

By: Senator(s) Gollott

To: Public Health and Welfare

SENATE BILL NO. 2828

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

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

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

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

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

18 (a) "Board" means the State Board of Health.

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

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

23 (d) "Practice of denturistry" means:

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

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

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

40 **SECTION 4.** From and after July 1, 2004, a person must hold a
41 license for the practice of denturistry in order to perform the
42 following acts:

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

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

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

50 (a) A person interning under the supervision of a
51 denturist;

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

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

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

60 **SECTION 6.** A licensed denturist shall not:

61 (a) Perform procedures which would alter any oral
62 tissues or natural teeth.

63 (b) Insert or fit immediate dentures in the mouth of
64 the intended wearer.

65 (c) Diagnose or treat any abnormalities of any human
66 mouth.

67 (d) Prescribe any drugs or treatment for any oral or
68 medical diseases.

69 (e) Construct or fit orthodontic appliances.

70 **SECTION 7.** The Governor shall appoint one (1) licensed
71 denturist to act in an advisory capacity to the State Board of
72 Health on the practice of denturity.

73 **SECTION 8.** The State Board of Health shall have the
74 following powers and duties:

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

77 (b) To collect fees and charges prescribed in this act
78 to cover the operating expenses of the board as may become
79 necessary from time to time;

80 (c) To issue licenses for the practice of denturity
81 under the conditions prescribed in this act;

82 (d) To revoke or suspend denturists' licenses in the
83 manner prescribed by this act;

84 (e) To make rules and regulations pursuant to the
85 Administrative Procedures Act to carry out the intents and
86 purposes of this act;

87 **SECTION 9.** Upon application and payment of the appropriate
88 fee, the board shall issue a license to practice denturity to any
89 applicant who has successfully completed a denturity course at an
90 accredited university. The course must have at a minimum a total
91 of seventy-six (76) hours in class in addition to laboratory time.
92 The class must consist of courses in physiology and anatomy.

93 **SECTION 10.** The board shall be entitled to charge and
94 collect the following fees.

95 (a) An initial license fee of not to exceed Three
96 Hundred Dollars (\$300.00); and

97 (b) A renewal fee of not to exceed Six Hundred Dollars
98 (\$600.00).

99 **SECTION 11.** A denturist license shall be valid for a period
100 of one (1) year, whereupon a renewal license will be issued upon
101 payment of the renewal fee and the submission of proof of the
102 completion of not less than twelve (12) hours continuing education
103 accredited by the board during the one (1) year immediately
104 preceding the date of application for renewal. A license issued
105 effective as of a date other than July 1 will be valid until
106 midnight June 30 next following the date it was issued. The
107 license shall bear on its face the address where the licensee's
108 denturist services will be performed.

109 **SECTION 12.** (1) The board shall have the power to refuse to
110 issue a license, suspend or revoke a license, or place a licensed
111 person on probation for a period specified by the board and
112 subject to such conditions as the board shall impose, or reprimand
113 or censure a licensee for any of the following causes:

114 (a) Conviction, finding of guilt, receipt of a withheld
115 judgment or suspended sentence in this or any other state of a
116 felony or of any other crime where such crime bears a demonstrable
117 relationship to the practice of denturistry.

118 (b) Incompetence or gross negligence in the practice of
119 denturistry.

120 (c) Fraud or misrepresentation in the practice of
121 denturistry.

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

125 (e) The violation of any provision of this act or rules
126 adopted thereunder.

127 (2) The board shall have the power to examine and inspect
128 the place of business of any licensed dentist at a reasonable
129 time and in a reasonable manner to assure compliance with this
130 act.

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

134 **SECTION 13.** A dentist whose license has been revoked
135 either by the board or the similar body of another state, shall
136 not be eligible to apply for a license until one (1) year after
137 the date of revocation.

138 **SECTION 14.** All monies received under the provisions of this
139 act shall be deposited in the State Treasury to the credit of the
140 operating fund of the board and all costs and expenses incurred by
141 the board under the provisions of this act shall be a charge
142 against and paid from said account. In no instance will the
143 occupational license account be obligated to pay any claims which
144 in aggregate with claims already paid exceed the income to the
145 occupational license account which has been derived by the
146 application of this act.

147 **SECTION 15.** Violation of any provision of this act shall
148 constitute a misdemeanor.

149 **SECTION 16.** (1) No person licensed under the provisions of
150 this act shall directly or indirectly:

151 (a) Make any payment or gift to a person who has
152 referred a patient;

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

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

157 (2) All dentist services will be unconditionally
158 guaranteed for a period of not less than ninety (90) days.

159 **SECTION 17.** Any person who shall be aggrieved by any action
160 of the board in denying, refusing to renew, suspending or revoking
161 a denturist license may appeal therefrom to the district court in
162 the county in which he/she is a resident. Such appeal shall be
163 perfected by filing with the clerk of the circuit court, within
164 thirty (30) days following the action of the board of which
165 complaint is made, a notice of appeal setting forth briefly the
166 action complained of and wherein the petitioner has been deprived
167 of any legal rights. A copy of the notice of appeal shall be
168 served upon the president or secretary of the board, and the court
169 may sustain or reverse the action of the board or direct the board
170 to take any further or other action with regard to the appeal.

171 **SECTION 18.** Whenever any person, corporation, partnership or
172 association of any kind or nature violates any of the provisions
173 of this act, the board, without regard to criminal prosecution,
174 may maintain an action in the name of the State of Mississippi to
175 enjoin said person, corporation, partnership or association from
176 any further violations, such action to be brought either in the
177 county in which said acts are claimed to have been or are being
178 committed, in the county where the defendant resides, or in Hinds
179 County. Upon the filing of a verified complaint in the chancery
180 court, the court, if satisfied that the acts complained of have
181 been or probably are being or may be committed, may issue an
182 injunction pendente lite without bond, on request of the board,
183 enjoining the defendant from the commission of any such act or
184 acts constituting said violations. A copy of said complaint shall
185 be served upon the defendant, and the proceedings shall thereafter
186 be conducted as in any other similar civil action. If the
187 commission of said act or acts be established, the court shall
188 enter a decree perpetually enjoining said defendant from
189 committing said act or acts. In case of violation of any
190 injunction issued under the provisions of this section, the court,

191 or the judge thereof at chambers, may summarily try and punish the
192 offender for his contempt of court.

193 **SECTION 19.** Section 73-9-3, Mississippi Code of 1972, is
194 amended as follows:

195 73-9-3. "Dentistry" is defined as the evaluation, diagnosis,
196 prevention and/or treatment (nonsurgical, surgical or related
197 procedures) of diseases, disorders and/or conditions of the oral
198 cavity, maxillofacial area and/or the adjacent and associated
199 structures and their impact on the human body; provided by a
200 dentist, within the scope of his or her education, training and
201 experience, in accordance with the ethics of the profession and
202 applicable law, provided that nothing in this section shall be so
203 construed as to prevent:

204 (a) The practice of his or her profession by a
205 regularly licensed and registered physician under the laws of this
206 state unless he or she practices dentistry as a specialty; or

207 (b) The performance of mechanical work upon inanimate
208 objects by persons working in dental offices under their
209 supervision; or

210 (c) The operation of a dental laboratory and taking
211 work by written work authorization from regularly licensed and
212 registered dentists as provided for elsewhere in this chapter; or

213 (d) Dentists from outside the state from giving
214 educational clinics or demonstrations before a dental society,
215 convention or association; or

216 (e) Licensed dentists from outside the state from being
217 called into Mississippi by licensed dentists of this state for
218 consultative or operative purposes when the consultative or
219 operative purposes have been authorized or approved by the Board
220 of Dental Examiners for specified periods of time or as provided
221 for by rules and regulations set forth by the board; or

222 (f) Applicants for a license to practice dentistry or
223 dental hygiene in this state from working during an examination by

224 and under the supervision and direction of the Board of Dental
225 Examiners; or

226 (g) The practice of dentistry or of dental hygiene by
227 students under the supervision of faculty in any dental school,
228 college, or dental department of any school, college or
229 university, or school of dental hygiene recognized by the board;
230 or

231 (h) Dental or dental hygiene students enrolled in
232 accredited dental or dental hygiene schools from participating in
233 off-site training recognized and approved by the board, but those
234 activities shall not be carried on for profit; or

235 (i) A regularly licensed and registered dentist from
236 the delegation of procedures to a regularly licensed and
237 registered dental hygienist or other competent dental auxiliary
238 personnel while acting under the direct supervision and full
239 responsibility of the dentist except as follows: Those procedures
240 that require the professional judgment and skill of a dentist such
241 as diagnosis, treatment planning, surgical procedures involving
242 hard or soft tissues, or any intra-oral procedure of an
243 irreversible nature that could result in injury to the patient.
244 However, the dentist may delegate the removal of calcareous
245 deposits only to a regularly licensed and registered dental
246 hygienist as regulated by the State Board of Dental Examiners.

247 (j) The practice of his profession by licensed
248 denturist under Senate Bill No. , 2004 Regular Session.

249 All dentists and dental hygienists serving as faculty, as
250 provided for in paragraphs (g) and (h) of this section, shall be
251 required to be licensed by the Mississippi State Board of Dental
252 Examiners.

253 **SECTION 20.** This act shall take effect and be in force from
254 and after July 1, 2004.