

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 264*

Short Title: Dietetics/Nutrition Practice Act.

(Public)

Sponsors: Senators Plyler, Conder; Blackmon, Block, Goldston, Hartsell, Hunt, Hyde, Lee, Martin of Pitt, Marvin, Odom, Parnell, Perdue, Plexico, Pollard, Richardson, Seymour, Sherron, Smith, Speed, Tally, Walker, and Warren.

Referred to: Human Resources.

June 24, 1991

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

Section 1. The General Statutes are amended by adding a new Chapter to read:

“CHAPTER 90D.
"DIETETICS/NUTRITION.

"§ 90D-1. Short title.

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

"§ 90D-2. Purpose.

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

"§ 90D-3. Definitions.

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

- (1) 'Board' means the North Carolina Board of Dietetics/Nutrition.
- (2) 'Dietetics/nutrition' means the integration and application of principles derived from the science of nutrition, biochemistry, physiology, food, management, and behavioral and social sciences to achieve and maintain a healthy status. The primary function of dietetic/nutrition practice is the provision of nutrition care services as herein defined.

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

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 **"§ 90D-4. 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 Chapter, except that initial appointees shall be
35 licensed under this Chapter 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 **"§ 90D-5. 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 90D-4(a)(5) and the two public members described in G.S. 90D-
8 4(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. 90D-4(a)(1) and G.S. 90D-4(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. 90D-4(a)(3) and G.S. 90D-4(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 Chapter; or

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

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 **"§ 90D-6. 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 **"§ 90D-7. 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 Chapter;
- 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 Chapter 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 Chapter and to enforce this Chapter;
- 22 (6) Employ professional, clerical, investigative or special personnel
23 necessary to carry out the provisions of this Chapter, 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 Chapter;
- 30 (9) Establish reasonable fees as allowed by this Chapter for applications
31 for 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 Chapter 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 Chapter.

1 **§ 90D-8. 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, food 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. Applicants who have
20 obtained their education outside of the United States and
21 its territories must have their academic degree(s)
22 validated as equivalent to a baccalaureate or masters
23 degree conferred by a regionally accredited college or
24 university in the United States; and

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

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

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

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

- 1 3. Have passed an examination as defined by the Board; or
2 d. 1. Have received from a regionally accredited
3 college or university a doctorate in human nutrition,
4 nutrition education, foods and nutrition, public health
5 nutrition, or an equivalent major course of study as
6 approved by the Board, or have received a Doctor of
7 Medicine. Applicants who have obtained their
8 education outside of the United States and its
9 territories must have their academic degree(s)
10 validated as being equivalent to a doctorate or Doctor
11 of Medicine conferred by a regionally accredited
12 college or university in the United States; and
13 2. Maintain membership in one or more of the following
14 organizations:
15 I. American Institute of Nutrition;
16 II. American Society for Clinical Nutrition; or
17 III. American Board of Nutrition.

18 **"§ 90D-9. Notification of applicant following evaluation of application.**

19 After evaluation of the application and of any other evidence submitted, the Board
20 shall notify each applicant that the application and evidence submitted are satisfactory
21 and accepted, or unsatisfactory and rejected. If rejected, the notice shall state the
22 reasons for the rejection.

23 **"§ 90D-10. Examinations.**

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

29 **"§ 90D-11. Granting license without examination.**

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

35 **"§ 90D-12. Provisional licenses.**

36 The Board may grant a provisional license for a period not exceeding 12 months to
37 any individual who has successfully completed the educational and clinical practice
38 requirements and has made application to take the examination required under G.S.
39 90D-8. A provisional license shall allow the individual to practice as a
40 dietitian/nutritionist under the supervision of a dietitian/nutritionist licensed in this State
41 and shall be valid until revoked by the Board.

42 **"§ 90D-13. License as constituting property of Board; display requirement;**
43 **renewal; inactive status.**

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 Chapter at the time of application
9 for renewal and if the applicant fulfills current requirements of continuing education as
10 established by the Board.

11 (e) Each person licensed under this Chapter is responsible for renewing his
12 license before the expiration date. The Board shall notify 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. 90D-15, but no such late fee renewal may be granted
16 more than five years after 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 **"§ 90D-14. 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 thereof;

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 Chapter or any rule or regulation adopted by the Board hereunder,
37 or aiding, 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 Chapter 150B of the General Statutes and rules adopted by the
41 Board. An application may be made to the Board for reinstatement of a revoked license
42 if the revocation has been in effect for at least one year.

43 **"§ 90D-15. 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 **"§ 90D-16. Requirement of license.**

18 After March 31, 1992, it shall be unlawful for any person who is not currently
19 licensed under this Chapter 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
22 any facsimile or combination in any words, letters, abbreviations, or insignia or to
23 indicate or imply orally or in writing or in any way that the person is a licensed
24 dietitian/nutritionist.

25 **"§ 90D-17. Violation a misdemeanor.**

26 Any person who violates any provision of this Chapter 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 **"§ 90D-18. Injunctions.**

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

35 **"§ 90D-19. Persons and practices not affected.**

36 The requirements of this Chapter 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 Chapter, 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 person who does not hold himself out to be a dietitian or nutritionist
17 when such person furnishes general nutrition information on food,
18 food materials, or dietary supplements; and this Chapter does not
19 prevent any such person from engaging in the explanation to
20 customers about foods or food products in connection with the
21 marketing and distribution of those products.
- 22 (7) A person who provides weight control services; provided the program
23 has been reviewed by, consultation is available from, and no program
24 change can be initiated without prior approval of:
- 25 a. A licensed dietitian/nutritionist;
26 b. A dietitian/nutritionist licensed in another state that has
27 licensure requirements that are at least as stringent as under this
28 Chapter; or
29 c. A dietitian registered by the Commission on Dietetic
30 Registration of the American Dietetic Association.
- 31 (8) Employees or independent contractors of a hospital (which does not
32 have a licensed dietitian/nutritionist in its employ or under contract)
33 who engage in the practice of dietetics/nutrition with patients of the
34 hospital, provided the hospital is making a good faith effort to employ
35 or contract with a licensed dietitian/nutritionist. The Board shall
36 provide upon request to the hospital a list of licensed
37 dietitians/nutritionists willing to relocate or provide services to the
38 hospital on a temporary basis."

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

40 "(50a) The North Carolina Board of Dietetics/Nutrition as created by G.S.
41 90D-4."

42 Sec. 3. This act becomes effective October 1, 1991.