

**§ 73-9-107--CONDUCT OF EXAMINATION;
REPORT OF FINDINGS AND RECOMMENDATIONS;
NOTICE TO LICENSEE; INDEPENDENT EXAMINATION;
FAILURE TO COMPLY WITH EXAMINATION GROUNDS FOR SUSPENSION;
INSPECTION OF PATIENT RECORDS**

- (1) The examining committee assigned to examine a dentist or dental hygienist pursuant to referral by the board under Section 73-9-105 shall conduct an examination of the dentist or dental hygienist for the purpose of determining his or her fitness to practice dentistry or dental hygiene with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and shall report its findings and recommendations to the board. The committee shall order the dentist or dental hygienist to appear before the committee for examination and give him or her ten (10) days' notice of the time and place of the examination, together with a statement of the cause for the examination. The notice shall be served upon the dentist or dental hygienist either personally or by registered or certified mail with return receipt requested.
- (2) If the examining committee, in its discretion, deems an independent mental or physical examination of the dentist or dental hygienist necessary to its determination of the fitness of the dentist or dental hygienist to practice, the committee shall order the dentist or dental hygienist to submit to the examination. Any person licensed to practice dentistry or dental hygiene in this state shall be deemed to have waived all objections to the admissibility of the examining committee's report in any proceedings before the board under Sections 73-9-101 through 73-9-117 on the grounds of privileged communication. Any dentist or dental hygienist ordered to an examination before the committee under this subsection shall be entitled to an independent mental or physical examination if he or she makes a request therefor.
- (3) Any dentist or dental hygienist who submits to a diagnostic mental or physical examination as ordered by the examining committee shall have a right to designate another physician to be present at the examination and make an independent report to the board.
- (4) Failure of a dentist or dental hygienist to comply with a committee order under subsection (1) of this section to appear before it for examination or to submit to mental or physical examination under subsection (2) of this section shall be reported by the committee to the board, and unless due to circumstances beyond the control of the dentist or dental hygienist, shall be grounds for suspension by the board of his or her license to practice dentistry or dental hygiene in this state until such time as the dentist or dental hygienist has complied with the order of the committee.
- (5) The examining committee may inspect patient records in accordance with the rules and regulations duly promulgated by the Board of Dental Examiners.
- (6) All patient records, investigative reports, and other documents in possession of the board and examining committee shall be deemed confidential and not subject to

subpoena or disclosure unless so ordered by the court from which the subpoena issued, but the court, in its discretion, may limit use or disclosure of the records. Notwithstanding, and to encourage the prompt reporting of disabled practitioners, neither the board nor examining committee shall reveal the identity of any source of information where the source has requested anonymity.