

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 564*
Committee Substitute Favorable 6/27/91

Short Title: Dietetics/Nutrition Practice Act.

(Public)

Sponsors:

Referred to:

April 1, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE PRACTICE OF DIETETICS/NUTRITION.
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 90 of the General Statutes is amended by adding a new
5 Article to read:

6 **"ARTICLE 25.**
7 **"DIETETICS/NUTRITION.**

8 **"§ 90-350. Short title.**

9 This Article shall be known as the Dietetics/Nutrition Practice Act.

10 **"§ 90-351. Purpose.**

11 It is the purpose of this Article to safeguard the public health, safety and welfare and
12 to protect the public from being harmed by unqualified persons by providing for the
13 licensure and regulation of persons engaged in the practice of dietetics/nutrition and by
14 the establishment of educational standards for those persons.

15 **"§ 90-352. Definitions.**

16 As used in this Article, unless the context otherwise requires, the term:

- 17 (1) 'Board' means the North Carolina Board of Dietetics/Nutrition.
18 (2) 'Dietetics/nutrition' means the integration and application of principles
19 derived from the science of nutrition, biochemistry, physiology, food,
20 management, and behavioral and social sciences to achieve and
21 maintain a healthy status. The primary function of dietetic/nutrition

1 practice is the provision of nutrition care services as defined in this
2 section.

3 (3) 'Licensed dietitian/nutritionist' means an individual licensed in good
4 standing to practice dietetics/nutrition as defined in this Article.

5 (4) 'Nutrition care services' means any, part or all of the following:

6 a. Assessing the nutritional needs of individuals and groups, and
7 determining resources and constraints in the practice setting.

8 b. Establishing priorities, goals, and objectives that meet
9 nutritional needs and are consistent with available resources and
10 constraints.

11 c. Providing nutrition counseling in health and disease.

12 d. Developing, implementing, and managing nutrition care
13 systems.

14 e. Evaluating, making changes in, and maintaining appropriate
15 standards of quality in food and nutrition services.

16 'Nutrition care services' does not include the retail sale of food products or
17 vitamins.

18 **"§ 90-353. Creation of Board.**

19 (a) The North Carolina Board of Dietetics/Nutrition is created. The Board shall
20 consist of seven members as follows:

21 (1) One member shall be a professional whose primary practice is clinical
22 dietetics/nutrition;

23 (2) One member shall be a professional whose primary practice is
24 community or public health dietetics/nutrition;

25 (3) One member shall be a professional whose primary practice is
26 consulting in dietetics/nutrition;

27 (4) One member shall be a professional whose primary practice is in
28 management of nutritional services;

29 (5) One member shall be an educator on the faculty of a college or
30 university specializing in the field of dietetics/nutrition;

31 (6) Two members shall represent the public at large.

32 (b) Professional members of the Board shall:

33 (1) Be citizens of the United States and residents of this State;

34 (2) Have practiced in the field of dietetics/nutrition for at least five years;
35 and

36 (3) Be licensed under this Article, except that initial appointees shall be
37 licensed under this Article no later than March 31, 1992.

38 (c) The members of the Board appointed from the public at large shall be
39 citizens of the United States and residents of this State and shall not be
40 dietitians/nutritionists or agents or employees of persons engaged in the profession of
41 dietetics/nutrition or licensed health care professionals or agents or employees of health
42 care institutions, health care insurers, health care professional schools, or members of
43 any allied health profession. For purposes of this subsection, a person enrolled in a
44 program to become prepared to be a licensed health care professional or an allied health

1 professional shall not be eligible to serve as a public member of the Board. The spouse
2 of any person who would be prohibited by this subsection from serving on the Board as
3 a public member shall not serve as a public member of the Board.

4 **"§ 90-354. Appointments and removal of Board members, terms and**
5 **compensation.**

6 (a) The members of the Board shall be appointed as follows:

7 (1) The Governor shall appoint the professional member described in G.S.
8 90-353(a)(5) and the two public members described in G.S. 90-
9 353(a)(6);

10 (2) The General Assembly upon the recommendation of the Speaker of the
11 House of Representatives shall appoint the professional members
12 described in G.S. 90-353(a)(1) and G.S. 90-353(a)(2) in accordance
13 with G.S. 120-121; and

14 (3) The General Assembly upon the recommendation of the President Pro
15 Tempore of the Senate shall appoint the professional members
16 described in G.S. 90-353(a)(3) and G.S. 90-353(a)(4); in accordance
17 with G.S. 120-121.

18 (b) Of the members initially appointed, the professional member appointed by
19 the Governor, one of the professional members appointed by the General Assembly
20 upon the recommendation of the Speaker of the House of Representatives, and one of
21 the professional members appointed by the General Assembly upon the
22 recommendation of the President Pro Tempore of the Senate shall be appointed for
23 three-year terms; one of the public members appointed by the Governor, one of the
24 professional members appointed by the General Assembly upon the recommendation of
25 the Speaker of the House of Representatives, and one of the professional members
26 appointed by the General Assembly upon the recommendation of the President Pro
27 Tempore of the Senate shall be appointed for two-year terms; and one of the public
28 members appointed by the Governor shall be appointed for a one-year term. After the
29 initial terms specified in this subsection, members of the Board shall take office on the
30 first day of July immediately following the expired term of that office and shall serve
31 for a term of three years and until their successors are appointed and qualified.

32 (c) No member shall serve on the Board for more than two consecutive terms.

33 (d) The Governor may remove members of the Board after notice and
34 opportunity for hearing, for:

35 (1) Incompetence;

36 (2) Neglect of duty;

37 (3) Unprofessional conduct;

38 (4) Conviction of any felony;

39 (5) Failure to meet the qualifications of this Article; or

40 (6) Committing any act prohibited by this Article.

41 (e) Any vacancy shall be filled by the appointing authority originally filling that
42 position, except that any vacancy in appointments by the General Assembly shall be
43 filled in accordance with G.S. 120-122.

1 (f) Members of the Board shall receive no compensation for their services, but
2 shall be entitled to travel, per diem, and other expenses authorized by G.S. 93B-5.

3 **"§ 90-355. Election of officers; meetings of Board.**

4 (a) Within 30 days after making appointments to the Board, the Governor shall
5 call the first meeting of the Board. The Board shall elect a chairman and a vice-
6 chairman who shall hold office according to rules adopted by the Board.

7 (b) The Board shall hold at least two regular meetings each year as provided
8 by rules adopted by the Board. The Board may hold additional meetings upon the call
9 of the chairman or any two Board members. A majority of the Board membership shall
10 constitute a quorum.

11 **"§ 90-356. Power and responsibility of Board.**

12 The Board shall:

- 13 (1) Determine the qualifications and fitness of applicants for licenses,
14 renewal of licenses, and reciprocal licenses;
- 15 (2) Adopt rules necessary to conduct its business, carry out its duties, and
16 administer this Article;
- 17 (3) Adopt and publish a code of ethics;
- 18 (4) Examine for, approve, issue, deny, revoke, suspend, and renew the
19 licenses of dietitians/nutritionists applicants and licensees under this
20 Article and conduct hearings in connection with these actions;
- 21 (5) Conduct investigations, subpoena individuals and records, and do all
22 other things necessary and proper to discipline persons licensed under
23 this Article and to enforce this Article;
- 24 (6) Employ professional, clerical, investigative or special personnel
25 necessary to carry out the provisions of this Article, and purchase or
26 rent office space, equipment and supplies;
- 27 (7) Adopt a seal by which it shall authenticate its proceedings, official
28 records, and licenses;
- 29 (8) Conduct administrative hearings in accordance with Article 3 of
30 Article 150B of the General Statutes when a 'contested case' as defined
31 in G.S. 150B-2(2) arises under this Article;
- 32 (9) Establish reasonable fees as allowed by this Article for applications for
33 examination; initial, provisional, and renewal licenses; and other
34 services provided by the Board;
- 35 (10) Submit an annual report to the Governor and General Assembly of all
36 its official actions during the preceding year, together with any
37 recommendations and findings regarding improvements of the practice
38 of dietetics/nutrition;
- 39 (11) Publish and make available upon request the licensure standards
40 prescribed under this Article and all rules and regulations established
41 by the Board;
- 42 (12) Request and receive the assistance of State educational institutions or
43 other State agencies;

1 (13) Approve educational curricula, clinical practice and continuing
2 education requirements for persons seeking licensure under this
3 Article.

4 **"§ 90-357. License requirements.**

5 Each applicant for a license as a licensed dietitian/nutritionist shall meet the
6 following requirements:

7 (1) Submit a completed application as required by the Board; and

8 (2) Submit any fees required by the Board; and

9 (3) Either:

10 a. Provide evidence of current registration as a Registered
11 Dietitian by the Commission on Dietetic Registration; or

12 b. 1. Have received a minimum of a baccalaureate degree
13 from a regionally accredited college or university with a
14 major course of study in human nutrition, foods and
15 nutrition, dietetics, community nutrition, public health
16 nutrition, or an equivalent major course of study, as
17 approved by the Board. Regardless of the course of
18 study, applicants must have successfully completed the
19 Board's minimum course requirements in food sciences,
20 social and behavioral sciences, chemistry, biology,
21 human nutrition, diet therapy, advanced nutrition, and
22 food systems management. Applicants who have
23 obtained their education outside of the United States and
24 its territories must have their academic degree validated
25 by the Board as equivalent to a baccalaureate or masters
26 degree conferred by a regionally accredited college or
27 university in the United States; and

28 2. Have completed a planned, continuous program in
29 approved clinical practice of not less than 900 hours
30 under the supervision of a licensed dietitian/nutritionist
31 as approved by the Board; and

32 3. Have passed an examination as defined by the Board;
33 or

34 c. 1. Have received from a regionally accredited
35 college or university a masters degree in human
36 nutrition, nutrition education, foods and nutrition,
37 public health nutrition or an equivalent major course of
38 study as approved by the Board. Applicants who have
39 obtained their education outside of the United States
40 and its territories must have their academic degree
41 validated by the Board as being equivalent to a masters
42 degree conferred by a regionally accredited college or
43 university in the United States; and

1 (a) A license issued by the Board is the property of the Board and must be
2 surrendered to the Board on demand.

3 (b) The licensee shall display the license certificate in the manner prescribed
4 by the Board.

5 (c) The licensee shall inform the Board of any change of the licensee's
6 address.

7 (d) The license shall be reissued by the Board annually upon payment of a
8 renewal fee if the licensee is not in violation of this Article at the time of application for
9 renewal and if the applicant fulfills current requirements of continuing education as
10 established by the Board.

11 (e) Each person licensed under this Article is responsible for renewing his
12 license before the expiration date. The Board shall notify a licensee of pending license
13 expiration at least 30 days in advance thereof.

14 (f) The Board may provide for the late renewal of a license upon the payment of
15 a late fee in accordance with G.S. 90-15, but no such late fee renewal may be granted
16 more than five years after a license expires.

17 (g) Under procedures and conditions established by the Board, a licensee may
18 request that his license be declared inactive. The licensee may apply for active status at
19 any time and upon meeting the conditions set by the Board shall be declared in active
20 status.

21 **"§ 90-363. Suspension, revocation and refusal to renew license.**

22 (a) The Board may deny or refuse to renew a license, may suspend or revoke a
23 license, or may impose probationary conditions on a license if the licensee or applicant
24 for licensure has engaged in any of the following conduct:

25 (1) Employment of fraud, deceit or misrepresentation in obtaining or
26 attempting to obtain a license, or the renewal of a license;

27 (2) Committing an act or acts of malpractice, gross negligence or
28 incompetence in the practice of dietetics/nutrition;

29 (3) Practicing as a licensed dietitian/nutritionist without a current license;

30 (4) Engaging in conduct that could result in harm or injury to the public;

31 (5) Conviction of or a plea of guilty or **nolo contendere** to any crime
32 involving moral turpitude;

33 (6) Adjudication of insanity or incompetency, until proof of recovery from
34 the condition can be established;

35 (7) Engaging in any act or practice violative of any of the provisions of
36 this Article or any rule or regulation adopted by the Board, or aiding,
37 abetting or assisting any person in such a violation.

38 (b) Denial, refusal to renew, suspension, revocation or imposition of
39 probationary conditions upon a license may be ordered by the Board after a hearing held
40 in accordance with Article 150B of the General Statutes and rules adopted by the Board.
41 An application may be made to the Board for reinstatement of a revoked license if the
42 revocation has been in effect for at least one year.

43 **"§ 90-364. Fees.**

1 The Board shall adopt and publish, in the manner established by its rules and
2 regulations, fees reasonably necessary to cover the cost of services rendered for the
3 following purposes:

- 4 (1) For an initial application, a fee not to exceed twenty-five dollars
5 (\$25.00);
- 6 (2) For examination or reexamination, a fee not to exceed one hundred
7 fifty dollars (\$150.00);
- 8 (3) For issuance of a license, a fee not to exceed one hundred dollars
9 (\$100.00);
- 10 (4) For the renewal of a license, a fee not to exceed fifty dollars (\$50.00);
- 11 (5) For the late renewal of a license, an additional late fee not to exceed
12 fifty dollars (\$50.00);
- 13 (6) For a provisional license, a fee not to exceed thirty-five dollars
14 (\$35.00); and
- 15 (7) For copies of Board rules and licensure standards, charges not
16 exceeding the actual cost of printing and mailing.

17 **"§ 90-365. Requirement of license.**

18 After March 31, 1992, it shall be unlawful for any person who is not currently
19 licensed under this Article to engage in the practice of dietetics/nutrition or use the title
20 'dietitian/nutritionist' or use the words 'dietitian' or 'nutritionist' or 'licensed
21 dietitian/nutritionist' alone or in combination, or use the letters 'LD', 'LN', 'LDN', or any
22 facsimile or combination in any words, letters, abbreviations, or insignia or to indicate
23 or imply orally or in writing or in any way that the person is a licensed
24 dietitian/nutritionist.

25 **"§ 90-366. Violation a misdemeanor.**

26 Any person who violates any provision of this Article shall be guilty of a
27 misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both, in the
28 discretion of the court. Each act of such unlawful practice shall constitute a distinct and
29 separate offense.

30 **"§ 90-367. Injunctions.**

31 The Board may make application to any appropriate court for an order enjoining
32 violations of this Article, and upon a showing by the Board that any person has violated
33 or is about to violate this Article, the court may grant an injunction, restraining order, or
34 take other appropriate action.

35 **"§ 90-368. Persons and practices not affected.**

36 The requirements of this Article shall not apply to:

- 37 (1) A health care professional duly licensed in accordance with Chapter 90
38 of the General Statutes.
- 39 (2) A student or trainee, working under the direct supervision of a licensed
40 dietitian/nutritionist while fulfilling an experience requirement or
41 pursuing a course of study to meet requirements for licensure, for a
42 limited period of time as determined by the Board.
- 43 (3) A dietitian/nutritionist serving in the Armed Forces or the Public
44 Health Service of the United States or employed by the Veterans

1 Administration when performing duties associated with that service or
2 employment.

3 (4) A person aiding the practice of dietetics/nutrition if the person works
4 under the direct supervision of a licensed dietitian/nutritionist and
5 performs only support activities that do not require formal academic
6 training in the basic food, nutrition, chemical, biological, behavioral,
7 and social sciences that are used in the practice of dietetics.

8 (5) A person who does not meet the licensure requirements set forth in this
9 Article, and is employed by the State, or any agency that contracts
10 with the State for public health services, or any local governmental
11 bodies at the time of passage of this act when acting within the scope
12 of that employment. Provided, however, if that person assumes new
13 duties, assumes a new position, or engages in the practice of
14 dietetics/nutrition in this State not within the scope of those
15 governmental duties, he or she must be licensed.

16 (6) A retailer who does not hold himself out to be a dietitian or nutritionist
17 when that retailer furnishes nutrition information to customers on food,
18 food materials, dietary supplements and other goods sold at his retail
19 establishment in connection with the marketing and distribution of
20 those goods at his retail establishment.

21 (7) A person who provides weight control services; provided the program
22 has been reviewed by, consultation is available from, and no program
23 change can be initiated without prior approval of:

24 a. A licensed dietitian/nutritionist;

25 b. A dietitian/nutritionist licensed in another state that has
26 licensure requirements that are at least as stringent as under this
27 Article; or

28 c. A dietitian registered by the Commission on Dietetic
29 Registration of the American Dietetic Association.

30 (8) Employees or independent contractors of a hospital health care facility
31 licensed under Article 5 or Part A of Article 6 of Chapter 131E or
32 Article 2 of Chapter 122C of the General Statutes.

33 (9) A person who does not hold himself out to be a dietitian or nutritionist
34 when that person furnishes nutrition information on food, food
35 materials, or dietary supplements. This Article does not prohibit that
36 person from explanations to customers about foods or food products in
37 connection with the marketing and distribution of these products.

38 **"§ 90-369. Third party reimbursement; limitation on modifications.**

39 Nothing in this Article shall be construed to authorize or require direct third-party
40 reimbursement to persons licensed under this Article. Prior to becoming effective, any
41 proposed substantive change to G.S. 90-352, 90-357 or 90-368 shall be reviewed and
42 approved by the Legislative Committee on New Licensing Boards pursuant to Article
43 18A of Chapter 120 of the General Statutes."

44 Sec. 2. G.S. 120-123 is amended by adding a new subdivision to read:

- 1 "(50a) The North Carolina Board of Dietetics/Nutrition as created by
2 Article 25 of Chapter 90 of the General Statutes."
3 Sec. 3. This act becomes effective October 1, 1991.