

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 564\*  
Committee Substitute Favorable 6/27/91  
Third Edition Engrossed 7/4/91

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 and management and from behavioral and social sciences to achieve  
21 and maintain a healthy status. The primary function of  
22 dietetic/nutrition practice is the provision of nutrition care services.

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

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 any of the  
38 following:

39           (1) A dietician/nutritionist.

40           (2) An agent or employee of a person engaged in the profession of  
41 dietetics/nutrition.

42           (3) A licensed health care professional or enrolled in a program to become  
43 prepared to be a licensed health care professional.

- 1           (4) An agent or employee of a health care institution, a health care insurer,  
2           or a health care professional school.  
3           (5) A member of any allied health profession or enrolled in a program to  
4           become prepared to be a member of an allied health profession.  
5           (6) The spouse of an individual who may not serve as a public member of  
6           the Board.

7 **"§ 90-354. Appointments and removal of Board members, terms and**  
8 **compensation.**

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

- 10           (1) The Governor shall appoint the professional member described in G.S.  
11           90-353(a)(5) and the two public members described in G.S. 90-  
12           353(a)(6);  
13           (2) The General Assembly upon the recommendation of the Speaker of the  
14           House of Representatives shall appoint the professional members  
15           described in G.S. 90-353(a)(1) and G.S. 90-353(a)(2) in accordance  
16           with G.S. 120-121; and  
17           (3) The General Assembly upon the recommendation of the President Pro  
18           Tempore of the Senate shall appoint the professional members  
19           described in G.S. 90-353(a)(3) and G.S. 90-353(a)(4) in accordance  
20           with G.S. 120-121.

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

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

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

- 38           (1) Incompetence;  
39           (2) Neglect of duty;  
40           (3) Unprofessional conduct;  
41           (4) Conviction of any felony;  
42           (5) Failure to meet the qualifications of this Article; or  
43           (6) Committing any act prohibited by this Article.

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

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

6 **"§ 90-355. Election of officers; meetings of Board.**

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

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

14 **"§ 90-356. Power and responsibility of Board.**

15           The Board shall:

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

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                                    2.     Have a documented supervised practice experience  
2                                    component in dietetic practice of not less than 900 hours  
3                                    under the supervision of a licensed health care provider;  
4                                    and  
5                                    3.     Have passed an examination as defined by the Board; or  
6                    d.     Have received from a regionally accredited college or  
7                                    university a doctorate in human nutrition, nutrition education,  
8                                    foods and nutrition, public health nutrition, or an equivalent  
9                                    major course of study as approved by the Board, or have  
10                                    received a Doctor of Medicine. Regardless of the course of  
11                                    study, applicants must have successfully completed the Board's  
12                                    minimum course requirements in social and behavioral  
13                                    sciences, chemistry, biology, human nutrition, diet therapy and  
14                                    advanced nutrition. Applicants who have obtained their  
15                                    education outside of the United States and its territories must  
16                                    have their academic degree validated by the Board as being  
17                                    equivalent to a doctorate or Doctor of Medicine conferred by a  
18                                    regionally accredited college or university in the United States.

19     **"§ 90-358. Notification of applicant following evaluation of application.**

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

24     **"§ 90-359. Examinations.**

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

30     **"§ 90-360. Granting license without examination.**

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

36     **"§ 90-361. Provisional licenses.**

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

43     **"§ 90-362. License as constituting property of Board; display requirement;**  
44             **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 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, but no such late fee renewal may be granted more than five years after a  
16 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 adopted by the Board, or aiding, abetting or  
37 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 **"§ 90-364. Fees.**

1       The Board shall establish fees in accordance with Chapter 150B of the General  
2 Statutes in amounts to cover the cost of services rendered for the following purposes:

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

16 **"§ 90-365. Requirement of license.**

17       After March 31, 1992, it shall be unlawful for any person who is not currently  
18 licensed under this Article to do any of the following:

- 19           (1) Engage in the practice of dietetics/nutrition.
- 20           (2) Use the title 'dietitian/nutritionist'.
- 21           (3) Use the words 'dietitian,' 'nutritionist,' or 'licensed dietitian/nutritionist'  
22           alone or in combination.
- 23           (4) Use the letters 'LD,' 'LN,' or 'LDN,' or any facsimile or combination in  
24           any words, letters, abbreviations, or insignia.
- 25           (5) To imply orally or in writing or indicate in any way that the person is a  
26           licensed dietitian/nutritionist.

27 **"§ 90-366. Violation a misdemeanor.**

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

32 **"§ 90-367. Injunctions.**

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

37 **"§ 90-368. Persons and practices not affected.**

38       The requirements of this Article shall not apply to:

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



- 1           (3) A dietitian/nutritionist serving in the Armed Forces or the Public  
2 Health Service of the United States or employed by the Veterans  
3 Administration when performing duties associated with that service or  
4 employment.
- 5           (4) A person aiding the practice of dietetics/nutrition if the person works  
6 under the direct supervision of a licensed dietitian/nutritionist and  
7 performs only support activities that do not require formal academic  
8 training in the basic food, nutrition, chemical, biological, behavioral,  
9 and social sciences that are used in the practice of dietetics.
- 10          (5) A person who does not meet the licensure requirements set forth in this  
11 Article, who as of October 1, 1991, was employed by and is still  
12 employed by the State, an agency that contracts with the State for  
13 public health services, or a unit of local government, and who is acting  
14 within the scope of that employment. Provided, however, if that  
15 person assumes new duties, assumes a new position, or engages in the  
16 practice of dietetics/nutrition in this State not within the scope of those  
17 governmental duties, he or she must be licensed.
- 18          (6) A retailer who does not hold himself out to be a dietitian or nutritionist  
19 when that retailer furnishes nutrition information to customers on food,  
20 food materials, dietary supplements and other goods sold at his retail  
21 establishment in connection with the marketing and distribution of  
22 those goods at his retail establishment.
- 23          (7) A person who provides weight control services; provided the program  
24 has been reviewed by, consultation is available from, and no program  
25 change can be initiated without prior approval of:
- 26           a. A licensed dietitian/nutritionist;  
27           b. A dietitian/nutritionist licensed in another state that has  
28           licensure requirements that are at least as stringent as under this  
29           Article; or  
30           c. A dietitian registered by the Commission on Dietetic  
31           Registration of the American Dietetic Association.
- 32          (8) Employees or independent contractors of a hospital health care facility  
33 licensed under Article 5 or Part A of Article 6 of Chapter 131E or  
34 Article 2 of Chapter 122C of the General Statutes.
- 35          (9) A person who does not hold himself out to be a dietitian or nutritionist  
36 when that person furnishes nutrition information on food, food  
37 materials, or dietary supplements. This Article does not prohibit that  
38 person from making explanations to customers about foods or food  
39 products in connection with the marketing and distribution of these  
40 products.

41 **"§ 90-369. Third party reimbursement; limitation on modifications.**

42 Nothing in this Article shall be construed to authorize or require direct third-party  
43 reimbursement to persons licensed under this Article. Prior to becoming effective, any  
44 proposed substantive change to G.S. 90-352, 90-357 or 90-368 shall be reviewed and

1 approved by the Legislative Committee on New Licensing Boards pursuant to Article  
2 18A of Chapter 120 of the General Statutes."

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

4           "(50a) The North Carolina Board of Dietetics/Nutrition as created by  
5                 Article 25 of Chapter 90 of the General Statutes."

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