

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 17, 2018

LeeAnn Parham Mordecai, Executive Director
Mississippi State Board of Examiners
for Licensed Professional Counselors
239 North Lamar Street, Suite 402
Jackson, MS 39201

Re: Per Diem Compensation

Dear Ms. Mordecai:

Attorney General Jim Hood has received your opinion request and has assigned it to me for research and reply.

Issues Presented

You ask whether the members of the Mississippi State Board of Examiners for Licensed Professional Counselors ("LPC Board") can elect to be paid per diem compensation given that Section 73-30-5(1) authorizes reimbursement to LPC Board members for expenses and mileage but is silent on per diem compensation.

Response

No. The LPC Board members are not authorized to receive per diem compensation.

Applicable Law

In your request, you reference Section 25-3-69 of the Mississippi Code, which provides, in relevant part:

Unless otherwise provided by law, all officers and employees of state agencies, boards, commissions, departments and institutions authorized by law to receive per diem compensation for each day or fraction thereof occupied with the discharge of official duties shall be entitled to Forty Dollars (\$40.00) per diem compensation.

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This statute does not authorize per diem compensation to public officers and employees; it merely provides the amount of per diem compensation when another specific statute authorizing the same does not include a specific dollar amount for the per diem compensation.

Black's Law Dictionary defines "per diem" as "a payment made for a days work, not paid weekly or monthly but daily." Section 73-30-5(1) provides: "(LPC) Board members shall be reimbursed for necessary and ordinary expenses and mileage incurred while performing their duties as members of the board, at the rate authorized for public employees, from fees collected for license applications and renewals." Although this statute authorizes the reimbursement of necessary and ordinary expenses, it does not authorize per diem compensation as contemplated by Section 25-3-69.¹

If we may be of further service, please let us know.

Very truly yours,

JIM HOOD ATTORNEY GENERAL

OFFICIAL By:  OPINION

Beebe Garrard
Special Assistant Attorney General

¹For examples of Mississippi statutes that specifically authorize per diem compensation, please see: Section 5-3-67 (Joint Legislative Committee on Performance Evaluation and Expenditure Review), Section 9-19-5 (Commission on Judicial Performance), Section 11-46-18 (Mississippi Tort Claims Board), Section 61-3-13(1) (Jackson Municipal Airport Authority Board of Commissioners), Section 41-13-29 (Community Hospital Board of Trustees), Section 51-7-13 (Commissioners of Water Management Districts).