

By: Senator(s) Rayborn

To: Public Health and
Welfare

SENATE BILL NO. 2788

1 AN ACT ENTITLED THE "MISSISSIPPI FREEDOM OF CHOICE DENTURES
2 ACT"; TO REQUIRE AND ESTABLISH QUALIFICATIONS FOR THE LICENSURE OF
3 DENTURISTS; TO ESTABLISH AND PROVIDE FOR THE MEMBERSHIP OF A
4 MISSISSIPPI BOARD OF DENTURITRY; TO PROVIDE FOR EXAMINATIONS,
5 FEES, LICENSING REQUIREMENTS, LICENSE SUSPENSION OR REVOCATION AND
6 DISPOSITION OF RECEIPTS; TO REQUIRE DENTAL HEALTH INSURANCE
7 POLICIES TO INCLUDE DENTURISTS' SERVICES; TO PROVIDE CRIMINAL
8 PENALTIES FOR VIOLATIONS AND AN INJUNCTION PROCEDURE; TO AMEND
9 SECTION 73-9-3, MISSISSIPPI CODE OF 1972, TO EXEMPT LICENSED
10 DENTURISTS FROM THE DENTAL PRACTICE ACT; AND FOR RELATED PURPOSES.

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

12 SECTION 1. This act is enacted to promote competence and
13 excellence in the providing of prosthetic dental appliances and
14 services related thereto to the public at reasonable costs.

15 SECTION 2. This act shall be known as the "Mississippi
16 Freedom of Choice of Dentures Act."

17 SECTION 3. As used in this act, unless the context requires
18 otherwise:

19 (a) "Board" means the State Board of Denturitry.

20 (b) "Denture" means any removable full upper or lower
21 prosthetic dental appliance to be worn in the human mouth.

22 (c) "Denturist" means a person licensed under this act
23 to engage in the practice of denturitry.

24 (d) "Practice of denturitry" means:

25 (i) The making, fitting, constructing, altering,
26 reproducing or repairing of a full upper or lower removable
27 prosthetic denture, the repairing of a removable partial upper or
28 lower prosthetic denture, the furnishing or supplying of such a
29 denture directly to a person or advising the use of any such
30 denture;

31 (ii) The taking or making, or the giving of
32 advice, assistance or facilities respecting the taking or making
33 of any impression, bite, cast or design preparatory to, or for the
34 purpose of making, constructing, fitting, furnishing, supplying,
35 altering, repairing or reproducing any such full upper or lower
36 removable prosthetic denture;

37 (iii) The practice of denturistry within the
38 context of this act requires that all work except cast frame work
39 or work required to meet the needs of the homebound be performed
40 on the licensee's premise.

41 SECTION 4. From and after July 1, 1999, a person must hold a
42 license for the practice of denturistry in order to perform the
43 following acts:

44 (a) Engage or offer to engage, in the practice of
45 denturistry; or

46 (b) Use in connection with his/her name the word
47 "denturist" or any other words, letters, abbreviations or insignia
48 implying that such person is engaged in the practice of
49 denturistry.

50 SECTION 5. The prohibitions of this act do not apply to:

51 (a) A person interning under the supervision of a
52 dentist;

53 (b) The practice of dentistry or medicine by persons
54 authorized to do so by this state;

55 (c) A student of denture technology in pursuit of
56 clinical studies under an approved school program;

57 (d) A denture technician, as defined by board rule,
58 performing services under the direction of a licensed denturist or
59 licensed dentist when the service does not involve contact with
60 the intended user.

61 SECTION 6. Prohibitions on activities of licensed
62 denturists:

63 (a) He/she will not perform procedures which would

64 alter any oral tissues or natural teeth.

65 (b) He/she will not insert or fit immediate dentures in
66 the mouth of the intended wearer.

67 (c) He/she will not diagnose or treat any abnormalities
68 of any human mouth.

69 (d) He/she will not prescribe any drugs or treatment
70 for any oral or medical diseases.

71 (e) He/she will not construct or fit orthodontic
72 appliances.

73 SECTION 7. (1) There is hereby created a Mississippi Board
74 of Denturistry of the State of Mississippi, which shall consist of
75 five (5) members. Three (3) members of the board shall be persons
76 who have been nominated by the Association of Mississippi
77 Denturists, Inc., who have had at least five (5) years continuous
78 experience immediately prior to their nomination in the practice
79 of denturistry. Two (2) other members of the board shall be lay
80 persons nominated by the State Board of Health. At least two (2)
81 nominees for each position must be nominated by the nominating
82 body.

83 (2) The members of the board shall hold office for terms of
84 three (3) years each; provided, of the initial board, the three
85 (3) members to be appointed from nomination of the Association of
86 Mississippi Denturists shall serve for terms of one (1) year, two
87 (2) years, and three (3) years, respectively, as designated in
88 their appointment, and of the initial board the two (2) lay
89 members shall serve for terms of two (2) and three (3) years,
90 respectively, as designated in their appointment. Thereafter
91 members shall be appointed to the board for terms of three (3)
92 years each, except that appointments to fill vacancies shall be
93 for the unexpired term of such vacancies.

94 (3) Appointments to the board shall be made by the Governor
95 from the nominees set forth in this section, subject to
96 confirmation by the Senate, and each member of the board shall

97 hold office for his term and until his successor is duly appointed
98 by the Governor.

99 SECTION 8. (1) The board shall organize by the election of
100 one (1) of its members as president, one (1) of its members as
101 secretary, and one (1) of its members as treasurer; provided, that
102 the offices of secretary and treasurer may be held by one (1)
103 person. Officers of the board shall be elected for terms of one
104 (1) year at the annual meeting of the board, but the same person
105 may not hold the office of president for more than three (3) years
106 in succession.

107 (2) The board shall meet at least annually to conduct its
108 business and perform its duties, and shall meet at such other
109 times as designated by the president or by request by two (2) or
110 more members of the board.

111 (3) A majority of the board shall constitute a quorum for
112 all purposes, and the majority vote of the members voting shall
113 constitute the action of the board.

114 (4) The secretary of the board shall keep a complete record
115 of all of its proceedings.

116 (5) Members of the board shall be compensated as provided in
117 Section 25-3-41, Mississippi Code of 1972, for attending meetings
118 of the board or for performing duties prescribed by this act and
119 approved by the board.

120 (6) The board shall appoint a fair practice committee
121 consisting of three (3) denturists selected from the membership of
122 licensed denturists. This committee will meet as need arises and
123 shall file a written report with the board on the decisions made.

124 SECTION 9. The board shall have the following powers and
125 duties:

126 (a) To determine the qualifications of persons applying
127 for licenses under this act;

128 (b) To prescribe, administer and determine examinations
129 and a passing grade for licenses under this act;

130 (c) To collect fees and charges prescribed in this act
131 to cover the operating expenses of the board as may become
132 necessary from time to time;

133 (d) To issue licenses for the practice of denturistry
134 under the conditions prescribed in this act;

135 (e) To revoke or suspend denturists' licenses in the
136 manner prescribed by this act;

137 (f) To administer oaths and subpoena witnesses for the
138 purpose of carrying out the activities authorized under this act;

139 (g) To make rules and regulations pursuant to the
140 Administrative Procedures Act to carry out the intents and
141 purposes of this act;

142 (h) To appoint committees and chairpersons and to
143 delegate responsibilities to them as the need arises from time to
144 time;

145 (i) To authorize, by written agreement, the State
146 Department of Health, to act as agent in its interest.

147 SECTION 10. Upon application and payment of the appropriate
148 fee, the board shall issue a license to practice denturistry to any
149 applicant who meets one (1) of the following criteria:

150 (a) Applications filed prior to July 1, 1999:
151 Applicants must furnish two (2) signed affidavits by persons other
152 than family members (or other evidence as may be prescribed by the
153 board) that he/she has been employed for at least five (5) years
154 prior to application in denture technology and is able to
155 demonstrate competency in intra-oral procedures, and has
156 successfully completed courses accredited by the board in head and
157 neck anatomy and oral pathology; and has been a resident of the
158 State of Mississippi for six (6) months prior to the filing of the
159 application.

160 (b) Applications filed on or after July 1, 1999:
161 Applicants must satisfactorily complete the examinations
162 established by the board pursuant to this act; and have completed

163 formal training of not less than two (2) years duration at an
164 educational institution accredited by a national or regional
165 accrediting agency recognized by the Board of Trustees of State
166 Institutions of Higher Learning, the curriculum of which includes
167 courses in oral pathology, physiology, head and oral anatomy,
168 clinical microbiology, clinical jurisprudence, asepsis, and first
169 aid for minor office emergencies; and have completed at least two
170 (2) years internship under the supervision of a licensed denturist
171 or have equivalent experience as established by board rule prior
172 to the filing of the application.

173 SECTION 11. The board shall administer the examinations for
174 licensing, subject to the following requirements:

175 (a) Examinations shall be of such character as to
176 determine the qualifications, fitness and ability of the applicant
177 to practice denturistry, with the form of the test to be written,
178 oral, or a practical demonstration of skills, or such combination
179 of the three (3) as the board may prescribe.

180 (b) The examination shall include coverage of the
181 following subjects:

- 182 (i) Head and oral anatomy;
- 183 (ii) Oral pathology;
- 184 (iii) Physiology;
- 185 (iv) Clinical dental technology;
- 186 (v) Dental laboratory technology;
- 187 (vi) Microbiology;
- 188 (vii) Clinical jurisprudence;
- 189 (viii) Asepsis;
- 190 (ix) First aid for minor office emergencies.

191 SECTION 12. The board shall be entitled to charge and
192 collect the following fees:

193 (a) An application fee (which shall include the cost of
194 an examination when required) of not to exceed Three Hundred
195 Dollars (\$300.00);

196 (b) An initial license fee of not to exceed Three
197 Hundred Dollars (\$300.00);

198 (c) A renewal fee of not to exceed Six Hundred Dollars
199 (\$600.00).

200 SECTION 13. A denturist license shall be valid for a period
201 of one (1) year, whereupon a renewal license will be issued upon
202 payment of the renewal fee and the submission of proof of the
203 completion of not less than twelve (12) hours continuing education
204 accredited by the board during the one (1) year immediately
205 preceding the date of application for renewal. A license issued
206 effective as of a date other than July 1 will be valid until
207 midnight June 30 next following the date it was issued. The
208 license shall bear on its face the address where the licensee's
209 denturist services will be performed.

210 SECTION 14. (1) The board shall have the power to refuse to
211 issue a license, suspend or revoke a license, or place a licensed
212 person on probation for a period specified by the board and
213 subject to such conditions as the board shall impose, or reprimand
214 or censure a licensee for any of the following causes:

215 (a) Conviction, finding of guilt, receipt of a withheld
216 judgment or suspended sentence in this or any other state of a
217 felony or of any other crime where such crime bears a demonstrable
218 relationship to the practice of denturistry.

219 (b) Incompetence or gross negligence in the practice of
220 denturistry.

221 (c) Fraud or misrepresentation in the practice of
222 denturistry.

223 (d) Use of any narcotic or dangerous drug or
224 intoxicating liquor to an extent that such use impairs the ability
225 to conduct safely the practice of denturistry.

226 (e) The violation of any provision of this act or rules
227 adopted thereunder.

228 (2) The board shall have the power to examine and inspect

229 the place of business of any licensed denturist at a reasonable
230 time and in a reasonable manner to assure compliance with this
231 act.

232 (3) The board shall have the right to establish standards of
233 conduct and practice, and the power to enforce such standards with
234 monetary penalties and/or revocation or suspension of license.

235 SECTION 15. A denturist whose license has been revoked
236 either by the Mississippi Board of Denturistry or the similar body
237 of another state, shall not be eligible to apply for a license
238 until one (1) year after the date of revocation.

239 SECTION 16. All monies received under the provisions of this
240 act shall be deposited in the State Treasury to the credit of the
241 operating fund of the board and all costs and expenses incurred by
242 the board under the provisions of this act shall be a charge
243 against and paid from said account. In no instance will the
244 occupational license account be obligated to pay any claims which
245 in aggregate with claims already paid exceed the income to the
246 occupational license account which has been derived by the
247 application of this act.

248 SECTION 17. Notwithstanding any provisions of any policy of
249 insurance covering dental health, whenever such policy provides
250 for reimbursement for any service which is within the lawful scope
251 of practice of a denturist, the insured under such policy shall be
252 entitled to reimbursement for such service, whether the service is
253 performed by a licensed dentist or a licensed denturist. This
254 section shall apply to any policy covering dental insurance which
255 is issued after July 1, 1999. Policies which are in existence on
256 July 1, 1999, shall be brought into compliance on the next
257 anniversary date, renewal date or the expiration date of the
258 applicable collective bargaining contract, if any, whichever date
259 is latest.

260 SECTION 18. Violation of any provision of this act shall
261 constitute a misdemeanor.

262 SECTION 19. (1) There shall be posted in a conspicuous area
263 on any premises where the practice of denturistry is carried on, a
264 notice with lettering of a size easily read by the average person
265 and in substantially the following form:

266 **ANY CONSUMER WHO HAS A COMPLAINT RELATING TO PRACTICES OF**
267 **THIS ESTABLISHMENT MAY CONTACT THE MISSISSIPPI BOARD OF**
268 **DENTURITRY (address) WITH A COPY TO THE STATE**
269 **DEPARTMENT OF HEALTH (address)**

270 (2) No person licensed under the provisions of this act
271 shall directly or indirectly:

272 (a) Make any payment or gift to a person who has
273 referred a patient;

274 (b) Receive or accept any rebate, payment or gift from
275 any person to whom a patient is referred; or

276 (c) Engage in any form of fee-splitting or other form
277 of sharing of remuneration, with respect to referrals.

278 (3) All denturist services will be unconditionally
279 guaranteed for a period of not less than ninety (90) days.

280 SECTION 20. Any person who shall be aggrieved by any action
281 of the board in denying, refusing to renew, suspending or revoking
282 a denturist license may appeal therefrom to the district court in
283 the county in which he/she is a resident. Such appeal shall be
284 perfected by filing with the clerk of the circuit court, within
285 thirty (30) days following the action of the board of which
286 complaint is made, a notice of appeal setting forth briefly the
287 action complained of and wherein the petitioner has been deprived
288 of any legal rights. A copy of the notice of appeal shall be
289 served upon the president or secretary of the board, and the court
290 may sustain or reverse the action of the board or direct the board
291 to take any further or other action with regard to the appeal.

292 SECTION 21. Whenever any person, corporation, partnership or
293 association of any kind or nature violates any of the provisions
294 of this act, the board, without regard to criminal prosecution,

295 may maintain an action in the name of the State of Mississippi to
296 enjoin said person, corporation, partnership or association from
297 any further violations, such action to be brought either in the
298 county in which said acts are claimed to have been or are being
299 committed, in the county where the defendant resides, or in Hinds
300 County. Upon the filing of a verified complaint in the chancery
301 court, the court, if satisfied that the acts complained of have
302 been or probably are being or may be committed, may issue an
303 injunction pendente lite without bond, on request of the board,
304 enjoining the defendant from the commission of any such act or
305 acts constituting said violations. A copy of said complaint shall
306 be served upon the defendant, and the proceedings shall thereafter
307 be conducted as in any other similar civil action. If the
308 commission of said act or acts be established, the court shall
309 enter a decree perpetually enjoining said defendant from
310 committing said act or acts. In case of violation of any
311 injunction issued under the provisions of this section, the court,
312 or the judge thereof at chambers, may summarily try and punish the
313 offender for his contempt of court.

314 SECTION 22. Section 73-9-3, Mississippi Code of 1972, is
315 amended as follows:

316 73-9-3. Any person shall be regarded as practicing dentistry
317 within the meaning of this chapter who shall diagnose or profess
318 to diagnose, or examine or contract for the treatment of, or treat
319 or profess to treat, or hold himself out as treating any of the
320 diseases or disorders or lesions of the oral cavity, teeth,
321 gingivae, or maxillary and mandibular bones, or who shall extract
322 teeth, repair or fill cavities in human teeth, correct malposition
323 or irregularities of the teeth or jaws, practice surgery of the
324 head or neck incident to the practice of oral surgery, or
325 construct, repair or mend artificial teeth, crowns or bridges, or
326 who shall administer anesthetics or use X-ray in connection with
327 the practice of dentistry, or who shall engage in any other

328 practice included in the curricula of dental schools accredited by
329 the Council on Dental Education of the American Dental
330 Association, provided that nothing herein shall be so construed as
331 to prevent:

332 1. The practice of his profession by a regularly licensed
333 and registered physician under the laws of this state unless he
334 practices dentistry as a specialty; or

335 2. The performance of mechanical work upon inanimate objects
336 by persons working in dental offices under their supervision; or

337 3. The operation of a dental laboratory and taking work by
338 written work authorization from regularly licensed and registered
339 dentists as provided for elsewhere in this chapter; or

340 4. Dentists from outside the state from giving educational
341 clinics or demonstrations before a dental society, convention or
342 association; or

343 5. Licensed dentists from outside the state from being
344 called into Mississippi by licensed dentists of this state for
345 consultative or operative purposes when such consultative or
346 operative purposes have been authorized or approved by the Board
347 of Dental Examiners for specified periods of time or as provided
348 for by rules and regulations set forth by the board; or

349 6. Applicants for license to practice dentistry in this
350 state from working during examination by and under the supervision
351 and direction of the Board of Dental Examiners; or

352 7. The practice of dentistry or of dental hygiene by
353 students under the supervision of instructors in any dental
354 school, college, or dental department of any school, college, or
355 university, or school of dental hygiene recognized by the board,
356 but such activities shall not be carried on for profit; or

357 8. Dental interns or externs from being employed by licensed
358 hospitals or other agencies recognized and approved by the board;
359 or

360 9. A regularly licensed and registered dentist from the

361 delegation of procedures to a regularly licensed and registered
362 hygienist or other competent dental auxiliary personnel as he may
363 direct while acting under the direct supervision and direction and
364 full responsibility of the dentist except as follows: Those
365 procedures which require the professional judgment and skill of a
366 dentist such as diagnosis, treatment planning, surgical procedures
367 involving hard or soft tissues, or any intra-oral procedure of an
368 irreversible nature which could result in injury to the patient.
369 Provided, however, the dentist shall delegate the removal of
370 calcareous deposits only to a regularly licensed and registered
371 dental hygienist as regulated by the State Board of Dental
372 Examiners.

373 10. The practice of his profession by a regularly licensed
374 denturist under Senate Bill No. _____, 1999 Regular Session.

375 All dentists and dental hygienists serving as instructors,
376 professors or residents, as provided for in paragraphs 7. and 8.
377 above, shall be required to be licensed by the Mississippi State
378 Board of Dental Examiners.

379 SECTION 23. This act shall take effect and be in force from
380 and after July 1, 1999.