MISSISSIPPI LEGISLATURE REGULAR SESSION 2000

By: Huggins (By Request)

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2431

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

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

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

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

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

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

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

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

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

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

Association.

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

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

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

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

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

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

(i) Providing medical nutrition therapy.

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

(iii) Providing case management services.

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

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

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

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

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

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

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

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

(2) All other terms shall have their commonly ascribed

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

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

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

(a) Providing medical nutrition therapy.

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

(c) Providing case management services.

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

* * *

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

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

dietetics or provide medical nutrition therapy.

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

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

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

distributes health care supplies or equipment.

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

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

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

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

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

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

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

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

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

advisory council if a member:

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

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

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

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

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

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

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

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

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

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

Profession of Dietetics."

(3) Issuance and renewal of licenses.

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

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

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

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

(4) Denial or revocation of license.

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

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

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

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

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

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

(v) Violating any provision of this chapter.

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

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

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

(5) Establish fees.

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

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

(6) Collect funds.

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

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

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

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

(7) Receive and process complaints.

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

practice dietetics, with the advice of the advisory council.

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

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

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

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

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

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

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