

**§ 73-9-61--DENIAL OF ISSUANCE OR RENEWAL,
REVOCAION, OR SUSPENSION OF LICENSE FOR CAUSE;
MONETARY PENALTY IN LIEU OF DENIAL,
REVOCAION, OR SUSPENSION; OTHER DISCIPLINARY MEASURES**

- (1) Upon satisfactory proof, and in accordance with statutory provisions elsewhere set out for such hearings and protecting the rights of the accused as well as the public, the State Board of Dental Examiners may deny the issuance or renewal of a license or may revoke or suspend the license of any licensed dentist or dental hygienist practicing in the State of Mississippi, or take any other action in relation to the license as the board may deem proper under the circumstances, for any of the following reasons:
- (a) Misrepresentation in obtaining a license, or attempting to obtain, obtaining, attempting to renew or renewing a license or professional credential by making any material misrepresentation, including the signing in his or her professional capacity any certificate that is known to be false at the time he or she makes or signs the certificate.
 - (b) Willful violation of any of the rules or regulations duly promulgated by the board, or of any of the rules or regulations duly promulgated by the appropriate dental licensure agency of another state or jurisdiction.
 - (c) Being impaired in the ability to practice dentistry or dental hygiene with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.
 - (d) Administering, dispensing or prescribing any prescriptive medication or drug outside the course of legitimate professional dental practice.
 - (e) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
 - (f) Practicing incompetently or negligently, regardless of whether there is actual harm to the patient.
 - (g) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that relates to the practice of dentistry or dental hygiene, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
 - (h) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a felony in any jurisdiction, a certified copy of the

conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

- (i) Delegating professional responsibilities to a person who is not qualified by training, experience or licensure to perform them.
- (j) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice dentistry or dental hygiene in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by the licensing authority that prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (k) Surrender of a license or authorization to practice dentistry or dental hygiene in another state or jurisdiction when the board has reasonable cause to believe that the surrender is made to avoid or in anticipation of a disciplinary action.
- (l) Any unprofessional conduct to be determined by the board on a case-by-case basis, which shall include, but not be restricted to, the following:
 - (i) Committing any crime involving moral turpitude.
 - (ii) Practicing deceit or other fraud upon the public.
 - (iii) Practicing dentistry or dental hygiene under a false or assumed name.
 - (iv) Advertising that is false, deceptive or misleading.
 - (v) Announcing a specialized practice shall be considered advertising that tends to deceive or mislead the public unless the dentist announcing as a specialist conforms to other statutory provisions and the duly promulgated rules or regulations of the board pertaining to practice of dentistry in the State of Mississippi.
- (m) Failure to provide and maintain reasonable sanitary facilities and conditions or failure to follow board rules regarding infection control.
- (n) Committing any act which would constitute sexual misconduct upon a patient or upon ancillary staff. For purposes of this subsection, the term sexual misconduct means:
 - (i) Use of the licensee-patient relationship to engage or attempt to engage the patient in sexual activity; or
 - (ii) Conduct of a licensee that is intended to intimidate, coerce, influence or trick any person employed by or for the licensee in a dental practice or educational setting for the purpose of engaging in sexual activity or activity intended for the sexual gratification of the licensee.

- (o) Violation of a lawful order of the board previously entered in a disciplinary or licensure hearing; failure to cooperate with any lawful request or investigation by the board; or failure to comply with a lawfully issued subpoena of the board.
 - (p) Willful, obstinate and continuing refusal to cooperate with the board in observing its rules and regulations in promptly paying all legal license or other fees required by law.
 - (q) Practicing dentistry or dental hygiene while the person's license is suspended.
 - (r) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2020.
- (2) In lieu of revocation of a license as provided for above, the board may suspend the license of the offending dentist or dental hygienist, suspend the sedation permit of the offending dentist, or take any other action in relation to his or her license as the board may deem proper under the circumstances.
- (3) When a license to practice dentistry or dental hygiene is revoked or suspended by the board, the board may, in its discretion, stay the revocation or suspension and simultaneously place the licensee on probation upon the condition that the licensee shall not violate the laws of the State of Mississippi pertaining to the practice of dentistry or dental hygiene and shall not violate the rules and regulations of the board and shall not violate any terms in relation to his or her license as may be set by the board.
- (4) In a proceeding conducted under this section by the board for the denial, revocation or suspension of a license to practice dentistry or dental hygiene, the board shall have the power and authority for the grounds stated for that denial, revocation or suspension, and in addition thereto or in lieu of that denial, revocation or suspension may assess and levy upon any person licensed to practice dentistry or dental hygiene in the State of Mississippi, a monetary penalty, as follows:
- (a) For the first violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).
 - (b) For the second violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).
 - (c) For the third and any subsequent violation of any of subparagraph (a), (b), (c), (d), (f), (i), (l), (m), (n), (o) or (q) of subsection (1) of this section, a monetary penalty of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00).

- (d) For any violation of any of subparagraphs (a) through (q) of subsection (1) of this section, those reasonable costs that are expended by the board in the investigation and conduct of a proceeding for licensure revocation or suspension, including, but not limited to, the cost of process service, court reporters, expert witnesses and investigators.
- (5) The power and authority of the board to assess and levy monetary penalties under this section shall not be affected or diminished by any other proceeding, civil or criminal, concerning the same violation or violations except as provided in this section.
- (6) A licensee shall have the right of appeal from the assessment and levy of a monetary penalty as provided in this section under the same conditions as a right of appeal is provided elsewhere for appeals from an adverse ruling, order or decision of the board.
- (7) Any monetary penalty assessed and levied under this section shall not take effect until after the time for appeal has expired. In the event of an appeal, the appeal shall act as a supersedeas.
- (8) A monetary penalty assessed and levied under this section shall be paid to the board by the licensee upon the expiration of the period allowed for appeal of those penalties under this section or may be paid sooner if the licensee elects. With the exception of subsection (4)(d) of this section, monetary penalties collected by the board under this section shall be deposited to the credit of the General Fund of the State Treasury. Any monies collected by the board under subsection (4)(d) of this section shall be deposited into the special fund operating account of the board.
- (9) When payment of a monetary penalty assessed and levied by the board against a licensee in accordance with this section is not paid by the licensee when due under this section, the board shall have power to institute and maintain proceedings in its name for enforcement of payment in the chancery court of the county and judicial district of residence of the licensee, and if the licensee is a nonresident of the State of Mississippi, the proceedings shall be in the Chancery Court of the First Judicial District of Hinds County, Mississippi.
- (10) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.
- (11) All grounds for disciplinary action, including imposition of fines and assessment of costs as enumerated above, shall also apply to any other license or permit issued by the board under this chapter or regulations duly adopted by the board.