

By: Huggins (By Request)

To: Public Health and
Welfare

SENATE BILL NO. 2431
(As Passed the Senate)

1 AN ACT TO REENACT SECTIONS 73-10-1 THROUGH 73-10-23,
2 MISSISSIPPI CODE OF 1972, WHICH LICENSE AND REGULATE DIETITIANS;
3 TO AMEND REENACTED SECTIONS 73-10-3, 73-10-5, 73-10-7 AND
4 73-10-21, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS
5 IN THE MISSISSIPPI DIETETICS PRACTICE ACT; TO AMEND REENACTED
6 SECTION 73-10-9, MISSISSIPPI CODE OF 1972, TO PRESCRIBE AND
7 CLARIFY CERTAIN QUALIFICATIONS FOR APPLICANTS FOR LICENSURE AS A
8 DIETITIAN; TO AMEND REENACTED SECTION 73-10-11, MISSISSIPPI CODE
9 OF 1972, TO PRESCRIBE AND CLARIFY CERTAIN QUALIFICATIONS FOR
10 APPLICANTS FOR PROVISIONAL LICENSURE AS A DIETITIAN; TO AMEND
11 REENACTED SECTION 73-10-13, MISSISSIPPI CODE OF 1972, TO CLARIFY
12 CERTAIN EXEMPTIONS FROM THE DIETETICS PRACTICE ACT; TO AMEND
13 REENACTED SECTION 73-10-15, MISSISSIPPI CODE OF 1972, TO CLARIFY
14 THE LIMITATIONS ON PRACTICE BY NONRESIDENT DIETITIANS; TO AMEND
15 SECTION 73-10-25, MISSISSIPPI CODE OF 1972, WHICH IS THE AUTOMATIC
16 REPEALER ON THE DIETETICS PRACTICE ACT; AND FOR RELATED PURPOSES.

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

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

20 73-10-1. This chapter shall be known and may be cited as the
21 Mississippi Dietetics Practice Act of 1986.

22 SECTION 2. Section 73-10-3, Mississippi Code of 1972, is
23 reenacted and amended as follows:[JU1]

24 73-10-3. (1) For the purposes of this chapter the following
25 terms shall have the meanings set forth herein:

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

28 (b) "Board" means the Mississippi State Board of
29 Health.

30 (c) "Association" means the American Dietetic
31 Association (ADA).

32 (d) "Mississippi association" means the Mississippi
33 Dietetic Association, an affiliate of the American Dietetic

34 Association.

35 (e) "Commission on Dietetic Registration" (CDR) means
36 the Commission on Dietetic Registration that is a member of the
37 National Commission for Health Certifying Agencies.

38 (f) "Degree" means a degree received from a college or
39 university that was accredited through the Council on
40 Postsecondary Accreditation and the United States Department of
41 Education at the time the degree was conferred.

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

44 (h) "Licensed dietitian" means a person licensed under
45 this chapter.

46 (i) "Provisionally licensed dietitian" means a person
47 provisionally licensed under this chapter.

48 (j) "Dietetics practice" means the integration and
49 application of the principles derived from the sciences of
50 nutrition, biochemistry, food, physiology, management and
51 behavioral and social sciences to achieve and maintain people's
52 health * * *. Dietetics practice includes, but is not limited to:

53 (i) Providing medical nutrition therapy.

54 (ii) Development, administration, evaluation and
55 consultation regarding nutritional care standards of quality in
56 food services and medical nutrition therapy.

57 (iii) Providing case management services.

58 (k) "Medical nutrition therapy" is a nutritional
59 diagnostic therapy and counseling services for the purpose of
60 disease management. It means the assessment of the nutritional
61 status of patients with a condition, illness or injury that
62 appropriately requires medical nutrition therapy as part of the
63 treatment. The assessment includes review and analysis of medical
64 and diet history, blood chemistry lab values and anthropometric
65 measurements to determine nutritional status and treatment
66 modalities.

67 Therapy ranges from diet modification and nutrition
68 counseling to administration of specialized nutrition therapies
69 such as intravenous medical nutritional products as determined
70 necessary to manage a condition or treat illness or injury.

71 (1) "Diet modification and nutrition counseling" means
72 intervention and advice in assisting individuals or groups in the
73 development of personal diet plans to achieve appropriate
74 nutritional intake. To develop the diet plan, the dietitian
75 integrates information from the nutritional assessment with
76 information on food and other sources of nutrients and meal
77 preparation consistent with cultural background and socioeconomic
78 status.

79 (m) "Specialized nutrition therapies" mean medical
80 foods, enteral nutrition delivered via tube, or parenteral
81 nutrition delivered by intravenous infusion.

82 (n) "Nutrition educator" shall mean one who
83 communicates scientific nutrition information to individuals
84 and/or groups and who provides information on food sources of
85 nutrients to meet normal nutrition need based on the most current
86 "Recommended Dietary Allowances" of the Food and Nutrition Board,
87 National Academy of Sciences, National Research Council.

88 (o) "Dietitian" means one engaged in dietetics
89 practice, medical nutrition therapy or nutrition education. The
90 terms dietitian or dietician are used interchangeably in this
91 chapter.

92 (p) "Direct, technical supervision" means the direct,
93 technical supervision by a licensed dietitian, as prescribed in
94 regulations by the board, of the dietetics practice or medical
95 nutrition therapy provided to an individual and/or group by a
96 provisionally licensed dietitian.

97 (q) "Department" means the Mississippi State Department
98 of Health.

99 (2) All other terms shall have their commonly ascribed

100 definitions unless some other meaning is clearly intended from its
101 context.

102 SECTION 3. Section 73-10-5, Mississippi Code of 1972, is
103 reenacted and amended as follows:[JU2]

104 73-10-5. Dietetics is the integration and application of
105 principles derived from the sciences of nutrition, biochemistry,
106 physiology, food, management and behavioral and social sciences to
107 achieve and maintain peoples' health. * * * Dietetics practice is
108 the provision of * * * services which * * * include, but are not
109 limited to:

110 (a) Providing medical nutrition therapy.

111 (b) Development, administration, evaluation and
112 consultation regarding nutritional care standards of quality in
113 food services and medical nutrition therapy.

114 (c) Providing case management services.

115 (d) Developing, implementing and managing nutrition
116 care system.

117 * * *

118 SECTION 4. Section 73-10-7, Mississippi Code of 1972, is
119 reenacted and amended as follows:[JU3]

120 73-10-7. It shall be unlawful for any person, corporation or
121 association to, in any manner, represent himself or itself as a
122 dietitian or nutritionist, send out billings as providing services
123 covered in Section 73-10-3(j), or use in connection with his or
124 its name, the titles "dietitian," "dietician" or "nutritionist" or
125 use the letters "LD," "LN" or any other facsimile thereof when he
126 or she is not licensed in accordance with the provisions of this
127 chapter or meets the exemptions in paragraph (c) of Section
128 73-10-13. Notwithstanding any other provision of this chapter, a
129 dietitian registered by the Commission on Dietetic Registration
130 (CDR) shall have the right to use the title "Registered Dietitian"
131 and the designation "R.D." Registered dietitians shall be
132 licensed according to the provisions of this chapter to practice

133 dietetics or provide medical nutrition therapy.

134 SECTION 5. Section 73-10-9, Mississippi Code of 1972, is
135 reenacted and amended as follows:[JU4]

136 73-10-9. (1) An applicant for a license as a dietitian
137 shall file a written application on forms provided by the board,
138 showing to the satisfaction of the board that he or she meets the
139 following requirement.

140 * * *

141 (2) Applicants shall provide evidence of current
142 registration as a registered dietitian by the Commission on
143 Dietetic Registration * * *.

144 * * *

145 (3) Applicants shall pay a fee as established by the board.

146 (4) Each application or filing made under this section shall
147 include the social security number(s) of the applicant in
148 accordance with Section 93-11-64, Mississippi Code of 1972.

149 SECTION 6. Section 73-10-11, Mississippi Code of 1972, is
150 reenacted and amended as follows:[JU5]

151 73-10-11. (1) The board may issue a provisional license to
152 any resident dietitian who presents evidence to the advisory
153 council of the successful completion of the education and
154 experience requirements of subsections (2) and (3) of this
155 section for licensure. Such a provisional license may be issued
156 to such a person before he or she has taken the * * * examination
157 to become a registered dietitian as given by the Commission on
158 Dietetic Registration (CDR). A provisional license may be issued
159 for a period not exceeding one (1) year and may be renewed from
160 year to year not to exceed five (5) years * * *.

161 (2) An applicant for provisional licensure as a dietitian
162 shall present evidence satisfactory to the board of having
163 received a baccalaureate or post-baccalaureate degree from a
164 college or university accredited through the United States
165 Department of Education, Office of Postsecondary Education, with a

166 major in dietetics or an equivalent major course of study as
167 approved by the board.

168 (3) An applicant for licensure as a dietitian shall submit
169 to the board evidence of having successfully completed a board
170 approved planned program of dietetics experience under the
171 supervision of a licensed or registered dietitian.

172 (4) A provisional license shall permit the holder to
173 practice only under the direct technical supervision of a
174 dietitian.

175 (5) A fee for a provisional license and for each renewal
176 shall be established by the board.

177 SECTION 7. Section 73-10-13, Mississippi Code of 1972, is
178 reenacted and amended as follows:[JU6]

179 73-10-13. This chapter shall not be construed to affect or
180 prevent:

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

186 (b) Any person fulfilling the experience requirements
187 of Section 73-10-11(3) from engaging in the practice of dietetics
188 under the supervision of a licensed or registered dietitian.

189 (c) A registered dietitian who is serving in the armed
190 forces or the Public Health Service of the United States or is
191 employed by the Department of Veterans Affairs from engaging in
192 the practice of dietetics provided such practice is restricted to
193 such service or employment.

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

198 (e) Persons * * * licensed or registered to practice

199 the health professions from engaging in the practice of dietetics
200 when covered under the scope of practice of his or her profession,
201 except that such persons may not use the title "dietitian" or
202 "nutritionist."

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

209 (g) Federal, state, county or local government
210 employees involved with programs providing the services of a
211 nutrition educator that help to prevent disease and maintain good
212 nutritional health, including, but not limited to, the Cooperative
213 Extension Service, the Child Nutrition Program, and Project Head
214 Start * * *.

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

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

226 SECTION 8. Section 73-10-15, Mississippi Code of 1972, is
227 reenacted and amended as follows:[JU7]

228 73-10-15. (1) A nonresident dietitian may practice
229 dietetics in Mississippi for five (5) days * * * per year with
230 current other state's licensure or with current registration with
231 the Commission on Dietetics Registration.

232 (2) The board may waive the prescribed examination for
233 licensure and grant a license to any person who shall present
234 proof of current licensure as a dietitian in another state, the
235 District of Columbia, or territory of the United States which
236 requires standards for licensure considered by the advisory
237 council to be greater than or equal to the requirements for
238 licensure of this chapter, if such state or territory extends
239 reciprocity to licensees of the State of Mississippi.

240 SECTION 9. Section 73-10-17, Mississippi Code of 1972, is
241 reenacted as follows:[JU8]

242 73-10-17. (1) There is established the Mississippi Council
243 of Advisors in Dietetics under the jurisdiction of the Mississippi
244 State Board of Health.

245 (2) The council shall be comprised of seven (7) members of
246 whom five (5) shall be dietitians who have been engaged in the
247 practice of dietetics for at least three (3) years immediately
248 preceding their appointment. Members of the council shall be
249 licensed to practice dietetics. The following areas of practice
250 shall be represented by council members: administrative
251 dietetics, clinical dietetics, dietetic education, community
252 nutrition and consultation and private practice. The remaining
253 two (2) members shall be a licensed member of the health
254 professions and a member of the public with an interest in the
255 rights of the consumers of health services.

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

258 (a) Is not employed by and does not participate in the
259 management of an agency or business entity that provides health
260 care services or that sells, manufactures or distributes health
261 care supplies or equipment; and

262 (b) Does not own, control or have a direct or indirect
263 interest in more than ten percent (10%) of a business entity that
264 provides health care services or that sells, manufactures or

265 distributes health care supplies or equipment.

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

269 (5) The board shall, within sixty (60) days after passage of
270 this chapter, appoint two (2) advisory council members for a term
271 of one (1) year, two (2) for a term of two (2) years, and three
272 (3) for a term of three (3) years. Appointments made thereafter
273 shall be for three-year terms, but no person shall be appointed to
274 serve more than two (2) consecutive terms.

275 (6) Terms shall begin on the first day of the calendar year
276 and end on the last day of the calendar year or until successors
277 are appointed, except for the first appointed members who shall
278 serve through the last calendar day of the year in which they are
279 appointed before commencing the terms prescribed by this section.

280 (7) Not less than sixty (60) days before the end of each
281 calendar year, the Mississippi Dietetic Association shall submit
282 the names of at least two (2) persons for each dietitian vacancy
283 and each of the health professional and public member
284 appointments.

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

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

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

295 SECTION 10. Section 73-10-19, Mississippi Code of 1972, is
296 reenacted as follows:[JU9]

297 73-10-19. (1) It shall be a ground for removal from the

298 advisory council if a member:

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

301 (b) Does not maintain during service on the advisory
302 council the qualifications required for appointment to the
303 council; * * *

304 (c) Violates a prohibition established by this chapter;
305 or

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

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

311 SECTION 11. Section 73-10-21, Mississippi Code of 1972, is
312 reenacted and amended as follows:[JU10]

313 73-10-21. (1) Rules, regulations and standards.

314 (a) The board is hereby empowered, authorized and
315 directed to adopt, amend, promulgate and enforce such rules,
316 regulations and standards governing dietitians as may be necessary
317 to further the accomplishment of the purpose of the governing law,
318 and in so doing shall utilize as the basis thereof the
319 corresponding recommendations of the advisory council. The rules,
320 regulations and minimum standards for licensing of dietitians may
321 be amended by the board as deemed necessary. In so doing, the
322 board shall utilize as the basis thereof the corresponding
323 recommendations of the advisory council.

324 (b) The board shall publish and disseminate to all
325 licensees, in appropriate manner, the licensure standards
326 prescribed by this chapter, any amendments thereto, and such rules
327 and regulations as the board may adopt under the authority vested
328 by Section 73-38-13, within sixty (60) days of their adoption.

329 (2) The board shall adopt a code of ethics for dietitians
330 using as the basis thereof the ADA "Code of Ethics for the

331 Profession of Dietetics."

332 (3) Issuance and renewal of licenses.

333 (a) The board shall issue a license to any person who
334 meets the requirements of this chapter upon payment of the license
335 fee prescribed.

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

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

353 (d) A suspended license shall be subject to expiration
354 and may be renewed as provided in this section, but such renewal
355 shall not entitle the licensee, while the license remains
356 suspended and until it is reinstated, to engage in the licensed
357 activity, or in any other conduct or activity in violation of the
358 order of judgment by which the license was suspended. If a
359 license revoked on disciplinary grounds is reinstated, the
360 licensee, as a condition of reinstatement, shall pay the renewal
361 fee and any late fee that may be applicable.

362 (4) Denial or revocation of license.

363 (a) The board may deny or refuse to renew a license, or

364 suspend or revoke a license, or issue orders to cease or desist
365 from certain conduct, or issue warnings or reprimands where the
366 licensee or applicant for license has been convicted of unlawful
367 conduct or has demonstrated unprofessional conduct which has
368 endangered or is likely to endanger the health, welfare or safety
369 of the public. Such conduct includes:

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

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

375 (iii) Being convicted of a crime in any court
376 other than a misdemeanor;

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

379 (v) Violating any provision of this chapter.

380 (b) Such denial, refusal to renew, suspension,
381 revocation, order to cease and desist from designated conduct, or
382 warning or reprimand may be ordered by the board in a decision
383 made after a hearing in the manner provided by the rules and
384 regulations adopted by the board. One (1) year from the date of
385 the revocation of a license, application may be made to the board
386 for reinstatement. The board shall have discretion to accept or
387 reject an application for reinstatement and may, but shall not be
388 required to, hold a hearing to consider such reinstatement.

389 (c) In addition to the reasons specified in paragraph
390 (a) of this subsection (4), the board shall be authorized to
391 suspend the license of any licensee for being out of compliance
392 with an order for support, as defined in Section 93-11-153. The
393 procedure for suspension of a license for being out of compliance
394 with an order for support, and the procedure for the reissuance or
395 reinstatement of a license suspended for that purpose, and the
396 payment of any fees for the reissuance or reinstatement of a

397 license suspended for that purpose, shall be governed by Section
398 93-11-157 or 93-11-163, as the case may be. If there is any
399 conflict between any provision of Section 93-11-157 or 93-11-163
400 and any provision of this chapter, the provisions of Section
401 93-11-157 or 93-11-163, as the case may be, shall control.

402 (5) Establish fees.

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

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

409 (6) Collect funds.

410 (a) The administration of the provisions of this
411 chapter shall be financed from income accruing from fees, licenses
412 and other charges assessed and collected by the board in
413 administering this chapter.

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

416 (c) Funds collected under the provisions of this
417 chapter shall be used solely for the expenses of the advisory
418 council and the board to administer the provisions of this
419 chapter. Such funds shall be subject to audit by the State
420 Auditor.

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

427 (7) Receive and process complaints.

428 (a) The board shall have full authority to investigate
429 and evaluate each and every applicant applying for a license to

430 practice dietetics, with the advice of the advisory council.

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

438 (8) A license certificate issued by the board is the
439 property of the board and must be surrendered on demand.

440 SECTION 12. Section 73-10-23, Mississippi Code of 1972, is
441 reenacted as follows:[JU11]

442 73-10-23. Any person who violates any provision of this
443 chapter shall, upon conviction thereof, be guilty of a misdemeanor
444 and shall be punished by a fine of not more than One Thousand
445 Dollars (\$1,000.00), or imprisoned in the county jail for a period
446 not exceeding six (6) months, or both.

447 SECTION 13. Section 73-10-25, Mississippi Code of 1972, is
448 amended as follows:[CR12]

449 73-10-25. Sections 73-10-1 through 73-10-23, Mississippi
450 Code of 1972, which is the Dietetics Practice Act, shall stand
451 repealed as of July 1, 2002.

452 SECTION 14. This act shall take effect and be in force from
453 and after June 30, 2000.