

By: Representative Moody

To: Public Health and
Welfare

HOUSE BILL NO. 906
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 73-10-1 THROUGH 73-10-23,
2 MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI DIETETICS
3 PRACTICE ACT; TO REPEAL SECTION 73-10-25, WHICH PROVIDES THAT THE
4 MISSISSIPPI DIETETICS PRACTICE ACT SHALL REPEAL ON JULY 1, 2002;
5 TO REQUIRE HEALTH CARE PROFESSIONALS TO PROVIDE CERTAIN
6 INFORMATION IN PRESCRIPTIONS FOR PATIENTS; AND FOR RELATED
7 PURPOSES.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

39 (j) "Dietetics practice" means the integration and
40 application of the principles derived from the sciences of
41 nutrition, biochemistry, food, physiology, management and
42 behavioral and social sciences to achieve and maintain people's
43 health. Dietetics practice includes, but is not limited to:

44 (i) Providing medical nutrition therapy.

45 (ii) Development, administration, evaluation and
46 consultation regarding nutritional care standards of quality in
47 food services and medical nutrition therapy.

48 (iii) Providing case management services.

49 (k) "Medical nutrition therapy" is a nutritional
50 diagnostic therapy and counseling services for the purpose of
51 disease management. It means the assessment of the nutritional
52 status of patients with a condition, illness or injury that
53 appropriately requires medical nutrition therapy as part of the
54 treatment. The assessment includes review and analysis of medical
55 and diet history, blood chemistry lab values and anthropometric
56 measurements to determine nutritional status and treatment
57 modalities.

58 Therapy ranges from diet modification and nutrition
59 counseling to administration of specialized nutrition therapies
60 such as intravenous medical nutritional products as determined
61 necessary to manage a condition or treat illness or injury.



62 (1) "Diet modification and nutrition counseling" means
63 intervention and advice in assisting individuals or groups in the
64 development of personal diet plans to achieve appropriate
65 nutritional intake. To develop the diet plan, the dietitian
66 integrates information from the nutritional assessment with
67 information on food and other sources of nutrients and meal
68 preparation consistent with cultural background and socioeconomic
69 status.

70 (m) "Specialized nutrition therapies" mean medical
71 foods, enteral nutrition delivered via tube, or parenteral
72 nutrition delivered by intravenous infusion.

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

79 (o) "Dietitian" means one engaged in dietetics
80 practice, medical nutrition therapy or nutrition education. The
81 terms dietitian or dietician are used interchangeably in this
82 chapter.

83 (p) "Direct, technical supervision" means the direct,
84 technical supervision by a licensed dietitian, as prescribed in
85 regulations by the board, of the dietetics practice or medical
86 nutrition therapy provided to an individual and/or group by a
87 provisionally licensed dietitian.

88 (q) "Department" means the Mississippi State Department
89 of Health.

90 (2) All other terms shall have their commonly ascribed
91 definitions unless some other meaning is clearly intended from its
92 context.

93 **SECTION 3.** Section 73-10-5, Mississippi Code of 1972, is
94 reenacted as follows:



95 73-10-5. Dietetics is the integration and application of
96 principles derived from the sciences of nutrition, biochemistry,
97 physiology, food, management and behavioral and social sciences to
98 achieve and maintain peoples' health. Dietetics practice is the
99 provision of services which include, but are not limited to:

100 (a) Providing medical nutrition therapy.

101 (b) Development, administration, evaluation and
102 consultation regarding nutritional care standards of quality in
103 food services and medical nutrition therapy.

104 (c) Providing case management services.

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

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

109 73-10-7. It shall be unlawful for any person, corporation or
110 association to, in any manner, represent himself or itself as a
111 dietitian or nutritionist, send out billings as providing services
112 covered in Section 73-10-3(j), or use in connection with his or
113 its name, the titles "dietitian," "dietician" or "nutritionist" or
114 use the letters "LD," "LN" or any other facsimile thereof when he
115 or she is not licensed in accordance with the provisions of this
116 chapter or meets the exemptions in paragraph (c) of Section
117 73-10-13. Notwithstanding any other provision of this chapter, a
118 dietitian registered by the Commission on Dietetic Registration
119 (CDR) shall have the right to use the title "Registered Dietitian"
120 and the designation "R.D." Registered dietitians shall be licensed
121 according to the provisions of this chapter to practice dietetics
122 or provide medical nutrition therapy.

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

125 73-10-9. (1) An applicant for a license as a dietitian
126 shall file a written application on forms provided by the board,



127 showing to the satisfaction of the board that he or she meets the
128 following requirement.

129 (2) Applicants shall provide evidence of current
130 registration as a registered dietitian by the Commission on
131 Dietetic Registration.

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

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

136 **SECTION 6.** Section 73-10-11, Mississippi Code of 1972, is
137 reenacted as follows:

138 73-10-11. (1) The board may issue a provisional license to
139 any resident dietitian who presents evidence to the advisory
140 council of the successful completion of the education and
141 experience requirements of subsections (2) and (3) of this section
142 for licensure. Such a provisional license may be issued to such a
143 person before he or she has taken the examination to become a
144 registered dietitian as given by the Commission on Dietetic
145 Registration (CDR). A provisional license may be issued for a
146 period not exceeding one (1) year and may be renewed from year to
147 year not to exceed five (5) years.

148 (2) An applicant for provisional licensure as a dietitian
149 shall present evidence satisfactory to the board of having
150 received a baccalaureate or post-baccalaureate degree from a
151 college or university accredited through the United States
152 Department of Education, Office of Postsecondary Education, with a
153 major in dietetics or an equivalent major course of study as
154 approved by the board.

155 (3) An applicant for licensure as a dietitian shall submit
156 to the board evidence of having successfully completed a board
157 approved planned program of dietetics experience under the
158 supervision of a licensed or registered dietitian.



159 (4) A provisional license shall permit the holder to
160 practice only under the direct technical supervision of a
161 dietitian.

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

164 **SECTION 7.** Section 73-10-13, Mississippi Code of 1972, is
165 reenacted as follows:

166 73-10-13. This chapter shall not be construed to affect or
167 prevent:

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

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

176 (c) A registered dietitian who is serving in the Armed
177 Forces or the Public Health Service of the United States or is
178 employed by the Department of Veterans Affairs from engaging in
179 the practice of dietetics provided such practice is restricted to
180 such service or employment.

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

185 (e) Persons licensed or registered to practice the
186 health professions from engaging in the practice of dietetics when
187 covered under the scope of practice of his or her profession,
188 except that such persons may not use the title "dietitian" or
189 "nutritionist."

190 (f) Persons who perform the activities and services of
191 a nutrition educator in the employ of a federal, state, county or



192 municipal agency, or another political subdivision, or a chartered
193 elementary or secondary school or accredited degree-granting
194 educational institution insofar as such activities and services
195 are part of a salaried position.

196 (g) Federal, state, county or local government
197 employees involved with programs providing the services of a
198 nutrition educator that help to prevent disease and maintain good
199 nutritional health, including, but not limited to, the Cooperative
200 Extension Service, the Child Nutrition Program, and Project Head
201 Start.

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

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

213 **SECTION 8.** Section 73-10-15, Mississippi Code of 1972, is
214 reenacted as follows:

215 73-10-15. (1) A nonresident dietitian may practice
216 dietetics in Mississippi for five (5) days per year with current
217 other state's licensure or with current registration with the
218 Commission on Dietetics Registration.

219 (2) The board may waive the prescribed examination for
220 licensure and grant a license to any person who shall present
221 proof of current licensure as a dietitian in another state, the
222 District of Columbia, or territory of the United States which
223 requires standards for licensure considered by the advisory
224 council to be greater than or equal to the requirements for



225 licensure of this chapter, if such state or territory extends
226 reciprocity to licensees of the State of Mississippi.

227 **SECTION 9.** Section 73-10-17, Mississippi Code of 1972, is
228 reenacted as follows:

229 73-10-17. (1) There is established the Mississippi Council
230 of Advisors in Dietetics under the jurisdiction of the Mississippi
231 State Board of Health.

232 (2) The council shall be comprised of seven (7) members of
233 whom five (5) shall be dietitians who have been engaged in the
234 practice of dietetics for at least three (3) years immediately
235 preceding their appointment. Members of the council shall be
236 licensed to practice dietetics. The following areas of practice
237 shall be represented by council members: administrative
238 dietetics, clinical dietetics, dietetic education, community
239 nutrition and consultation and private practice. The remaining
240 two (2) members shall be a licensed member of the health
241 professions and a member of the public with an interest in the
242 rights of the consumers of health services.

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

245 (a) Is not employed by and does not participate in the
246 management of an agency or business entity that provides health
247 care services or that sells, manufactures or distributes health
248 care supplies or equipment; and

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

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

256 (5) The board shall, within sixty (60) days after passage of
257 this chapter, appoint two (2) advisory council members for a term



258 of one (1) year, two (2) for a term of two (2) years, and three
259 (3) for a term of three (3) years. Appointments made thereafter
260 shall be for three-year terms, but no person shall be appointed to
261 serve more than two (2) consecutive terms.

262 (6) Terms shall begin on the first day of the calendar year
263 and end on the last day of the calendar year or until successors
264 are appointed, except for the first appointed members who shall
265 serve through the last calendar day of the year in which they are
266 appointed before commencing the terms prescribed by this section.

267 (7) Not less than sixty (60) days before the end of each
268 calendar year, the Mississippi Dietetic Association shall submit
269 the names of at least two (2) persons for each dietitian vacancy
270 and each of the health professional and public member
271 appointments.

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

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

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

282 **SECTION 10.** Section 73-10-19, Mississippi Code of 1972, is
283 reenacted as follows:

284 73-10-19. (1) It shall be a ground for removal from the
285 advisory council if a member:

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

288 (b) Does not maintain during service on the advisory
289 council the qualifications required for appointment to the
290 council;



291 (c) Violates a prohibition established by this chapter;
292 or

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

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

298 **SECTION 11.** Section 73-10-21, Mississippi Code of 1972, is
299 reenacted as follows:

300 73-10-21. (1) Rules, regulations and standards.

301 (a) The board is hereby empowered, authorized and
302 directed to adopt, amend, promulgate and enforce such rules,
303 regulations and standards governing dietitians as may be necessary
304 to further the accomplishment of the purpose of the governing law,
305 and in so doing shall utilize as the basis thereof the
306 corresponding recommendations of the advisory council. The rules,
307 regulations and minimum standards for licensing of dietitians may
308 be amended by the board as deemed necessary. In so doing, the
309 board shall utilize as the basis thereof the corresponding
310 recommendations of the advisory council.

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

316 (2) The board shall adopt a code of ethics for dietitians
317 using as the basis thereof the ADA "Code of Ethics for the
318 Profession of Dietetics."

319 (3) Issuance and renewal of licenses.

320 (a) The board shall issue a license to any person who
321 meets the requirements of this chapter upon payment of the license
322 fee prescribed.



323 (b) Upon the first renewal, licenses under this chapter
324 shall be valid for two (2) calendar years and shall be subject to
325 renewal and shall expire unless renewed in the manner prescribed
326 by the rules and regulations of the board, upon the payment of a
327 biennial renewal fee to be set at the discretion of the board, but
328 not to exceed One Hundred Dollars (\$100.00), and the presentation
329 of evidence satisfactory to the board that the licensee has met
330 such continuing education requirements as the board may require.
331 An applicant for license renewal shall demonstrate to the board
332 evidence of satisfactory completion of the continuing education
333 requirements established by the American Dietetic Association
334 and/or other continuing education requirements as may be required
335 by the board.

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

340 (d) A suspended license shall be subject to expiration
341 and may be renewed as provided in this section, but such renewal
342 shall not entitle the licensee, while the license remains
343 suspended and until it is reinstated, to engage in the licensed
344 activity, or in any other conduct or activity in violation of the
345 order of judgment by which the license was suspended. If a
346 license revoked on disciplinary grounds is reinstated, the
347 licensee, as a condition of reinstatement, shall pay the renewal
348 fee and any late fee that may be applicable.

349 (4) Denial or revocation of license.

350 (a) The board may deny or refuse to renew a license, or
351 suspend or revoke a license, or issue orders to cease or desist
352 from certain conduct, or issue warnings or reprimands where the
353 licensee or applicant for license has been convicted of unlawful
354 conduct or has demonstrated unprofessional conduct which has



355 endangered or is likely to endanger the health, welfare or safety
356 of the public. Such conduct includes:

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

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

362 (iii) Being convicted of a crime in any court
363 other than a misdemeanor;

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

366 (v) Violating any provision of this chapter.

367 (b) Such denial, refusal to renew, suspension,
368 revocation, order to cease and desist from designated conduct, or
369 warning or reprimand may be ordered by the board in a decision
370 made after a hearing in the manner provided by the rules and
371 regulations adopted by the board. One (1) year from the date of
372 the revocation of a license, application may be made to the board
373 for reinstatement. The board shall have discretion to accept or
374 reject an application for reinstatement and may, but shall not be
375 required to, hold a hearing to consider such reinstatement.

376 (c) In addition to the reasons specified in paragraph
377 (a) of this subsection (4), the board shall be authorized to
378 suspend the license of any licensee for being out of compliance
379 with an order for support, as defined in Section 93-11-153. The
380 procedure for suspension of a license for being out of compliance
381 with an order for support, and the procedure for the reissuance or
382 reinstatement of a license suspended for that purpose, and the
383 payment of any fees for the reissuance or reinstatement of a
384 license suspended for that purpose, shall be governed by Section
385 93-11-157 or 93-11-163, as the case may be. If there is any
386 conflict between any provision of Section 93-11-157 or 93-11-163



387 and any provision of this chapter, the provisions of Section
388 93-11-157 or 93-11-163, as the case may be, shall control.

389 (5) Establish fees.

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

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

396 (6) Collect funds.

397 (a) The administration of the provisions of this
398 chapter shall be financed from income accruing from fees, licenses
399 and other charges assessed and collected by the board in
400 administering this chapter.

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

403 (c) Funds collected under the provisions of this
404 chapter shall be used solely for the expenses of the advisory
405 council and the board to administer the provisions of this
406 chapter. Such funds shall be subject to audit by the State
407 Auditor.

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

414 (7) Receive and process complaints.

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

418 (b) The board shall have the authority to issue
419 subpoenas, examine witnesses and administer oaths, and shall, at



420 its discretion, investigate allegations or practices violating the
421 provisions of this chapter, and in so doing shall have power to
422 seek injunctive relief to prohibit any person from providing
423 professional dietetic services as defined in Section 73-10-3(1)(j)
424 without being licensed as provided herein.

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

427 **SECTION 12.** Section 73-10-23, Mississippi Code of 1972, is
428 reenacted as follows:

429 73-10-23. Any person who violates any provision of this
430 chapter shall, upon conviction thereof, be guilty of a misdemeanor
431 and shall be punished by a fine of not more than One Thousand
432 Dollars (\$1,000.00), or imprisoned in the county jail for a period
433 not exceeding six (6) months, or both.

434 **SECTION 13.** Section 73-10-25, Mississippi Code of 1972,
435 which provides that the Mississippi Dietetics Practice Act shall
436 repeal on July 1, 2002, is repealed.

437 **SECTION 14.** Health care professionals licensed by an agency
438 of this state and whose practice encompasses the prescribing and
439 dispensing of drugs or medical devices shall automatically provide
440 the patient with a prescription containing all of the necessary
441 information to allow any prescription provider to dispense the
442 drug or medical device to the consumer. Upon the request of
443 another health care professional or prescription provider to
444 confirm prescription information for a specified individual, the
445 prescribing health care professional shall immediately confirm all
446 necessary information to enable the person requesting verification
447 to accurately dispense the drug or medical device. Confirmation
448 may be requested or confirmed in any form, including
449 electronically. If confirmation of the verification request for
450 the drug or medical device is not received within one (1) hour
451 following the request, all information contained in the request,
452 including the fact that the prescription has not expired, shall be



453 presumed accurate, and the provider shall be authorized to
454 dispense pursuant to the prescription. If no expiration date is
455 included on the prescription, the prescription shall expire two
456 (2) years after the date of issue. Health care professionals who
457 dispense prescription medical devices shall prescribe brands that
458 are readily and directly available to all channels of
459 distribution, and shall post a notice in the location where
460 payment for services is made informing patients as follows: "You
461 have a right to receive a copy of your prescription. You also
462 have a right to have your prescription filled wherever you
463 choose."

464 **SECTION 15.** This act shall take effect and be in force from
465 and after July 1, 2002.

