

Title 30: Professions and Occupations

Part 1901: Authority and Practice

Part 1901 Chapter 1: Administration

Rule 1.1 GENERAL

A. Purpose

The purpose of these regulations is to set forth the minimum qualifications for those who wish to practice social work or marriage and family therapy under the statute. The rules outlined in this section apply to all applicants and licensees in these two disciplines. The rules in Parts 1902 and 1903 of this title also apply to all applicants and licensees as appropriate in their respective disciplines.

B. Legal Authority of the Board

The Board of Examiners for Social Workers and Marriage and Family Therapists is authorized to promulgate these rules under and by virtue of Sections 73-53-1 through 73-54-39 of the Mississippi Code of 1972, as amended.

C. Definitions

1. “Board” shall mean the Board of Examiners for Social Workers and Marriage and Family Therapists.
2. “Discipline Specific Committees” shall mean specialty committees, one comprised of members of the social work profession, and one comprised of the marriage and family therapy profession, to carry out the duties and responsibilities set out in the rules and regulations.
3. “Act” means the legislative authority cited in Part 1901, Chapter 1, Rule 1.1, B above in this Section.
4. “Rules” shall mean all licensing guidelines adopted by the Board and contained herein.

Source: Miss. Code Ann. §§73-53-1, 73-53-3(a), 73-53-11(1)(c), 73-54-3, 73-54-5(g) and 73-54-11(1) (2008 & Supp. 2011).

Rule 1.2 BOARD OF EXAMINERS FOR SOCIAL WORKERS AND MARRIAGE & FAMILY THERAPISTS

A. Purpose and Composition

The purpose of the Board of Examiners for Social Workers and Marriage and Family Therapists is to license and regulate social workers and marriage and family therapists.

The Board shall be composed of ten (10) members, six (6) of whom shall be social workers and four (4) of whom shall be marriage and family therapists. All board members must be licensed by their respective disciplines.

The purpose of each Discipline Specific Committee is to develop rules and regulations for the Board to promulgate that are necessary to license and regulate the professions.

Members of the Board from each specialty shall constitute a separate Discipline Specific Committee for their respective specialty.

B. Appointments

The Governor and Lieutenant Governor will make appointments in accordance with the Act from nominations submitted by the Mississippi Chapter of the National Association of Social Workers and the Mississippi Association for Marriage and Family Therapy. Vacancies and new appointments will be filled in a like manner. All appointments shall be made with the advice and consent of the Senate.

Terms of each appointment shall be made in accordance with Section 73-53-8 of the Act. No person may be appointed more than once to fill an unexpired term or more than two (2) consecutive full terms.

C. Chair

Board Chair: The Board shall select one (1) of its members to serve as Board Chair. This shall occur every four years or until the Chair's appointment expires, whichever occurs earlier. However, no person may serve as Chair of the Board for more than four (4) years.

Vice Chair: In the June meeting of each year, the board shall elect a member to serve as its vice chair and its secretary. These individuals will take office July 1st of the year in which they were elected.

Discipline Specific Committee Chair: Each Discipline Specific Committee will select one (1) of its members to serve as Chair of the Discipline Specific Committee during the term of his/her appointment. No person may serve as Chair of the Discipline Specific Committee for more than two (2) years. The Discipline Specific Committee will deal with concerns specific to each discipline.

Actions of each Discipline Specific Committee will then be presented to the full Board for discussion and, if applicable, Board action.

D. Meetings

The Board shall establish a regularly scheduled meeting date and, upon proper public notice, may call and conduct special meetings as necessary. No Board member shall participate in any matter before the Board in which he/she has a pecuniary interest, personal bias or other similar conflict of interest. Board members shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of official Board business.

E. ADA Acknowledgment

The Board complies with and supports all statutes and mandates as set forth in the Americans with Disabilities Act with regard to its regulatory responsibilities associated with licensees.

F. Disciplinary Action

The Board may remove any member of the Board or the Chair from his/her position for:

1. Malfeasance in office;
2. Conviction of a felony while in office; or
3. Failure to attend three (3) consecutive Board meetings

No board member may be removed from his/her position until after a public hearing of the charges against him/her. At least thirty (30) calendar days prior, written notice must be given to the Board member detailing those charges indicating the date fixed for the hearing.

Source: Miss. Code Ann. §§73-53-1, 73-53-8, 73-53-11, 73-54-3 and 73-54-11; Miss. Code Ann. §§25-41-13 and 25-43-2.104.

Rule 1.3 DUTIES AND POWERS OF THE BOARD

A. General

The Board shall, upon referral from a Discipline Specific Committee, promulgate, administer and enforce the provisions of the Act, which shall from time to time include the adoption of such rules, regulations, and amendments as it may deem necessary to enable it to perform its duties. All rules and regulations shall be adopted in accordance with the Mississippi Administrative Procedures Law:

1. Rules may be revised periodically by the Board and all applicants and licensees are subject to the revised rules once adopted by the Board.
2. Applications received during a particular period of rules will be subject to and processed under those rules.
3. Disciplinary actions taken by the Board may be reported to professional associations and other entities when deemed necessary.

The Board will adhere to all State and Federal laws and regulations including, but not limited to, child support and other areas of enforcement.

B. Personnel

The Board shall have the power to employ, subject to the approval of the Mississippi State Personnel Board, an executive director, and such attorneys, experts, and other employees as it may from time to time find necessary for the proper performance of its duties and for which the necessary funds are available.

C. Licensure

Upon recommendation of the Discipline Specific Committee, the Board shall:

1. Examine and pass on the qualifications of all applicants under the Act, initial or renewal and, issue a license to each successful applicant or renewal applicant.
2. Require each applicant for licensure (first time applicant in any licensure category) to complete, through the appropriate governmental authority or authorities as designated by the Board, a criminal history record information check. The Board shall be authorized to charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining the criminal history records information on the applicant.
3. Obtain, through the appropriate governmental authority or authorities, a criminal history record information check and a check of the Mississippi Sex Offender Registry for each person applying for licensure. The board shall be authorized to charge and collect from the applicant or licensee, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining the information required in this paragraph for the applicant or licensee.
4. Suspend and revoke licenses and impose penalties and sanctions upon licensees as prescribed by law and by regulation set forth specifically by each discipline, either social work or marriage and family therapy, as appropriate.
5. Approve all examinations for licensure under the Act.

6. Have other such powers as may be required to carry out licensure requirements prescribed by law and by regulation.
7. Conduct random audits to determine the accuracy of initial and renewal applications, continuing education reports and any other materials submitted to the Board by or on behalf of applicants or licensees.

D. Method of Operation

The Board follows the procedures required by Mississippi Code of 1972 (as amended) §25-43-2.104.

E. Oral Proceedings on Proposed Rules

1. **Scope.** This rule applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the Board of Examiners for Social Workers and Marriage and Family Therapists pursuant to §25-43-3.104.
2. **When Oral Proceedings will be Scheduled on Proposed Rules.** The Board will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.
3. **Request Format.** Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Board and signed by the requestor(s).
4. **Notification of Oral Proceeding.** The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) calendar days from the filing of this information with the Secretary of State.

5. **Presiding Officer.** The Commissioner or his designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.
6. **Public Presentations and Participation.**
 - a. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
 - b. Persons wishing to make oral presentations at such a proceeding shall notify the Board at least one business day prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Board.
 - c. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
 - d. The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
 - e. Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.
 - f. There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end

the partisan's time where the orderly conduct of the proceeding so requires.

7. **Conduct of Oral Proceeding.**

- a. Presiding officer. The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall (i) call proceeding to order; (ii) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Board for the proposed rule; (iii) call on those individuals who have contacted the Board about speaking on or against the proposed rule; (iiv) allow for rebuttal statements following all participants' comments; (v) adjourn the proceeding.
- b. Questions. The presiding officer, where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.
- c. Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Board and are subject to the Board's public records request procedure.
- d. Recording. The Board may record oral proceedings by stenographic or electronic means.

F. Declaratory Opinions

1. **Scope**

These rules set forth the Board of Examiners for Social Workers and Marriage and Family Therapists, hereinafter “Board,” rules governing the form and content of requests for declaratory opinions, and the Board’s procedures regarding the requests, as required by Mississippi Code § 25-43-2.103. These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.

2. **Persons Who May Request Declaratory Opinions**

Any person with a substantial interest in the subject matter may request a declaratory opinion from the Board by following the specified procedures. “Substantial interest in the subject matter” means: an individual, business, group or other entity that is directly affected by the Board’s administration of the laws within its primary jurisdiction. “Primary jurisdiction of the agency” means the agency has a constitutional or statutory grant of authority in the subject matter at issue.

3. **Subjects Which May Be Addressed In Declaratory Opinions**

The Board will issue declaratory opinions regarding the applicability to specified facts of: (1) a statute administered or enforceable by the Board or (2) a rule promulgated by the Board. The Board will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the agency.

4. **Circumstances in which Declaratory Opinions Will Not Be Issued**

The Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- a. A lack of clarity concerning the question presented;

- b. There is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- c. The statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- d. The facts presented in the request are not sufficient to answer the question presented;
- e. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- f. The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;
- g. No controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule;
- h. The question presented by the request concerns the legal validity of a statute or rule;
- i. The request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;
- j. No clear answer is determinable;
- k. The question presented by the request involves the application of a criminal statute or a set of facts which may constitute a crime;

- l. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
- m. The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;
- n. A similar request is pending before this agency or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
- o. Where issuance of a declaratory opinion may adversely affect the interests of the State, the Board or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;
- p. The question involves eligibility for a license, permit, certificate or other approval by the Board or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

5. **Written Request Required**

Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Board.

6. **Where to Send Requests**

All requests must be mailed, delivered or transmitted via facsimile to the Board. The request shall clearly state that it is a request for a declaratory opinion. No oral, telephone requests or email requests will be accepted for official opinions.

7. **Name, Address and Signature of Requestor**

Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.

8. **Question Presented**

Each request shall contain the following:

- a. A clear and concise statement of all facts on which the opinion is requested;
- b. A citation to the statute or rule at issue;
- c. The question(s) sought to be answered in the opinion, stated clearly;
- d. A suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;
- e. The identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and
- f. A statement to show that the person seeking the opinion has a substantial interest in the subject matter.

9. **Time for Board's Response.** Within forty-five (45) calendar days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Board shall, in writing:

- a. Issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances;
- b. Decline to issue a declaratory opinion, stating the reasons for its action; or
- c. Agree to issue a declaratory opinion by a specified time but not later than ninety (90) calendar days after receipt of the written request;

The forty-five (45) calendar day period shall begin running on the first State of Mississippi business day on or after the request is received by the Board, whichever is sooner.

10. **Opinion Not Final for Sixty Days.** A declaratory opinion shall not become final until the expiration of sixty (60) calendar days after the issuance of the opinion. Prior to the expiration of sixty (60) calendar days, the Board may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.
11. **Notice by Board to third parties.** The Board may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.
12. **Public Availability of Requests and Declaratory Opinions.** Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and the Board's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

13. **Effect of a Declaratory Opinion.** The Board will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the Board and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Board shall be binding only on the Board and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

G. Public Records Request

All public requests to inspect, copy or mechanically reproduce or obtain are production of any public record of the Mississippi Board of Examiners for Social Workers and Marriage and Family Therapists (Board) must be submitted in writing to: the Executive Director, Mississippi Board of Examiners for Social Workers and Marriage and Family Therapists, P.O. Box 4508, Jackson, Mississippi 39296-4508. This rule is not intended to apply to any record or other document, which is exempted or privileged under the provisions of the Mississippi Public Records Act.

The written request must be typed or clearly hand printed on a letter size piece of paper and must specify in detail the public record(s) sought. The request must include a description of the type of record, dates, title of a publication, and other information which may aid in locating the record. No verbal or telephone requests for records will be accepted.

Under the Public Records Act, documents that are exempt from public access to records include, but are not limited to, personnel records, appraisal records, attorney communications and work products of attorneys, academic records, third party confidential commercial or financial information, licensure applications and examination records, and individual tax records.

Within seven (7) working days of the Board's receipt of a public records request, the Board shall review same and determine whether the records sought are exempt or privileged by law and shall either: i) produce the

records; ii) allow access to records; iii) if the request is unclear or does not sufficiently identify the record sought, request clarification from the requestor; or iv) deny access to or production of the records sought. If the Board is unable to produce a public record by the seventh working day after the request is received, the Board will provide the requester with a written explanation stating that the record requested will be produced and specify the reason why the records cannot be produced within the seven-day period. Unless there is mutual agreement between the Board and the request, the date for production of the requested record will be no later than fourteen (14) working days from the Board's receipt of the original public record request.

When a request for information is made for documents furnished to the Board by a third party, the Board will give notice of the request to the third party as required by the Public Records Act. Such third party information will not be released without the prior written consent of the third party authorizing the release of the information and/or until the third party has been provided with notice of the public records request and an opportunity to seek a court order protecting such records from public review. No third party information will be released by the Board if the third party obtains a court order prohibiting the disclosure of such information.

When possible, nonexempt material will be separated from exempt material and only the exempt material will be withheld from disclosure by the Board.

If the Board determines that the records requested are exempt or privileged under the law, the request shall be denied and the person making the request will be provided a statement of the specific reasons for the denial. Such denials shall be kept on file for inspection by any person for three (3) years from the date such denials are made.

Public records of the Board are available for inspection and copying or reproduction during regular office hours (8:00 a.m. through 5:00 p.m., Monday through Friday) by appointment. All inspection, copying or mechanical reproduction of records must be done in the office of the Board. The time, place and manner of inspection and reproduction or copying will not be allowed to interfere with the official duties of the

Board. The Board will not allow its records to be taken from the Board office.

The request must pay the Board in advance all reasonably estimated costs of searching, obtaining from storage, reviewing, shipping and/or duplicating the requested records. Such payment must be sufficient to cover the actual costs to the Board of complying with the public records request. There shall be a charge of \$1.00 per page for each copy. Copies printed on both sides (front and back) shall be considered as two (2) pages for copy charge purposes. Mailing cost shall be calculated at the applicable rate for each such mailing. If the request involves notice being given to a third party, the cost of mailing such notice to the third party shall be charged to the request. Cost of obtaining records from any state storage facilities and the search for the records shall be charged to the request. If the actual cost of a public records request exceeds the estimated cost provided to the request, the request will be required to pay the Board the difference between the amounts paid in advance by the request and the actual cost of supplying the record to the request.

Payment by the public records request must be made by money order or certified check.

The Board has also established a schedule of standard fees for frequently requested documents and information, directory or labels of licensees, and electronically accessible data. The schedule of standard documents and fees is set forth in Rule 4.3 Fees and Costs.

Source: Miss. Code Ann. §§73-53-8(11), 73-53-11, 73-54-11, 73-54-13 and 73-54-17 (Supp. 2011); Miss. Code Ann. §§ 25-43-2.103, 25-43-2.104 and 25-43-3.104 (Rev. 2010); Miss. Code Ann. 25-61-1 through 25-61-12 (Rev. 2010).

Rule 1.4 FISCAL SUPPORT OF THE BOARD

No appropriations from the State General Fund shall be used to operate the Board. The Board shall be supported by fees collected for license application and renewal and/or other monies raised by the Board.

Fees for initial application and renewal are set forth by the Act and in these rules. Fees for other Board services related to licensure may be set and collected in

accordance with regulations in the appropriate Discipline Specific section of these Rules.

Source: Miss. Code Ann. §§73-53-11(1)(c) and (g), 73-53-10, 73-53-15, 73-54-11(1), and 73-54-27(1) (Supp. 2011).

Part 1901 Chapter 2: Character and Fitness

Rule 2.1 MORAL CHARACTER

A. General

1. As used under the Rules and Regulations of the Board of Examiners, “good moral character” means a pattern of behavior conforming to the profession’s ethical standards and behavior that indicates honesty and truthfulness, integrity, respect among the community for lawful behavior, respect for the rights of others, and obedience to the lawful directives of public officers or officials or persons charged with the enforcement of the law and showing an absence of moral turpitude.
2. Fitness for service as it relates to moral character must be verified by an appropriate background investigation.
3. A determination of good moral character shall be based on absence of acts that reflect moral turpitude and upon the consideration of all aspects of a person’s character as exemplified by his or her behavior and shall include, but not necessarily be limited to, consideration of the following:
 - a. Evidence, among other things, of having neither a conviction nor a plea of guilty or nolo contendere, probation, pretrial diversion or payment of any fine for a felony or a misdemeanor involving moral turpitude, regardless of whether the matter is under appeal by the applicant.
 - b. Disciplinary action taken against any professional license, registration or certification held by the applicant by applicable governmental authority of any state, territory or

political subdivision of the United States or any other jurisdiction.

- c. Whether an applicant has been guilty of conduct or practices in this state or elsewhere which would constitute grounds for disciplinary action under the Board's laws, rules and/or regulations.
 - d. Civil lawsuits and administrative action bearing upon moral character such as fraud, misrepresentation, theft, assault and battery.
 - e. The applicant's prior history of unlicensed practice of a regulated profession in this state.
 - f. Conduct that violates any of the provisions in the code of ethical standards established by the National Association of Social Workers, the American Association of Marriage and Family Therapy and/or other standards adopted by the Board.
 - g. Conduct involving dishonesty, fraud, or attempted deception.
 - h. Conduct involving misrepresentation.
 - i. Conduct that would adversely reflect on a person's fitness to perform as a social worker or marriage and family therapist.
4. In determining a person's good moral character when there is evidence of the conduct described above in subsection 3 of this Rule, the Board will also consider the following factors:
- a. The nature of the criminal offense(s) or conduct which gave rise to the disciplinary, civil or administrative action.
 - b. The age of the applicant at the time of the criminal conviction(s) or conduct which gave rise to the disciplinary, civil or administrative action.

- c. The number of criminal convictions or number of disciplinary, civil or administrative actions taken against the applicant.
- d. The nature and severity of the sentence or sanction imposed for each criminal conviction that gave rise to the disciplinary, civil or administrative action.
- e. Whether the probation period given in a conviction has been completed and fully satisfied to include fines, court costs, and other conditions of probation.
- f. Whether restitution ordered by a court in a criminal conviction or civil judgments has been fully satisfied.
- g. The date of the criminal conviction(s) or date of the disciplinary action. Whether more than ten (10) years have elapsed from the satisfaction of the terms of any order, judgment, or restitution agreement relating to criminal, administrative or civil action unless the conduct is felonious in nature.
- h. The burden of demonstrating that the applicant possesses the good moral character required for licensure shall rest with the applicant.

Source: Miss. Code Ann. §§73-53-11(1)(c), 73-53-13(d)(ii), 73-54-11(1) and 73-54-13(a).

Rule 2.2 SCOPE OF PRACTICE

A. Level of Competency

The license to practice social work or marriage and family therapy does not permit the licensee to either offer or attempt to provide services which are beyond the level of competency they have attained through education, training, supervision or clinical experience, even though the service in question may be provided routinely by other licensed social workers or marriage and family therapists. The Licensed Social Worker (LSW) is

prohibited from diagnosing, treating or conducting therapeutic groups or psychotherapy.

B. Responsibility of the Licensee

It is the legal and ethical responsibility of each licensed social worker and licensed marriage and family therapist to limit the scope of their practice to the parameters of their competencies. Further, all licensees are required to inform the Board, through submission in writing on Board designated forms, of a change of address, name, and other identifying information.

Source: Miss. Code Ann. §§73-53-11(1)(c), (k), (m) and (3), 73-53-13, 73-54-11(1) and 73-54-17 (Supp. 2011).

Part 1901 Chapter 3: Standards and Procedural Rules

Rule 3.1 STANDARDS OF CONDUCT

A. General

Licensees subject to this Act shall conduct their activities, services and practice in accordance with the Act and any rules promulgated by the Board thereto. Licensees may be subject to disciplinary sanction enumerated in VIII below if the Board finds that a licensee is in violation of any of the standards of conduct delineated in this section.

B. Violations

1. Negligence in the practice or performance of professional services or activities.
2. Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public in the course of professional services or activities.
3. Perpetrating or cooperating in fraud or material deception in obtaining or renewing a license or attempting the same.

4. Being convicted of any crime which has a substantial relationship to the licensee's activities and services or an essential element of which is misstatement, fraud or dishonesty.
5. Being convicted of any crime which is a felony under the laws of this state or of the United States.
6. Engaging in or permitting the performance of unacceptable services personally or by assistants working under the licensee's supervision due to the licensee's deliberate or grossly negligent act or acts or failure to act, regardless of whether actual damage or damages to the public is established.
7. Continued practice although the licensee has become unfit to practice social work or marriage and family therapy due to: (i) failure to keep abreast of current professional theory or practice; or (ii) physical or mental disability; the entry of an order or judgment by a court of competent jurisdiction that a licensee is in need of mental treatment or is incompetent shall constitute mental disability; or (iii) addiction or severe dependency upon alcohol, drugs, or other substance which may endanger the public by impairing the licensee's ability to practice and which affects professional competence.
8. Disciplinary action taken against the licensee's license in another state.
9. Engaging in differential, detrimental treatment against any person because of race, color, creed, sex, sexual orientation, religion or national origin.
10. Engaging in lewd conduct in connection with professional services or activities.
11. Engaging in false or misleading advertising.
12. Contracting with, assisting or permitting unlicensed persons to perform services for which a license is required under this chapter.
13. Violation of any probationary requirements placed on a licensee by the Board.

14. Failing to inform clients of the fact that the client no longer needs the services or professional assistance of the licensee.
15. Charging excessive or unreasonable fees or engaging in unreasonable collection practices.
16. Any just and sufficient cause which renders a person unfit to practice social work or marriage and family therapy as determined by the Board but not limited to:
 - a. An adjudication of mental incompetence by a court of competent jurisdiction.
 - b. Practicing in a manner detrimental to the public health and welfare.
 - c. Revocation of a license by a licensing agency or certification by a certifying professional organization.
 - d. Any other violation of this chapter or the code of ethical standards of the National Association of Social Workers, the American Association for Marriage and Family Therapy or other ethical standards adopted by the Board under the provisions of this chapter.
17. Violation of any of the provisions of this Act or any rules or regulations of the Board adopted under the provisions of this Act.
18. Failure to notify the Board of the suspension, probation or revocation of any past or currently held license in Social Work, Marriage and Family Therapy or any other health care field, in this or any other state, or any disciplinary action taken against the licensee by any licensing board or professional association.
19. Making false representations or impersonations or acting as a proxy for another person or allowing or aiding any person to impersonate him/her in connection with any application, examination or renewal of a license, or in any procedure relating to the Board, or in the practice of their profession.

20. Failure to maintain client records securely or to inform all employees of the confidentiality requirements. Client records or other confidential information may not be revealed except with expressed written consent or as mandated by law, except as specifically stated below. Client records must be maintained after the date of termination of the clinical relationship.

The Confidentiality requirement may be waived under the following conditions:

- a. When the client's communications reveal the contemplation of a crime or a harmful act to oneself or another person, or the licensee has ample reason to believe that such a behavior is highly probable;
 - b. When the licensee acquires information involving a minor or elderly person who was the victim or subject of a crime or abuse or neglect and the licensee includes the confidential information in a report filed with the appropriate person or agency as required by law;
 - c. When the licensee is required by law to testify in a court or administrative hearing concerning matters of adoption, adult abuse or neglect, child abuse or neglect, or other matters.
 - d. When a person waives the confidentiality privilege by bringing charges against or sues the licensee.
21. Payment of commission rebates or other forms of remuneration for referral of clients for professional services.
 22. Failure to report to clients all experimental forms of treatment or treatment modalities in which the licensee may not be proficient, before they are used with the client, explaining their potential benefits and risks of such treatment, to obtain the clients prior consent to the treatment, and failure to ensure that the welfare of the client is not compromised by any experiment, research procedure, or treatment modality.

23. Failure to comply with the ethical codes of the applicable profession (NASW or AAMFT) regarding dual relationships with clients, former clients, supervisors, or supervisees that could compromise the well-being or increase the risk of exploitation of clients or supervisees, or impair the objectivity and judgment of the client, supervisees, supervisor or licensee. This includes but is not limited to such activities as providing therapy to close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients. Licensees must set clear, appropriate, and culturally sensitive boundaries when dual and multiple relationships are unavoidable.
24. Failure to report to the appropriate board known or suspected violations of the laws and regulations governing the practices of mental health professionals.
26. Using a degree as a title to indicate a level of competency unless that degree was earned in their field of professional practice from an accredited college or university as defined in these regulations.
27. Failure of a therapist to inform a client of any conflict of interest, values, attitudes or biases between them that are sufficient to impair their professional relationship and to terminate the professional relationship when it no longer serves the client's needs or interests.
28. Failure of a therapist to prevent an individual or agency paying for their professional services on behalf of a client to exert undue influence over the therapists work performance and clinical judgment as it relates to that client.

Source: Miss. Code Ann. §§73-53-11(1)(c), (j) and (k), 73-53-17, 73-54-11(1) and 73-54-29.

Rule 3.2 COMPLAINTS

A. General

This Rule sets out the procedures for making and processing complaints and/or inquiries against applicants for licensure and licensed social workers and marriage and family therapists where the complaints and/or inquiries

are within the jurisdiction of the Mississippi State Board of Examiners for Social Workers and Marriage and Family Therapists (Board).

B. Filing of Complaints

Any person, firm, corporation, member of the Board or public officer may make a complaint to the Board. Complaints will be addressed by the Board upon receipt of a written, signed complaint, or upon the Board's own action.

1. Upon receipt of an inquiry, the Board's administrative staff will forward or advise the potential complainant how to obtain, a complaint form with instructions on how to file the complaint. Except for complaints initiated by the Board, complaints must be submitted in writing under oath upon the official form prescribed by the Board. Only those complaints that are in writing will be formally addressed by the Board. The complaint must specify the statute or rule allegedly violated and must contain a statement of the acts or omissions constituting the alleged violation including the dates of said acts or omissions. Forms are available on the Board's website.
2. Anonymous complaints will not be investigated.
3. Voluntary surrender of license. If a licensee who is the subject of a Board investigation or disciplinary proceeding voluntarily surrenders his or her license, absent unusual circumstances as determined by the Board, the Board will not discontinue the investigation or disciplinary proceeding unless the licensee consents to entry of an order limiting or prohibiting his or her practice of social work and marriage and family therapy in Mississippi.

C. Procedures for Processing Complaints

1. Upon receipt of a written complaint, or upon the Board's own initiative if the Board has reasonable cause to believe the laws, rules and regulations governing social workers and/or marriage and family therapists are being violated, the Board's Executive Director shall:

- a. Log in the date the complaint is received in the Board office;
 - b. Assign a complaint number and set up an individual complaint file. Complaint numbering shall begin in January of each year;
 - c. Determine whether the subject of the complaint is a licensed social worker, a marriage and family therapist or applicant or person otherwise within the jurisdiction of the Board;
 - d. Forward the complaint to the professional board member who has been designated to review the complaint; and
 - e. Send a letter to the complainant confirming receipt of the complaint.
2. If the subject of the complaint is within the jurisdiction of the Board, the Executive Director shall send a copy of the complaint by mail to the licensee or applicant in question for his or her written comment. The subject of the complaint (the respondent) will be provided twenty (20) calendar days from the date of the Executive Director's letter or notice in which to file a written response to the complaint together with all documents and exhibits in support of his or her position on the complaint.
 3. Requests for the licensee or applicant's response to a complaint shall be considered properly served by the Executive Director when sent to the licensee or applicant's last known address of record at the Board's office. It is the responsibility of the licensee or applicant to keep the Board informed of his or her current address.
 4. At the discretion of the Complaint Committee (investigating Board member and Executive Director) in consultation with Board council, the complainant may be given an opportunity to review and comment upon the response of the licensee or applicant.
 5. The Executive Director may grant a reasonable request for extension of time within which a licensee or applicant or affected party may

respond to a complaint and/or within which a complainant may comment upon response of the licensee or applicant.

D. Complaint Committee Process

The Executive Director and the investigating Board member will comprise the Complaint Committee and will review the complaints filed in accordance with this Rule.

1. The investigating Board member will review the complaint and meet with the Executive Director and such other personnel as needed.
2. If the allegations in the complaint raise an issue addressed by the Board's laws, rules and/or regulations, the Complaint Committee will recommend a course of action regarding investigation of the complaint.
3. If the Complaint Committee determines that further assistance is needed, the Committee may retain the services of experts, consultants, or private investigators to assist in the investigations of complaints. At any point in its investigation of a complaint, the Complaint Committee may, at its discretion, assign the matter to an expert, consultant or private investigator for review and investigation.
4. The purpose of the investigation is to gather further data regarding the complaint and to verify facts surrounding the complaint. All complaints, unless dismissed for lack of jurisdiction, will be investigated. Investigations may include, but not be limited to: writing letters seeking further information; making phone calls; making onsite visits; and requesting pertinent documents.
5. The Complaint Committee shall oversee the investigation of the complaint.
6. The expert, consultant, or private investigator and/or Complaint Committee shall review and investigate the complaint and prepare a report concerning the complaint. The report shall contain a

statement of the allegations, a statement of the facts, and an analysis of the complaint including a description of the circumstances surrounding the complaint, the records reviewed, the witnesses interviewed, and a statement of the expert, private investigator, consultant or Complaint Committee.

7. If the Complaint Committee determines that the Board does not have jurisdiction, both the Complainant and the licensee, applicant or affected party will be notified in writing by certified letter. The letter will explain why the case cannot be accepted for investigation and/or action by the Board or it may state that the complaint can be referred to another agency. The letter will come from the Board and may be signed by the Board chair, the investigating Board member, the Executive Director or other Board designee.
8. To facilitate the disposition of a complaint, the Board or Complaint Committee may provide any person with the opportunity to attend an informal conference, or to appear at a regular meeting of the Board, at any time prior to the Board entering any order with respect to the complaint. Statements made at any informal conference may not be introduced at any subsequent hearing before the Board on the merits of the complaint without the consent of all parties to the hearing.

E. Review by the Full Board

1. A case summary including the alleged violations of the Board's laws, rules and/or regulations will be presented to the Board by the Complaint Committee along with recommendation(s) for disposition of the complaint. Reasonable attempts will be made to not disclose the identity of the licensee or applicant and the complainant by the Complaint Committee until the matter comes before the Board for hearing or final resolution.
2. The investigating Board member shall not vote on the decision regarding the disposition of the complaint and shall not participate in any adjudicatory or administrative hearing before the Board

against the applicant or licensee arising out of the Complaint Committee's investigation.

3. The Board's review shall include the case summary presented by the Complaint Committee and determine if reasonable cause exists to issue a notice of contemplated action or notice of hearing and complaint. If the Board determines that there is not reasonable cause for the issuance of a notice of contemplated action or notice of hearing and complaint, a certified letter from the Board will be sent within thirty (30) calendar days of the Board's decision to the complainant and the licensee or applicant. The letter will set forth the Board's action and reason for its decision.
4. If the Board determines that there is reasonable cause to believe that the licensee or applicant has violated the Board's laws, rules, and/or regulations, the Board may cause a notice of contemplated action or notice of hearing and complaint to be issued for the licensee or applicant.
5. Following the issuance of a notice of contemplated action or notice of hearing and complaint, the Board may authorize the Complaint Committee to confer with the applicant or licensee for the purpose of seeking settlement of the complaint. Such settlement will be subject to approval by the Board, must be with the consent of the applicant or licensee, and must (among other things) include a knowing and intentional waiver by the applicant or the licensee of his or her rights to an administrative hearing and of the Board's ability to act as arbiter in an administrative hearing should settlement fail.

F. Administrative Hearings

1. Pursuant to Chapters 53 and 54 of Title 73 of the Mississippi Code of 1972, as amended, every licensee or applicant shall be afforded notice and an opportunity to be heard before the Board when the Board has cause to believe that he or she has violated any of the laws, rules, or regulations of the Board.

2. The Board's Executive Director's duties shall include:
 - a. Issuing a notice of hearing and complaint or notice of contemplated action in the case.
 - b. Executing notices, scheduling orders, subpoenas, and other routine procedural documents that facilitate the conduct of the administrative proceedings.
 - c. Maintaining the official record of all papers and pleadings filed with the Board in any matter.
 - d. Preparing, certifying and filing with the appellate court the record of the case on appeal or review.
3. All hearings shall be conducted by the Board or by a hearing officer designated by the Board.
4. If a hearing officer is designated to hear a case, the hearing officer shall have authority to decide pre-hearing matters, preside over the hearing, and direct post hearing matters in accordance with the requirements of the case in a manner that ensures due process and an efficient and orderly hearing and resolution of the case. If a hearing officer is not designated to hear the case or if the hearing officer is unavailable or unable to proceed, the Board chair or other designee of the Board shall have the authority to decide pre-hearing or preliminary matters.
5. The original of any papers, pleadings or other documents shall be filed with the Board office. Copies must be sent to the hearing officer and attorneys or parties of record.
6. The hearing officer or designee of the Board shall issue appropriate orders to control the course of the proceedings.
7. The hearing officer or the Board designee may order the filing of briefs or other documents and may set oral argument on any matter.

8. No more than two (2) continuances of the hearing will be granted without the approval of the Board for good cause shown.
9. No proposed settlement, consent agreement, voluntary surrender of a license, or other proposal for the resolution of a pending disciplinary case shall be effective unless approved by the Board and executed by the Board and the licensee or applicant. The hearing officer or Board shall have the authority to seek information from the administrative prosecutor and the licensee or applicant concerning circumstances of the case relevant to a consideration of a proposed settlement or clarification of the proposed terms and conditions. No Board member is presumed to be biased and shall not be excused from participating in the adjudication and deliberation of a case based solely on the reason that the member considered a proposed settlement, consent agreement, or other proposal for resolution of a pending disciplinary or licensure case.
10. A proposal to settle a matter shall not stay the proceedings or vacate the hearing date unless otherwise ordered by the hearing officer or the Board designee upon the filing of a timely motion for continuance.
11. At the conclusion of the hearing, a final decision and order shall be entered by the Board. A Board member hearing officer, the Board chair, or designated Board member shall have the authority to sign the written decision of the Board.
12. The Board Executive Director shall serve the decision of the Board on the licensee or applicant.
13. If a license is restricted, suspended or revoked by the Board, the licensee shall immediately surrender his or her license to the Board as directed by the Board or Board designee.
14. If the licensee's scope of practice is restricted or limited or otherwise conditioned, the license may reflect such restriction, limitation or condition.

Source: Miss. Code Ann. §§73-53-11(1)(c), (f), (h) and (k), 73-53-19, 73-53-21, 73-53-27, 73-

54-11(1), 73-54-31 and 73-54-33.

Rule 3.3 DISCIPLINARY SANCTIONS

A. General

The Board, upon recommendation of the Discipline Specific Committee, after a properly noticed and conducted due process hearing may, by majority vote, impose sanctions, singly or in combination, when it determines that violations have occurred and sanctions are in order. All decisions by the Board will be conveyed to the licensee, in writing, by the Board Chair.

B. Specific Sanctions

1. Revocation of the license.
2. Suspension of the license, for any period of time.
3. Censure of the licensee.
4. Written reprimand to the licensee.
5. Imposition of a monetary penalty of not more than Two Hundred Dollars (\$200.00).
6. Placement of a licensee on probationary status and requirement that the licensee submit to any or all of the following:
 - a. Regular reports to the board regarding matters which are the basis of probation.
 - b. Continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are basis of probation.
 - c. Such other reasonable requirement or restrictions as are proper.

7. Refusal to renew a license.
8. Revocation of probation which has been granted previously and imposition of any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated.
9. Disposition of any formal complaint may be made by consent order or stipulation between the Board and the licensee.

C. Summary Suspension

The Board may summarily suspend a license without a hearing, simultaneously with the filing of a formal complaint and notice of hearing, if the Board determines that the health, safety, or welfare of the general public is in immediate danger.

Suspension of license without a hearing with simultaneous filing of a formal complaint and notice for a hearing provided under this section if the Board finds that the continued practice in the profession would constitute an immediate danger to the public. If the Board summarily suspends a license under the provisions of this subsection, a hearing must begin within twenty (20) calendar days after such suspension begins, unless continued at the request of the licensee or extraordinary conditions.

The Board may order a licensee to submit to a reasonable physical or mental examination, if the licensee's physical or mental capacity to practice safely is an issue in a disciplinary proceeding. All licensees consent to this procedure as a condition of licensure.

Failure to comply with a Board order to submit to a physical or mental examination shall render a licensee subject to the summary suspension procedures described above.

Source: Miss. Code Ann. §§73-53-11(1)(c), (e) and (k), 73-53-23, 73-54-11(1) and 73-54-29 (Supp. 2011).

Rule 3.4 **Military Licensure:**

- A. Pursuant to MS Code Ann. Section 73-50-1, the Board of Examiners for Social Workers and Marriage & Family Therapists is authorized to issue an expedited license to a military-trained applicant or spouse applicant to allow the applicant to lawfully practice social work or marriage & family therapy in Mississippi. In order to receive the expedited license, the following requirements must be satisfied:
1. Complete an application for the appropriate license and submit it to the Board in the manner prescribed by the Board with a recent passport type photograph.
 2. Documentation that:
 - a) the military-trained applicant has been awarded a military occupational specialty.
 - b) the military spouse holds a current license, certification or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification or registration are substantially equivalent to or exceed Board requirements for licensure when an applicant in this state seeks licensure.
 3. Evidence that the military applicant or applicant's military spouse either (i) is currently on active duty with medical corps or (ii) has separated honorably from the military within the 6 months prior to the time of application.
 4. Submit verification of a completed licensing examination as described in these rules.
 5. Have two references submit letters regarding applicant's performance in the practice of social work or marriage & family therapy.
 6. Submit verification that at least two (2) of the past five (5) years preceding the date of submission of the application applicant has engaged in the active practice of social work or marriage & family therapy.

7. Submit certification that applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice social work or marriage & family therapy in any jurisdiction at the time the act was committed.
 8. Submit fingerprints for state and national criminal history background checks.
 9. Submit licensure fees prescribed by the Board.
- B. All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in the practice of social work as required under subsection A or B of this section.
- C. A nonresident licensed under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed by the Board.
- D. The Board may issue a temporary practice permit to a military-trained applicant or military spouse licensed in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection A of this section if that jurisdiction has licensure standards substantially equivalent to the standards for licensure of the Board. The military-trained applicant or military spouse may practice under the temporary practice permit until a license is granted or until a notice to deny a license is issued in accordance with rules adopted by the Board.

Source: Miss. Code Ann. §§73-53-11(1)(c), (e) and (k), 73-53-23, 73-54-11(1), 73-54-29, and 73-50-1

Rule 3.5 Universal Recognition of Occupational Licenses Act

- A. Pursuant to MS Code Ann. Section 73-50-2, the Board of Examiners for Social Workers and Marriage & Family Therapists is authorized to issue a license based on the “Universal Recognition of Occupational License Act” to allow the applicant to lawfully practice social work or marriage & family therapy in Mississippi. In order to receive this license, the following requirements must be satisfied:
1. Complete an application for the appropriate license and submit it to the Board in the manner prescribed by the Board with a signed affidavit and all applicable documentation/documents as specified in the application and affidavit.
 2. The applicant must hold a current and valid license in good standing in another state in social work or marriage and family therapy with a similar scope of practice, as determined by the Board, and has held this license from the social work or marriage and family licensing Board in the other state for at least one (1) year; and
 - a. There were minimum education requirements and, if applicable, work experience, examination and clinical supervision requirements in effect, and the other state verifies that the applicant met those requirements, in order, to be licensed in that state; and
 - b. The applicant has not committed any act in the other state that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in Mississippi at the time the act was committed, and the applicant does not have a disqualifying criminal record as determined by the Board under Mississippi law; and
 - c. The applicant did not surrender a license because of negligence or intentional misconduct related to the applicant's work in social work or marriage and family therapy in another state; and
 - d. The applicant does not have a complaint, allegation or investigation pending before an occupational licensing board or other board in another state that relates to

unprofessional conduct or an alleged crime. If the applicant has a complaint, allegation or investigation pending, the Board in Mississippi shall not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved, or the applicant otherwise satisfies the criteria for licensure in Mississippi to the satisfaction of the Board in Mississippi; and

- e. The applicant pays all applicable fees in Mississippi.
- B. Notwithstanding any other law, the Board shall issue a license to an applicant in the discipline applied for and at the same practice level, as determined by the Board, to a person who establishes residence in this state based on social work or marriage and family therapy experience in another state, if all the following apply:
1. The applicant worked in a state that does not use a license to lawfully regulate social work or marriage & family therapy practice and the occupation is of a similar scope of practice, as determined by the Board.
 2. The applicant worked for at least three (3) years in the lawful occupation; and
 3. The applicant satisfies the provisions of Rule 3.5, A. 1. & 2. of this section.
 4. Board may require an applicant to pass a jurisprudential examination specific to relevant state laws in Mississippi that regulate social work and marriage & family therapy if the issuance of a license in Mississippi requires an applicant to pass a jurisprudential examination specific to relevant state statutes and administrative rules in Mississippi that regulate social work & marriage & family therapy.
 5. For purposes of this act, residence may be established by demonstrating proof of a state-issued identification card or one (1) of the following:

- a. Current Mississippi residential utility bill with the applicant's name and address;
 - b. Documentation of the applicant's current ownership, or current lease of a residence in Mississippi;
 - c. Documentation of current in-state employment or notarized letter of promise of employment of the applicant or his or her spouse; or
 - d. Any verifiable documentation demonstrating Mississippi residency.

- C. Any person who receives a license under this section is subject to the laws regulating the person's practice in this state and is subject to the Board's jurisdiction.

- D. A license issued under this section is valid only in this state and does not make the person eligible to be part of an interstate compact.

- E. Board shall issue or deny the license to the applicant within one hundred twenty (120) calendar days after receiving an application. If the application requires longer than two (2) weeks to process, the Board shall issue a temporary practice permit within thirty (30) calendar days after receiving the application, if the applicant submits an affidavit, under penalties of perjury, affirming that he or she satisfies the provisions of Rule 3.5, A. & B. and pays all applicable fees as required.

- F. The applicant may practice under the temporary practice permit until a license is granted, or until a notice to deny the license is issued, in accordance with rules adopted by the Board. A temporary practice permit will expire in three hundred sixty-five (365) calendar days after its issuance unless the applicant fails to satisfy the requirement for licensure in Rule 3.5, A. & B., as applicable.

- G. The applicant may appeal any of the following decisions of an occupational licensing board to a court of general jurisdiction:
 - 1. Denial of a license;
 - 2. Determination of the occupation;
 - 3. Determination of the similarity of the scope of practice of the license issued; or
 - 4. Other determinations under this section.

- H. The court shall determine all questions of law, including the interpretation of a constitutional or statutory provision or a rule adopted by an occupational licensing board, without regard to any previous determination that may have been made on the question in any action before the occupational licensing board.

Source: Miss. Code Ann. §§73-53-2, 73-54-23, 1. (2)