

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 264*
Human Resources Committee Substitute Adopted 7/3/91

Short Title: Dietetics/Nutrition Practice Act.

(Public)

Sponsors:

Referred to:

June 24, 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
22 practice is the provision of nutrition care services as defined in this
23 section.

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

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

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

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

9 c. Providing nutrition counseling in health and disease.

10 d. Developing, implementing, and managing nutrition care
11 systems.

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

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

16 **"§ 90-353. Creation of Board.**

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

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

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

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

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

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

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

30 (b) Professional members of the Board shall:

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

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

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

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

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

3 **§ 90-354. Appointments and removal of Board members; terms and**
4 **compensation.**

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

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

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

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

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

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

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

34 (1) Incompetence;

35 (2) Neglect of duty;

36 (3) Unprofessional conduct;

37 (4) Conviction of any felony;

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

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

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

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

1 **"§ 90-355. Election of officers; meetings of Board.**

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

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

9 **"§ 90-356. Power and responsibility of Board.**

10 The Board shall:

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

1 **§ 90-357. License requirements.**

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

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

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

6 (3) Either:

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

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

24 2. Have completed a planned, continuous program in
25 approved clinical practice of not less than 900 hours
26 under the supervision of a licensed dietitian/nutritionist
27 as approved by the Board; and
28 3. Have passed an examination as defined by the Board;
29 or

30 c. 1. Have received from a regionally accredited
31 college or university a masters degree in human
32 nutrition, nutrition education, foods and nutrition,
33 public health nutrition or an equivalent major course of
34 study as approved by the Board. Academic degrees
35 obtained outside the United States and its territories
36 must be validated by the Board as being equivalent to
37 a masters degree conferred by a regionally accredited
38 college or university in the United States; and

39 2. Have a documented supervised practice experience
40 component in dietetic practice of not less than 900 hours
41 under the supervision of a licensed health care provider;
42 and

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

1 d. Have received from a regionally accredited college or
2 university a doctorate in human nutrition, nutrition education,
3 foods and nutrition, public health nutrition, or an equivalent
4 major course of study as approved by the Board, or have
5 received a Doctor of Medicine. Regardless of the course of
6 study, applicants must have successfully completed the Board's
7 minimum course requirements in social and behavioral
8 sciences, chemistry, biology, human nutrition, diet therapy and
9 advanced nutrition. Academic degrees obtained outside the
10 United States and its territories must be validated by the Board
11 as being equivalent to a doctorate or Doctor of Medicine
12 conferred by a regionally accredited college or university in the
13 United States.

14 **"§ 90-358. Notification of applicant following evaluation of application.**

15 After evaluation of the application and of any other evidence submitted, the Board
16 shall notify each applicant that the application and evidence submitted are satisfactory
17 and accepted, or unsatisfactory and rejected. If rejected, the notice shall state the
18 reasons for the rejection.

19 **"§ 90-359. Examinations.**

20 Competency examinations shall be administered at least twice each year to qualified
21 applicants for licensing. The examinations may be administered by a national testing
22 service. The Board shall prescribe or develop the examinations which may include an
23 examination given by the Commission on Dietetic Registration of the American Dietetic
24 Association or any other examination approved by two-thirds vote of the entire Board.

25 **"§ 90-360. Granting license without examination.**

26 The Board may grant, upon application and payment of proper fees, a license
27 without examination to a person who at the time of application holds a valid license as a
28 licensed dietitian/nutritionist issued by another state or any political territory or
29 jurisdiction acceptable to the Board if in the Board's opinion the requirements for that
30 license are substantially the same as the requirements of this Article.

31 **"§ 90-361. Provisional licenses.**

32 The Board may grant a provisional license for a period not exceeding 12 months to
33 any individual who has successfully completed the educational and clinical practice
34 requirements and has made application to take the examination required under G.S. 90-
35 357. A provisional license shall allow the individual to practice as a
36 dietitian/nutritionist under the supervision of a dietitian/nutritionist licensed in this State
37 and shall be valid until revoked by the Board.

38 **"§ 90-362. License as constituting property of Board; display requirement;**
39 **renewal; inactive status.**

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

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

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

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

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

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

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

17 **"§ 90-363. Suspension, revocation and refusal to renew license.**

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

- 21 (1) Employment of fraud, deceit or misrepresentation in obtaining or
22 attempting to obtain a license, or the renewal of a license;
- 23 (2) Committing an act or acts of malpractice, gross negligence or
24 incompetence in the practice of dietetics/nutrition;
- 25 (3) Practicing as a licensed dietitian/nutritionist without a current license;
- 26 (4) Engaging in conduct that could result in harm or injury to the public;
- 27 (5) Conviction of or a plea of guilty or **nolo contendere** to any crime
28 involving moral turpitude;
- 29 (6) Adjudication of insanity or incompetency, until proof of recovery from
30 the condition can be established;
- 31 (7) Engaging in any act or practice violative of any of the provisions of
32 this Article or any rule or regulation adopted by the Board, or aiding,
33 abetting or assisting any person in such a violation.

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

39 **"§ 90-364. Fees.**

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

- 43 (1) For an initial application, a fee not to exceed twenty-five dollars
44 (\$25.00);

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

12 **"§ 90-365. Requirement of license.**

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

20 **"§ 90-366. Violation a misdemeanor.**

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

25 **"§ 90-367. Injunctions.**

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

30 **"§ 90-368. Persons and practices not affected.**

31 The requirements of this Article shall not apply to:

- 32 (1) A health care professional duly licensed in accordance with Chapter 90
33 of the General Statutes.
- 34 (2) A student or trainee, working under the direct supervision of a licensed
35 dietitian/nutritionist while fulfilling an experience requirement or
36 pursuing a course of study to meet requirements for licensure, for a
37 limited period of time as determined by the Board.
- 38 (3) A dietitian/nutritionist serving in the Armed Forces or the Public
39 Health Service of the United States or employed by the Veterans
40 Administration when performing duties associated with that service or
41 employment.
- 42 (4) A person aiding the practice of dietetics/nutrition if the person works
43 under the direct supervision of a licensed dietitian/nutritionist and
44 performs only support activities that do not require formal academic

1 training in the basic food, nutrition, chemical, biological, behavioral,
 2 and social sciences that are used in the practice of dietetics.

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

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

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

19 a. A licensed dietitian/nutritionist;

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

23 c. A dietitian registered by the Commission on Dietetic
 24 Registration of the American Dietetic Association.

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

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

33 (10) An herbalist or other person who does not hold himself out to be a
 34 dietitian or nutritionist when the person furnishes nonfraudulent
 35 specific nutritional information and counseling about the reported or
 36 historical use of herbs, vitamins, minerals, amino acids, carbohydrates,
 37 sugars, enzymes, food concentrates, or other foods.

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

39 Nothing in this Article shall be construed to require direct third-party reimbursement
 40 to persons licensed under this Article. In no event shall there be any substantive change
 41 to G.S. 90-352, 90-357, or 90-368 unless the change is reviewed by the Legislative
 42 Committee on New Licensing Boards pursuant to Article 18A of Chapter 120 of the
 43 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.