taxed as part of the costs in the case.

4733           When, in any proceeding before the board, any witness shall  
4734 fail or refuse to attend upon subpoena issued by the board, shall  
4735 refuse to testify, or shall refuse to produce any books and papers  
4736 the production of which is called for by the subpoena, the  
4737 attendance of such witness and the giving of his testimony and the

4738 production of the books and papers shall be enforced by any court  
4739 of competent jurisdiction of this state in the manner provided for  
4740 the enforcement of attendance and testimony of witnesses in civil  
4741 cases in the courts of this state.

4742 The accused and the complaining party shall have the right to  
4743 be present at the hearing in person, by counsel or other  
4744 representative, or both. The board is authorized for proper cause  
4745 to continue or recess the hearing as may be necessary.

4746 (5) At the conclusion of the hearing, the board may either  
4747 decide the issue at that time or take the case under advisement  
4748 for further deliberation. The board shall render its decision not  
4749 more than ninety (90) days after the close of the hearing and  
4750 shall forward to the last known business or residence address of  
4751 the accused, by certified mail, return receipt requested, a  
4752 written statement of the decision of the board.

4753 (6) If a majority of the board finds the accused guilty of  
4754 the charges filed, the board may:

- 4755 (a) Issue a public or private reprimand;  
4756 (b) Suspend or revoke the license of the accused; or  
4757 (c) In lieu of or in addition to any reprimand,  
4758 suspension or revocation, assess and levy upon the guilty party a  
4759 monetary penalty of not less than One Hundred Dollars (\$100.00)  
4760 nor more than Five Thousand Dollars (\$5,000.00) for each  
4761 violation.

4762 (7) A monetary penalty assessed and levied under this  
4763 section shall be paid to the board upon the expiration of the  
4764 period allowed for appeal of such penalties under this section or  
4765 may be paid sooner if the guilty party elects. Money collected by  
4766 the board under this section shall be deposited to the credit of  
4767 the State Board of Contractors' Fund.

4768 When payment of a monetary penalty assessed and levied by the  
4769 board in accordance with this section is not paid when due, the  
4770 board shall have the power to institute and maintain proceedings

4771 in its name for enforcement of payment in the chancery court of  
4772 the county of residence of the delinquent party; however, if the  
4773 delinquent party is a nonresident of the State of Mississippi,  
4774 such proceedings shall be in the Chancery Court of the First  
4775 Judicial District of Hinds County, Mississippi.

4776 (8) When the board has taken a disciplinary action under  
4777 this section, the board may, in its discretion, stay such action  
4778 and place the guilty party on probation for a period not to exceed  
4779 one (1) year upon the condition that such party shall not further  
4780 violate either the laws of the State of Mississippi pertaining to  
4781 the practice of residential construction or residential remodeling  
4782 or the bylaws, rules or regulations promulgated by the board.

4783 (9) The board shall not assess any of the costs of  
4784 disciplinary proceedings conducted pursuant to this section  
4785 against the prevailing party.

4786 (10) The power and authority of the board to assess and levy  
4787 the monetary penalties provided for in this section shall not be  
4788 affected or diminished by any other proceedings, civil or  
4789 criminal, concerning the same violation or violations except as  
4790 provided in this section.

4791 (11) The board, for sufficient cause, may reissue a revoked  
4792 license whenever a majority of the board members vote to do so.

4793 (12) Any person aggrieved by any order or decision of the  
4794 board may appeal within ten (10) days from the date of adjournment  
4795 of the session at which the board rendered such order or decision,  
4796 and may embody the facts, order and decision in a bill of  
4797 exceptions which shall be signed by the person acting as chairman  
4798 of the board. The board shall transmit the bill of exceptions to  
4799 either the chancery court of the county of residence of the  
4800 appellant, or the Chancery Court of the First Judicial District of  
4801 Hinds County, at the election of the appellant, and the court or  
4802 chancellor shall hear and determine the same either in termtime or  
4803 in vacation, on the case as presented by the bill of exceptions,

4804 as an appellant court, and shall affirm or reverse the judgment.  
4805 If the judgment be reversed, the chancery court or chancellor  
4806 shall render such order or judgment as the board ought to have  
4807 rendered, and certify the same to the board; and costs shall be  
4808 awarded as in other cases. The board may employ counsel to defend  
4809 such appeals, to be paid out of the funds in the State Board of  
4810 Contractors' Fund.

4811 The remedies provided under this chapter for any aggrieved  
4812 applicant shall not be exclusive, but shall be cumulative of and  
4813 supplemental to any other remedies which he may otherwise have in  
4814 law or in equity, whether by injunction or otherwise.

4815 (13) Any political subdivision or agency of this state which  
4816 receives a complaint against a residential builder or remodeler  
4817 shall, in addition to exercising whatever authority such political  
4818 subdivision or agency has been given over such complaint, forward  
4819 the complaint to the board.

4820 (14) In addition to the reasons specified in subsections (1)  
4821 and (2) of this section, the board shall be authorized to suspend  
4822 the license of any licensee for being out of compliance with an  
4823 order for support, as defined in Section 93-11-153. The procedure  
4824 for suspension of a license for being out of compliance with an  
4825 order for support, and the procedure for the reissuance or  
4826 reinstatement of a license suspended for that purpose, and the  
4827 payment of any fees for the reissuance or reinstatement of a  
4828 license suspended for that purpose, shall be governed by Section  
4829 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
4830 board in suspending a license when required by Section 93-11-157  
4831 or 93-11-163 are not actions from which an appeal may be taken  
4832 under this section. Any appeal of a license suspension that is  
4833 required by Section 93-11-157 or 93-11-163 shall be taken in  
4834 accordance with the appeal procedure specified in Section  
4835 93-11-157 or 93-11-163, as the case may be, rather than the  
4836 procedure specified in this section. If there is any conflict

4837 between any provision of Section 93-11-157 or 93-11-163 and any  
4838 provision of this chapter, the provisions of Section 93-11-157 or  
4839 93-11-163, as the case may be, shall control.

4840         **SECTION 38.** Section 73-63-43, Mississippi Code of 1972, is  
4841 amended as follows:

4842         73-63-43. (1) The board, upon satisfactory proof and in  
4843 accordance with this chapter and rules and regulations of the  
4844 board, may take the disciplinary actions provided under this  
4845 chapter against any person for the following reasons:

4846             (a) Violation of this chapter, any rule or regulation  
4847 or written order of the board, any condition of registration or  
4848 standards of professional conduct;

4849             (b) Fraud, deceit or misrepresentation in obtaining a  
4850 certificate of registration as a registered professional geologist  
4851 or certificate of enrollment as a geologist-in-training;

4852             (c) Gross negligence, malpractice, incompetency,  
4853 misconduct, or repeated incidents of simple negligence in or  
4854 related to the practice of geology;

4855             (d) Practicing or offering to practice geology, or  
4856 holding oneself out as being registered or qualified to practice  
4857 geology, by an individual who is not registered under this  
4858 chapter, or by any other person not employing a registered  
4859 professional geologist as required by this chapter;

4860             (e) Using the seal of another, or using or allowing use  
4861 of one's seal on geologic work not performed by or under the  
4862 supervision of the registered professional geologist, or otherwise  
4863 aiding or abetting any person in the violation of this chapter;

4864             (f) Disciplinary action by any state agency, board of  
4865 registration or similar licensing agency for geologists or any  
4866 profession or occupation related to the practice of geology. The  
4867 sanction imposed by the board shall not exceed in severity or  
4868 duration the sanction upon which that action is based;

4869 (g) Addiction to or chronic dependence on alcohol or  
4870 other habit-forming drugs or being an habitual user of alcohol,  
4871 narcotics, barbiturates, amphetamines, hallucinogens or other  
4872 drugs having similar effect resulting in the impairment of  
4873 professional or ethical judgment; or

4874 (h) Injuring or damaging, or attempting to injure or  
4875 damage, the professional reputation of another by any means  
4876 whatsoever; this provision shall not relieve a registered  
4877 professional geologist from the obligation to expose unethical or  
4878 illegal conduct to the proper authorities nor shall it preclude  
4879 confidential appraisals of geologists or other persons or firms  
4880 under consideration for employment.

4881 (2) (a) The board, acting on its own motion or, in the case  
4882 of a default on a loan, on the recommendation of the agency,  
4883 political subdivision or other public or private entity to which  
4884 payments are due, shall suspend the certificate of registration or  
4885 certificate of enrollment of any person who defaults on or fails  
4886 to comply with the requirements of an educational loan, service  
4887 conditional scholarship or loan repayment program obligation that  
4888 has been granted or guaranteed by any federal, state or local  
4889 agency or political subdivision under which the person obtained  
4890 any of the education necessary to qualify for a certificate of  
4891 registration or certificate of enrollment under this chapter.  
4892 However, before an agency, political subdivision or other public  
4893 or private entity may recommend the suspension of a certificate of  
4894 registration or certificate of enrollment due to the person's  
4895 default on a loan, that agency, political subdivision or other  
4896 public or private entity must provide the certificate holder with  
4897 notice of its intention to recommend the suspension of the  
4898 person's certificate of registration or certificate of enrollment  
4899 and an opportunity for the certificate holder to respond.

4900 (b) The person's certificate of registration or  
4901 certificate of enrollment will remain suspended until the person

4902 has: (i) made arrangements satisfactory to the board for meeting  
4903 the obligations of the loan, scholarship or loan repayment  
4904 program; or (ii) in the case of a default on a loan, made  
4905 arrangements satisfactory to the agency, political subdivision or  
4906 other public or private entity to which payments are due for the  
4907 repayment of the loan.

4908       (3) Any person may bring a complaint alleging a violation of  
4909 this chapter, any rule or regulation or written order of the  
4910 board, any condition of registration or standards of professional  
4911 conduct. Complaints shall be made in writing, sworn to by the  
4912 person filing the complaint, and filed with the board. The board  
4913 shall investigate all complaints and upon finding a basis for that  
4914 complaint, shall notify the accused in writing specifying the  
4915 provisions of this chapter, rule, regulation or order of the board  
4916 or the condition or standard alleged to be violated and the facts  
4917 alleged to constitute the violation. The notice shall require the  
4918 accused to appear before the board at a time and place to answer  
4919 the charges. The time of appearance shall be at least thirty (30)  
4920 days from the date of service of the notice. Notice shall be made  
4921 by service on the person or by registered or certified mail,  
4922 return receipt requested, to the last known business or residence  
4923 address of the accused, as shown on the records of the board.  
4924 Within fifteen (15) days following receipt of that notice, the  
4925 accused shall file a written response, admitting, denying or  
4926 taking exception to the charges. In the absence of a response or  
4927 if the charges are admitted or if no exception is taken, the board  
4928 may take disciplinary action without holding a hearing. A  
4929 disciplinary action may be settled by the board and the accused,  
4930 either before or after a hearing has begun.

4931       A person who reports or provides information to the board in  
4932 good faith is not subject to an action for civil damages.

4933       (4) Any hearing under this section may be conducted by the  
4934 board itself at a regular or special meeting of the board or by a

4935 hearing officer designated by the board. The hearing officer may  
4936 conduct the hearings in the name of the board at any time and  
4937 place as conditions and circumstances may warrant. The hearing  
4938 officer or any member of the board may administer oaths or  
4939 affirmations to witnesses appearing before the hearing officer or  
4940 the board.

4941 If any witness fails or refuses to attend upon subpoena  
4942 issued by the board, refuses to testify or refuses to produce  
4943 books, papers, reports, documents and similar material, the  
4944 production of which is called for by a subpoena, the attendance of  
4945 any witness and the giving of that person's testimony and the  
4946 production of books, papers, reports, documents and similar  
4947 material shall be enforced by any court of competent jurisdiction  
4948 of this state in the manner provided for the enforcement of the  
4949 attendance and testimony of witnesses in civil cases in the courts  
4950 of this state.

4951 All hearings before the board shall be recorded either by a  
4952 court reporter or by tape or mechanical recorders and subject to  
4953 transcription upon order of the board or any interested person.  
4954 If the request for transcription originates with an interested  
4955 person, that person shall pay the cost of transcription.

4956 The accused shall have the right to be present at the hearing  
4957 in person, by counsel or other representative, or both. The board  
4958 may continue or recess the hearing as may be necessary.

4959 (5) If a hearing officer conducts the hearing on behalf of  
4960 the board, the hearing officer shall upon completion have the  
4961 record of that hearing prepared. The record shall be submitted to  
4962 the board along with that hearing officer's findings of fact and  
4963 recommended decision. Upon receipt and review of the record of  
4964 the hearing and the hearing officer's findings of fact and  
4965 recommended decision, the board shall render its final decision as  
4966 provided in subsection (6) of this section.



4967 Any person ordered to appear for an alleged violation may  
4968 request a hearing before a majority of the board. A verbatim  
4969 record of any previous hearings on that matter shall be filed with  
4970 the board, together with findings of fact and conclusions of law  
4971 made by the board based on the record.

4972 (6) At the conclusion of the hearing, the board may either  
4973 decide the issue at that time or take the case under advisement  
4974 for further deliberation. The board shall render its decision not  
4975 more than ninety (90) days after the close of the hearing, and  
4976 shall forward to the last known business or residence address of  
4977 the accused, by certified or registered mail, return receipt  
4978 requested, a written statement of the decision of the board.

4979 If a majority of the board finds the accused guilty of the  
4980 charges filed, the board may take any combination of the following  
4981 actions:

4982 (a) Deny the renewal of a certificate of registration  
4983 or certificate of enrollment;

4984 (b) Suspend the certificate of registration or  
4985 certificate of enrollment of any registrant for a specified period  
4986 of time, not to exceed three (3) years, or revoke the certificate  
4987 of registration or certificate of enrollment of any registrant;

4988 (c) Censure, reprimand or issue a public or private  
4989 admonishment to an applicant, a registrant or any other person  
4990 engaged in the practice of geology under this chapter;

4991 (d) Impose limitations, conditions or restrictions upon  
4992 the practice of an applicant, a registrant or upon any other  
4993 person engaged in the practice of geology;

4994 (e) Require the guilty party to complete a course,  
4995 approved by the board, in ethics;

4996 (f) Impose probation upon a registrant, requiring  
4997 regular reporting to the board;

4998           (g) Require restitution, in whole or in part, of the  
4999 compensation or fees earned by a registrant or by any other person  
5000 engaging in the practice of geology; or

5001           (h) Assess and levy upon the guilty party a monetary  
5002 penalty not to exceed Five Thousand Dollars (\$5,000.00) for each  
5003 violation.

5004        (7) Any monetary penalty assessed and levied under this  
5005 section shall be paid to the board upon the expiration of the  
5006 period allowed for appeal of that penalty, or may be paid sooner  
5007 if the guilty party elects. Money collected by the board under  
5008 this section shall be deposited to the credit of the Registered  
5009 Professional Geologists Fund.

5010        When payment of a monetary penalty assessed and levied by the  
5011 board in accordance with this section is not paid when due, the  
5012 board may begin and maintain proceedings in its name for  
5013 enforcement of payment in the chancery court of the county and  
5014 judicial district of residence of the guilty party and if the  
5015 guilty party is a nonresident of the State of Mississippi, the  
5016 proceedings shall be in the Chancery Court of the First Judicial  
5017 District of Hinds County, Mississippi.

5018        (8) The board may assess and impose the costs of any  
5019 disciplinary proceedings conducted under this section against  
5020 either the accused, the charging party, or both, as it may elect.

5021        (9) The authority of the board to assess and levy the  
5022 monetary penalties under this section shall not be affected or  
5023 diminished by any other proceeding, civil or criminal, concerning  
5024 the same violation or violations, unless provided in this section.

5025        (10) If the board determines there is an imminent danger to  
5026 the public welfare, the board may issue an order for the immediate  
5027 suspension of a certificate of registration or a certificate of  
5028 enrollment. The registrant may request a hearing on the matter  
5029 within fifteen (15) days after receipt of the order of suspension.  
5030 The board shall file charges as provided in this section within

5031 thirty (30) days after the issuance of an order, or the suspension  
5032 shall be of no further force and effect. If charges are filed,  
5033 the order of suspension shall remain in effect until disposition  
5034 of all charges.

5035 (11) The board, for sufficient cause, may reissue a revoked  
5036 certificate of registration or certificate of enrollment, upon  
5037 written application to the board by the applicant. The  
5038 application shall be made not less than three (3) years after the  
5039 revocation. The board may impose reasonable conditions or  
5040 limitations in connection with any reissuance.

5041 (12) In addition to the reasons named in subsections (1) and  
5042 (2) of this section, the board may suspend the certificate of  
5043 registration or certificate of enrollment of any person for being  
5044 out of compliance with an order for support, as defined in Section  
5045 93-11-153. The procedure for suspension of a certificate for  
5046 being out of compliance with an order for support, and the  
5047 procedure for the reissuance or reinstatement of a certificate  
5048 suspended for that purpose, and the payment of any fees for the  
5049 reissuance or reinstatement of a certificate suspended for that  
5050 purpose, shall be governed by Section 93-11-157 or 93-11-163, as  
5051 the case may be. Actions taken by the board in suspending a  
5052 certificate when required by Section 93-11-157 or 93-11-163 are  
5053 not actions from which an appeal may be taken under Section  
5054 73-63-49. Any appeal of a suspension of a certificate that is  
5055 required by Section 93-11-157 or 93-11-163 shall be taken in  
5056 accordance with the appeal procedure specified in Section  
5057 93-11-157 or 93-11-163, as the case may be, rather than the  
5058 procedure specified in Section 73-63-49. If there is any conflict  
5059 between Section 93-11-157 or 93-11-163 and this chapter, Section  
5060 93-11-157 or 93-11-163, as the case may be, shall control.

5061 **SECTION 39.** Section 73-65-13, Mississippi Code of 1972, is  
5062 amended as follows:

5063           73-65-13. (1) The board may deny any application, or  
5064 suspend or revoke any license held or applied for under the  
5065 provisions of Section 73-65-7 if the person:

5066           (a) Is found guilty of fraud, deceit, or  
5067 misrepresentation in procuring or attempting to procure a license  
5068 to practice art therapy;

5069           (b) Is adjudicated mentally incompetent;

5070           (c) Is found guilty of a felony or misdemeanor  
5071 involving moral turpitude;

5072           (d) Is found guilty of unprofessional or unethical  
5073 conduct in this or any other jurisdiction;

5074           (e) Has been using any controlled substance or  
5075 alcoholic beverage to an extent or in a manner dangerous to the  
5076 person, any other person, or the public, or to an extent that the  
5077 use impairs the ability to perform as a licensed professional art  
5078 therapist;

5079           (f) Has violated any provision of this chapter; or

5080           (g) Willfully or negligently divulges a professional  
5081 confidence.

5082           (2) A certified copy of the record of conviction shall be  
5083 conclusive evidence of the conviction.

5084           (3) Disciplinary proceedings may be initiated upon the  
5085 receipt by the board of a sworn complaint by any person, including  
5086 members of the board.

5087           (4) (a) The board, acting on its own motion or, in the case  
5088 of a default on a loan, on the recommendation of the agency,  
5089 political subdivision or other public or private entity to which  
5090 payments are due, shall suspend the license of any person who  
5091 defaults on or fails to comply with the requirements of an  
5092 educational loan, service conditional scholarship or loan  
5093 repayment program obligation that has been granted or guaranteed  
5094 by any federal, state or local agency or political subdivision  
5095 under which the person obtained any of the education necessary to

5096 qualify for a license under this chapter. However, before an  
5097 agency, political subdivision or other public or private entity  
5098 may recommend the suspension of a license due to the person's  
5099 default on a loan, that agency, political subdivision or other  
5100 public or private entity must provide the license holder with  
5101 notice of its intention to recommend the suspension of the  
5102 person's license and an opportunity for the license holder to  
5103 respond.

5104 (b) The person's license will remain suspended until  
5105 the person has: (i) made arrangements satisfactory to the board  
5106 for meeting the obligations of the loan, scholarship or loan  
5107 repayment program; or (ii) in the case of a default on a loan,  
5108 made arrangements satisfactory to the agency, political  
5109 subdivision or other public or private entity to which payments  
5110 are due for the repayment of the loan.

5111 **SECTION 40.** Section 73-67-27, Mississippi Code of 1972, is  
5112 amended as follows:

5113 73-67-27. (1) The board may refuse to issue or renew or may  
5114 deny, suspend or revoke any certificate of registration held or  
5115 applied for under this chapter upon finding that the holder of a  
5116 certificate of registration or applicant:

5117 (a) Is guilty of fraud, deceit or misrepresentation in  
5118 procuring or attempting to procure any certificate of registration  
5119 provided for in this chapter;

5120 (b) Attempted to use as his own the certificate of  
5121 registration of another;

5122 (c) Allowed the use of his certificate of registration  
5123 by another;

5124 (d) Has been adjudicated as mentally incompetent by  
5125 regularly constituted authorities;

5126 (e) Has been convicted of a crime, or has charges or  
5127 disciplinary action pending that directly relates to the practice  
5128 of massage therapy or to the ability to practice massage therapy.

5129 Any plea of nolo contendere shall be considered a conviction for  
5130 the purposes of this section;

5131 (f) Is guilty of unprofessional or unethical conduct as  
5132 defined by the code of ethics;

5133 (g) Is guilty of false, misleading or deceptive  
5134 advertising, or is guilty of aiding or assisting in the  
5135 advertising of any unregistered or unpermitted person in the  
5136 practice of massage therapy;

5137 (h) Is grossly negligent or incompetent in the practice  
5138 of massage therapy;

5139 (i) Has had rights, credentials or one or more  
5140 license(s) to practice massage therapy revoked, suspended or  
5141 denied in any jurisdiction, territory or possession of the United  
5142 States or another country for acts of the licensee similar to acts  
5143 described in this section. A certified copy of the record of the  
5144 jurisdiction making such a revocation, suspension or denial shall  
5145 be conclusive evidence thereof; or

5146 (j) Has been convicted of any felony, other than a  
5147 violation of federal or state tax laws.

5148 (2) (a) The board, acting on its own motion or, in the case  
5149 of a default on a loan, on the recommendation of the agency,  
5150 political subdivision or other public or private entity to which  
5151 payments are due, shall suspend the certificate of registration of  
5152 any person who defaults on or fails to comply with the  
5153 requirements of an educational loan, service conditional  
5154 scholarship or loan repayment program obligation that has been  
5155 granted or guaranteed by any federal, state or local agency or  
5156 political subdivision under which the person obtained any of the  
5157 education necessary to qualify for a certificate of registration  
5158 under this chapter. However, before an agency, political  
5159 subdivision or other public or private entity may recommend the  
5160 suspension of a certificate of registration due to the person's  
5161 default on a loan, that agency, political subdivision or other

5162 public or private entity must provide the certificate holder with  
5163 notice of its intention to recommend the suspension of the  
5164 person's certificate of registration and an opportunity for the  
5165 certificate holder to respond.

5166 (b) The person's certificate of registration will  
5167 remain suspended until the person has: (i) made arrangements  
5168 satisfactory to the board for meeting the obligations of the loan,  
5169 scholarship or loan repayment program; or (ii) in the case of a  
5170 default on a loan, made arrangements satisfactory to the agency,  
5171 political subdivision or other public or private entity to which  
5172 payments are due for the repayment of the loan.

5173 (3) Investigative proceedings may be implemented by a  
5174 complaint by any person, including members of the board.

5175 (4) (a) Any person(s) found guilty of prostitution using as  
5176 any advertisement, claim or insignia of being an actual registered  
5177 massage therapist or to be practicing massage therapy by using the  
5178 word "massage" or any other description indicating the same,  
5179 whether or not the person(s) have one or more such certificate of  
5180 registration for person(s) or establishment(s), shall be guilty of  
5181 a misdemeanor, and upon conviction, shall be punished by a fine of  
5182 not less than One Thousand Dollars (\$1,000.00), nor more than Five  
5183 Thousand Dollars (\$5,000.00), or imprisonment of up to six (6)  
5184 months, or both, per offense, per person.

5185 (b) Any person who knowingly participates in receiving  
5186 illegal service(s) of any person found guilty as described in  
5187 paragraph (a) of this subsection, upon conviction, shall be  
5188 punished by a fine not exceeding Five Hundred Dollars (\$500.00),  
5189 or imprisonment for up to one (1) month, or both. Persons  
5190 officially designated to investigate complaints are exempt.

5191 (c) Any person who violates any provision of this  
5192 chapter, other than violation(s) of paragraph (a) of this  
5193 subsection, is guilty of a misdemeanor, and upon conviction, shall  
5194 be punished by a fine not exceeding Five Hundred Dollars

5195 (\$500.00), or imprisonment for up to one (1) month in jail, or  
5196 both, per offense.

5197 (d) The board, in its discretion, may assess and tax  
5198 any part or all of the costs of any disciplinary proceedings  
5199 conducted against either the accused, the charging party, or both,  
5200 as it may elect.

5201 **SECTION 41.** This act shall take effect and be in force from  
5202 and after July 1, 2007.