

By: Ford

To: Public Health and
Welfare

HOUSE BILL NO. 262

1 AN ACT TO REENACT SECTIONS 73-10-1 THROUGH 73-10-23,
2 MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE MISSISSIPPI
3 DIETETICS PRACTICE ACT AND PRESCRIBES ITS POWERS AND DUTIES; TO
4 AMEND SECTION 73-10-25, MISSISSIPPI CODE OF 1972, TO EXTEND THE
5 DATE OF REPEAL ON THE MISSISSIPPI DIETETICS PRACTICE ACT; AND FOR
6 RELATED PURPOSES.

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

8 SECTION 1. Section 73-10-1, Mississippi Code of 1972, is
9 reenacted as follows:

10 73-10-1. This chapter shall be known and may be cited as the
11 Mississippi Dietetics Practice Act of 1986.

12 SECTION 2. Section 73-10-3, Mississippi Code of 1972, is
13 reenacted as follows:

14 73-10-3. (1) For the purposes of this chapter the following
15 terms shall have the meanings set forth herein:

16 (a) "Advisory council" means the Mississippi Council of
17 Advisors in Dietetics established in this chapter.

18 (b) "Board" means the Mississippi State Board of
19 Health.

20 (c) "Association" means the American Dietetic
21 Association (ADA).

22 (d) "Mississippi association" means the Mississippi
23 Dietetic Association, an affiliate of the American Dietetic

24 Association.

25 (e) "Commission on Dietetic Registration" (CDR) means
26 the Commission on Dietetic Registration that is a member of the
27 National Commission for Health Certifying Agencies.

28 (f) "Degree" means a degree received from a college or
29 university that was accredited through the Council on
30 Postsecondary Accreditation and the U.S. Department of Education
31 at the time the degree was conferred.

32 (g) "Registered dietitian" means a person registered by
33 the Commission on Dietetic Registration.

34 (h) "Licensed dietitian" means a person licensed under
35 this chapter.

36 (i) "Provisionally licensed dietitian" means a person
37 provisionally licensed under this chapter.

38 (j) "Dietetics practice" means the integration and
39 application of the principles derived from the sciences of
40 nutrition, biochemistry, food, physiology, management and
41 behavioral and social sciences to achieve and maintain people's
42 health through the provision of nutrition care services.

43 (k) "Nutrition care services" means:

44 (i) Assessing the nutritional needs of individuals
45 and groups, and determining resources and constraints in the
46 practice setting.

47 (ii) Establishing priorities, goals and objectives
48 that meet nutritional needs and are consistent with available
49 resources and constraints.

50 (iii) Providing nutrition counseling in health and
51 disease.

52 (iv) Developing, implementing and managing
53 nutrition care systems.

54 (v) Evaluating, making changes in and maintaining

55 appropriate standards of quality in food and nutrition care
56 services.

57 (l) "Nutritional assessment" means the evaluation of
58 the nutritional needs of individuals and groups based upon
59 appropriate biochemical, anthropometric, physical and dietary data
60 to determine nutrient needs and recommend appropriate nutritional
61 intake including enteral and parenteral nutrition.

62 (m) "Nutrition counseling" means advising and assisting
63 individuals or groups on appropriate nutritional intake by
64 integrating information from the nutritional assessment with
65 information on food and other sources of nutrients and meal
66 preparation consistent with cultural background and socioeconomic
67 status.

68 (n) "Nutrition educator" shall mean one who
69 communicates scientific nutrition information to individuals
70 and/or groups and who provides information on food sources of
71 nutrients to meet normal nutrition need based on the most current
72 "Recommended Dietary Allowances" of the Food and Nutrition Board,
73 National Academy of Sciences, National Research Council.

74 (o) "Dietitian" means one engaged in dietetics
75 practice, nutrition care service, nutritional assessment,
76 nutrition counseling or nutrition education. The terms dietitian
77 or dietician are used interchangeably in this chapter.

78 (p) "Direct, technical supervision" means the direct,
79 technical supervision by a licensed dietitian, as prescribed in
80 regulations by the board, of the nutrition care services provided
81 to an individual and/or group by a provisionally licensed
82 dietitian.

83 (q) "Department" means the Mississippi State Department
84 of Health.

85 (2) All other terms shall have their commonly ascribed
86 definitions unless some other meaning is clearly intended from its
87 context.

88 SECTION 3. Section 73-10-5, Mississippi Code of 1972, is
89 reenacted as follows:

90 73-10-5. Dietetics is the integration and application of
91 principles derived from the sciences of nutrition, biochemistry,
92 physiology, food, management and behavioral and social sciences to
93 achieve and maintain peoples' health. The primary function of
94 dietetic practice is the provision of nutrition care services
95 which shall include:

96 (a) Assessing the nutritional needs of individuals and
97 groups, and determining resources and constraints in the practice
98 setting.

99 (b) Establishing priorities, goals and objectives that
100 meet nutritional needs and are consistent with available resources
101 and constraints.

102 (c) Providing nutrition counseling in health and
103 disease.

104 (d) Developing, implementing and managing nutrition
105 care system.

106 (e) Evaluating, changing and maintaining appropriate
107 standards of quality in food and nutrition services.

108 SECTION 4. Section 73-10-7, Mississippi Code of 1972, is
109 reenacted as follows:

110 73-10-7. It shall be unlawful for any person, corporation or

111 association to, in any manner, represent himself or itself as a
112 dietitian or nutritionist, send out billings as providing
113 nutrition care services, or use in connection with his or its
114 name, the titles "dietitian," "dietician" or "nutritionist" or use
115 the letters "LD," "LN" or any other facsimile thereof when he or
116 she is not licensed in accordance with the provisions of this
117 chapter or meets the exemptions in paragraph (c) of Section
118 73-10-13. Notwithstanding any other provision of this chapter, a
119 dietitian registered by the Commission on Dietetic Registration
120 (CDR) shall have the right to use the title "Registered Dietitian"
121 and the designation "R.D." Registered dietitians shall be
122 licensed according to the provisions of this chapter to practice
123 dietetics or provide nutrition care services.

124 SECTION 5. Section 73-10-9, Mississippi Code of 1972, is
125 reenacted as follows:

126 73-10-9. (1) An applicant for a license as a dietitian
127 shall file a written application on forms provided by the board,
128 showing to the satisfaction of the board that he or she meets the
129 requirements of this section.

130 (2) An applicant for licensure as a dietitian shall present
131 evidence satisfactory to the board of having received a
132 baccalaureate or post-baccalaureate degree from a college or
133 university accredited through the U.S. Department of Education,
134 Office of Postsecondary Education, with a major in dietetics or an
135 equivalent major course of study as approved by the board.

136 (3) An applicant for licensure as a dietitian shall submit
137 to the board evidence of having successfully completed a board
138 approved planned program of dietetics experience under the

139 supervision of a licensed or registered dietitian.

140 (4) An applicant for licensure as a dietitian shall pass an
141 examination as defined by the board.

142 (5) Persons who provide evidence of current registration as
143 a registered dietitian by the Commission on Dietetic Registration
144 shall be considered to have met the requirements of subsections
145 (2), (3) and (4) of this section.

146 (6) The board may waive the examination and grant a license
147 to persons having received a doctorate degree in human nutrition,
148 nutrition education, foods and nutrition or public health
149 nutrition from a college or university accredited through the U.S.
150 Department of Education, Office of Postsecondary Education, or
151 persons having received a master's degree or doctorate degree in a
152 related field that meets eligibility requirements of the
153 Commission on Dietetic Registration of the American Dietetic
154 Association and any eligibility requirements of the board, or
155 persons having received a bachelor's degree from an accredited
156 college or university with the successful completion of not less
157 than twelve (12) semester hours in human nutrition, nutrition
158 education, foods and nutrition or public health nutrition and
159 having at least three (3) years of work experience as a dietitian
160 immediately prior to July 1, 1986.

161 (7) Applicants shall pay a fee as established by the board.

162 (8) Each application or filing made under this section shall
163 include the Social Security number(s) of the applicant in
164 accordance with Section 93-11-64, Mississippi Code of 1972.

165 SECTION 6. Section 73-10-11, Mississippi Code of 1972, is
166 reenacted as follows:

167 73-10-11. (1) The board may issue a provisional license to
168 any resident dietitian who presents evidence to the advisory
169 council of the successful completion of the education requirements
170 of Section 73-10-9(2) for licensure. Such a provisional license
171 may be issued to such a person before he or she has taken the
172 licensure examination prescribed by the board. A provisional
173 license may be issued for a period not exceeding one (1) year and
174 may be renewed from year to year not to exceed five (5) years upon
175 evidence satisfactory to the board that the applicant is in the
176 process of meeting the education or experience requirements in
177 anticipation of taking the examination.

178 (2) A provisional license shall permit the holder to
179 practice only under the direct technical supervision of a
180 dietitian.

181 (3) A fee for a provisional license and for each renewal
182 shall be established by the board.

183 SECTION 7. Section 73-10-13, Mississippi Code of 1972, is
184 reenacted as follows:

185 73-10-13. This chapter shall not be construed to affect or
186 prevent:

187 (a) A student enrolled in an approved academic program
188 in dietetics from engaging in the practice of dietetics, if such
189 practice constitutes a part of a supervised course of study, and
190 if the student is designated by a title which clearly indicates
191 his or her status as a student or trainee.

192 (b) Any person fulfilling the experience requirements
193 of Section 73-10-9(3) from engaging in the practice of dietetics
194 under the supervision of a licensed or registered dietitian.

195 (c) A dietitian who is serving in the armed forces or
196 the Public Health Service of the United States or is employed by
197 the Veteran's Administration from engaging in the practice of
198 dietetics provided such practice is related to such service or
199 employment.

200 (d) Any person providing dietetic services, including
201 but not limited to dietetic technicians, dietetic assistants and
202 dietary managers, from practicing dietetics while working under
203 the direct technical supervision of a licensed dietitian.

204 (e) Persons qualified and licensed to practice the
205 health professions from engaging in the practice of dietetics when
206 incidental to the practice of his or her profession, except that
207 such persons may not use the title "dietitian" or "nutritionist."

208 (f) Persons who perform the activities and services of
209 a nutrition educator in the employ of a federal, state, county or
210 municipal agency, or another political subdivision, or a chartered
211 elementary or secondary school or accredited degree-granting
212 educational institution insofar as such activities and services
213 are part of a salaried position.

214 (g) Federal, state, county or local government
215 employees involved with programs providing non-therapeutic
216 nutrition care services that help to prevent disease and maintain
217 good nutritional health, including but not limited to the
218 Cooperative Extension Service, the Child Nutrition Program, and
219 Project Head Start, from engaging in the practice of dietetics
220 within the discharge of official duties; provided, however, if
221 such person engages in the practice of dietetics in this state
222 outside the scope of such official duty, he or she must be

223 licensed as herein provided.

224 (h) Individuals who do not hold themselves out to be
225 dietitians from marketing or distributing food products including
226 dietary supplements as defined by the Food and Drug Administration
227 or from engaging in the explanation and education of customers
228 regarding the use of such products.

229 (i) Any person from furnishing general nutrition
230 information as to the use of food, food materials or dietary
231 supplements, nor prevent in any way the free dissemination of
232 literature; provided, however, no such individual may call
233 themselves a dietitian unless they are licensed under this
234 chapter.

235 SECTION 8. Section 73-10-15, Mississippi Code of 1972, is
236 reenacted as follows:

237 73-10-15. (1) A nonresident dietitian may practice
238 dietetics in Mississippi for five (5) days without a license or up
239 to thirty (30) days per year with other state's licensure or with
240 registration with the Commission on Dietetics Registration.

241 (2) The board may waive the prescribed examination for
242 licensure and grant a license to any person who shall present
243 proof of current licensure as a dietitian in another state, the
244 District of Columbia, or territory of the United States which
245 requires standards for licensure considered by the advisory
246 council to be greater than or equal to the requirements for
247 licensure of this chapter, if such state or territory extends
248 reciprocity to licensees of the State of Mississippi.

249 SECTION 9. Section 73-10-17, Mississippi Code of 1972, is
250 reenacted as follows:

251 73-10-17. (1) There is established the Mississippi Council
252 of Advisors in Dietetics under the jurisdiction of the Mississippi
253 State Board of Health.

254 (2) The council shall be comprised of seven (7) members of
255 whom five (5) shall be dietitians who have been engaged in the
256 practice of dietetics for at least three (3) years immediately
257 preceding their appointment. Members of the council shall be
258 licensed to practice dietetics. The following areas of practice
259 shall be represented by council members: administrative
260 dietetics, clinical dietetics, dietetic education, community
261 nutrition and consultation and private practice. The remaining
262 two (2) members shall be a licensed member of the health
263 professions and a member of the public with an interest in the
264 rights of the consumers of health services.

265 (3) A person is eligible for appointment as a public member
266 if the person or the person's spouse:

267 (a) Is not employed by and does not participate in the
268 management of an agency or business entity that provides health
269 care services or that sells, manufactures or distributes health
270 care supplies or equipment; and

271 (b) Does not own, control or have a direct or indirect
272 interest in more than ten percent (10%) of a business entity that
273 provides health care services or that sells, manufactures or
274 distributes health care supplies or equipment.

275 (4) Appointments to the advisory council shall be made
276 without regard to race, creed, sex, religion or national origin of
277 the appointees.

278 (5) The board shall, within sixty (60) days after passage of

279 this chapter, appoint two (2) advisory council members for a term
280 of one (1) year, two (2) for a term of two (2) years, and three
281 (3) for a term of three (3) years. Appointments made thereafter
282 shall be for three-year terms, but no person shall be appointed to
283 serve more than two (2) consecutive terms.

284 (6) Terms shall begin on the first day of the calendar year
285 and end on the last day of the calendar year or until successors
286 are appointed, except for the first appointed members who shall
287 serve through the last calendar day of the year in which they are
288 appointed before commencing the terms prescribed by this section.

289 (7) Not less than sixty (60) days before the end of each
290 calendar year, the Mississippi Dietetic Association shall submit
291 the names of at least two (2) persons for each dietitian vacancy
292 and each of the health professional and public member
293 appointments.

294 (8) In the event of a vacancy, the board shall, as soon as
295 possible, appoint a person who shall fill the unexpired term.

296 (9) The council shall meet during the first month of each
297 calendar year to select a chairman and for other appropriate
298 purposes. At least one (1) additional meeting shall be held
299 before the end of each calendar year. Further meetings may be
300 convened at the call of the chairman or the written request of a
301 majority of the council members, or at the request of the board.

302 (10) A majority of the members of the council shall
303 constitute a quorum for all purposes.

304 SECTION 10. Section 73-10-19, Mississippi Code of 1972, is
305 reenacted as follows:

306 73-10-19. (1) It shall be a ground for removal from the

307 advisory council if a member:

308 (a) Does not have at the time of appointment the
309 qualifications required for appointment to the advisory council;

310 (b) Does not maintain during service on the advisory
311 council the qualifications required for appointment to the
312 council; or

313 (c) Violates a prohibition established by this chapter.

314 (d) Fails to attend advisory council meetings for the
315 period of one (1) year.

316 (2) If a ground for removal of a member from the council
317 exists, the advisory council's actions taken during the existence
318 of the ground for removal shall be valid.

319 SECTION 11. Section 73-10-21, Mississippi Code of 1972, is
320 reenacted as follows:

321 73-10-21. (1) Rules, regulations and standards.

322 (a) The board is hereby empowered, authorized and
323 directed to adopt, amend, promulgate and enforce such rules,
324 regulations and standards governing dietitians as may be necessary
325 to further the accomplishment of the purpose of the governing law,
326 and in so doing shall utilize as the basis thereof the
327 corresponding recommendations of the advisory council. The rules,
328 regulations and minimum standards for licensing of dietitians may
329 be amended by the board as deemed necessary. In so doing, the
330 board shall utilize as the basis thereof the corresponding
331 recommendations of the advisory council.

332 (b) The board shall publish and disseminate to all
333 licensees, in appropriate manner, the licensure standards
334 prescribed by this chapter, any amendments thereto, and such rules

335 and regulations as the board may adopt under the authority vested
336 by Section 73-38-13, within sixty (60) days of their adoption.

337 (2) The board shall adopt a code of ethics for dietitians
338 using as the basis thereof the ADA "Standards of Professional
339 Responsibility."

340 (3) Issuance and renewal of licenses.

341 (a) The board shall issue a license to any person who
342 meets the requirements of this chapter upon payment of the license
343 fee prescribed.

344 (b) Licenses under this chapter shall be valid for two
345 (2) calendar years and shall be subject to renewal and shall
346 expire unless renewed in the manner prescribed by the rules and
347 regulations of the board, upon the payment of a biennial renewal
348 fee to be set at the discretion of the board, but not to exceed
349 One Hundred Dollars (\$100.00), and the presentation of evidence
350 satisfactory to the board that the licensee has met such
351 continuing education requirements as the board may require. An
352 applicant for license renewal shall demonstrate to the board
353 evidence of satisfactory completion of the continuing education
354 requirements established by the American Dietetic Association
355 and/or other continuing education requirements as may be required
356 by the board.

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

361 (d) A suspended license shall be subject to expiration
362 and may be renewed as provided in this section, but such renewal

363 shall not entitle the licensee, while the license remains
364 suspended and until it is reinstated, to engage in the licensed
365 activity, or in any other conduct or activity in violation of the
366 order of judgment by which the license was suspended. If a
367 license revoked on disciplinary grounds is reinstated, the
368 licensee, as a condition of reinstatement, shall pay the renewal
369 fee and any late fee that may be applicable.

370 (4) Denial or revocation of license.

371 (a) The board may deny or refuse to renew a license, or
372 suspend or revoke a license, or issue orders to cease or desist
373 from certain conduct, or issue warnings or reprimands where the
374 licensee or applicant for license has been convicted of unlawful
375 conduct or has demonstrated unprofessional conduct which has
376 endangered or is likely to endanger the health, welfare or safety
377 of the public. Such conduct includes:

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

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

383 (iii) Being convicted of a crime in any court
384 other than a misdemeanor;

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

387 (v) Violating any provision of this chapter.

388 (b) Such denial, refusal to renew, suspension,
389 revocation, order to cease and desist from designated conduct, or
390 warning or reprimand may be ordered by the board in a decision

391 made after a hearing in the manner provided by the rules and
392 regulations adopted by the board. One (1) year from the date of
393 the revocation of a license, application may be made to the board
394 for reinstatement. The board shall have discretion to accept or
395 reject an application for reinstatement and may, but shall not be
396 required to, hold a hearing to consider such reinstatement.

397 (c) In addition to the reasons specified in paragraph
398 (a) of this subsection (4), the board shall be authorized to
399 suspend the license of any licensee for being out of compliance
400 with an order for support, as defined in Section 93-11-153. The
401 procedure for suspension of a license for being out of compliance
402 with an order for support, and the procedure for the reissuance or
403 reinstatement of a license suspended for that purpose, and the
404 payment of any fees for the reissuance or reinstatement of a
405 license suspended for that purpose, shall be governed by Section
406 93-11-157 or 93-11-163, as the case may be. If there is any
407 conflict between any provision of Section 93-11-157 or 93-11-163
408 and any provision of this chapter, the provisions of Section
409 93-11-157 and 93-11-163, as the case may be, shall control.

410 (5) Establish fees.

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

414 (b) Such fees shall be set in such an amount as to
415 reimburse the state to the extent feasible for the cost of the
416 services rendered.

417 (6) Collect funds.

418 (a) The administration of the provisions of this

419 chapter shall be financed from income accruing from fees, licenses
420 and other charges assessed and collected by the board in
421 administering this chapter.

422 (b) The board shall receive and account for all funds
423 received and shall keep such funds in a separate fund.

424 (c) Funds collected under the provisions of this
425 chapter shall be used solely for the expenses of the advisory
426 council and the board to administer the provisions of this
427 chapter. Such funds shall be subject to audit by the State
428 Auditor.

429 (d) Members of the advisory council shall receive no
430 compensation for services performed on the council, but may be
431 reimbursed for necessary and actual expenses incurred in
432 connection with attendance at meetings of the council or for
433 authorized business of the council from funds made available for
434 such purpose, as provided in Section 25-3-41.

435 (7) Receive and process complaints.

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

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

446 (8) A license certificate issued by the board is the

447 property of the board and must be surrendered on demand.

448 SECTION 12. Section 73-10-23, Mississippi Code of 1972, is
449 reenacted as follows:

450 73-10-23. Any person who violates any provision of this act
451 shall, upon conviction thereof, be guilty of a misdemeanor and
452 shall be punished by a fine of not more than One Thousand Dollars
453 (\$1,000.00), or imprisoned in the county jail for a period not
454 exceeding six (6) months, or both.

455 SECTION 13. Section 73-10-25, Mississippi Code of 1972, is
456 amended as follows:

457 73-10-25. Sections 73-10-1 through 73-10-23, Mississippi
458 Code of 1972, which is the Dietetics Practice Act, shall stand
459 repealed as of July 1, 2001.

460 SECTION 14. This act shall take effect and be in force from
461 and after July 1, 2000.