

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 668
HOUSE BILL 564

AN ACT TO REGULATE THE PRACTICE OF DIETETICS/NUTRITION.

The General Assembly of North Carolina enacts:

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

"ARTICLE 25.
"Dietetics/Nutrition.

"§ 90-350. Short title.

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

"§ 90-351. Purpose.

It is the purpose of this Article 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.

"§ 90-352. Definitions.

As used in this Article, 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, and management and from 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.
- (3) 'Licensed dietitian/nutritionist' means an individual licensed in good standing to practice dietetics/nutrition.
- (4) 'Nutrition care services' means any, part or all of the following:
 - a. Assessing the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting.
 - b. Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints.
 - c. Providing nutrition counseling in health and disease.
 - d. Developing, implementing, and managing nutrition care systems.
 - e. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

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

"§ 90-353. Creation of Board.

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

- (1) One member shall be a professional whose primary practice is clinical dietetics/nutrition;
- (2) One member shall be a professional whose primary practice is community or public health dietetics/nutrition;
- (3) One member shall be a professional whose primary practice is consulting in dietetics/nutrition;
- (4) One member shall be a professional whose primary practice is in management of nutritional services;
- (5) One member shall be an educator on the faculty of a college or university specializing in the field of dietetics/nutrition;
- (6) Two members shall represent the public at large.

(b) Professional members of the Board shall:

- (1) Be citizens of the United States and residents of this State;
- (2) Have practiced in the field of dietetics/nutrition for at least five years; and
- (3) Be licensed under this Article, except that initial appointees shall be licensed under this Article no later than March 31, 1992.

(c) The members of the Board appointed from the public at large shall be citizens of the United States and residents of this State and shall not be any of the following:

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

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

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

- (1) The Governor shall appoint the professional member described in G.S. 90-353(a)(5) and the two public members described in G.S. 90-353(a)(6);
- (2) The General Assembly upon the recommendation of the Speaker of the House of Representatives shall appoint the professional members described in G.S. 90-353(a)(1) and G.S. 90-353(a)(2) in accordance

with G.S. 120-121, one of whom shall be a nutritionist with a masters or higher degree in a nutrition-related discipline; and

- (3) The General Assembly upon the recommendation of the President of the Senate shall appoint the professional members described in G.S. 90-353(a)(3) and G.S. 90-353(a)(4) in accordance with G.S. 120-121, one of whom shall be a nutritionist with a masters or higher degree in a nutrition-related discipline.

(b) Of the members initially appointed, the professional member appointed by the Governor, one of the professional members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of the professional members appointed by the General Assembly upon the recommendation of the President of the Senate shall be appointed for three-year terms; one of the public members appointed by the Governor, one of the professional members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of the professional members appointed by the General Assembly upon the recommendation of the President of the Senate shall be appointed for two-year terms; and one of the public members appointed by the Governor shall be appointed for a one-year term. After the initial terms specified in this subsection, members of the Board shall take office on the first day of July immediately following the expired term of that office and shall serve for a term of three years and until their successors are appointed and qualified.

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

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

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

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

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

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

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

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

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

The Board shall:

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

"§ 90-357. License requirements.

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

- (1) Submit a completed application as required by the Board;
- (2) Submit any fees required by the Board; and
- (3) Either:
 - a. Provide evidence of current registration as a Registered Dietitian by the Commission on Dietetic Registration; or
 - b. 1. Have received a minimum of a baccalaureate degree from a regionally accredited college or university with a major course of study in human nutrition, foods and

- nutrition, dietetics, community nutrition, public health nutrition, or an equivalent major course of study, as approved by the Board. Regardless of the course of study, applicants must have successfully completed the Board's minimum course requirements in food sciences, social and behavioral sciences, chemistry, biology, human nutrition, diet therapy, advanced nutrition, and food systems management. Applicants who have obtained their education outside of the United States and its territories must have their academic degree validated by the Board as equivalent to a baccalaureate or masters degree conferred by a regionally accredited college or university in the United States; and
2. Have completed a planned, continuous program in approved clinical practice of not less than 900 hours under the supervision of a licensed dietitian/nutritionist as approved by the Board; and
 3. Have passed an examination as defined by the Board; or
- c. 1. Have received from a regionally accredited college or university a masters degree in human nutrition, nutrition education, foods and nutrition, public health nutrition or an equivalent major course of study as approved by the Board. Applicants who have obtained their education outside of the United States and its territories must have their academic degree validated by the Board as being equivalent to a masters degree conferred by a regionally accredited college or university in the United States; and
2. Have a documented supervised practice experience component in dietetic practice of not less than 900 hours under the supervision of a licensed health care provider; and
 3. Have passed an examination as defined by the Board; or
- d. Have received from a regionally accredited college or university a doctorate in human nutrition, nutrition education, foods and nutrition, public health nutrition, or an equivalent major course of study as approved by the Board, or have received a Doctor of Medicine. Regardless of the course of study, applicants must have successfully completed the Board's minimum course requirements in social and behavioral sciences, chemistry, biology, human nutrition, diet therapy and advanced nutrition. Applicants who have obtained their education outside of the United States and its territories must have their academic degree validated by the Board as being

equivalent to a doctorate or Doctor of Medicine conferred by a regionally accredited college or university in the United States.

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

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

"§ 90-359. Examinations.

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

"§ 90-360. Granting license without examination.

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

"§ 90-361. Provisional licenses.

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

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

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

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

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

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

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

(f) The Board may provide for the late renewal of a license upon the payment of a late fee, but no such late fee renewal may be granted more than five years after a license expires.

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

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

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

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

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

"§ 90-364. Fees.

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

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

"§ 90-365. Requirement of license.

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

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

"§ 90-366. Violation a misdemeanor.

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

"§ 90-367. Injunctions.

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

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

The requirements of this Article shall not apply to:

- (1) A health care professional duly licensed in accordance with Chapter 90 of the General Statutes.
- (2) A student or trainee, working under the direct supervision of a licensed dietitian/nutritionist while fulfilling an experience requirement or pursuing a course of study to meet requirements for licensure, for a limited period of time as determined by the Board.
- (3) A dietitian/nutritionist serving in the Armed Forces or the Public Health Service of the United States or employed by the Veterans Administration when performing duties associated with that service or employment.
- (4) A person aiding the practice of dietetics/nutrition if the person works under the direct supervision of a licensed dietitian/nutritionist and performs only support activities that do not require formal academic training in the basic food, nutrition, chemical, biological, behavioral, and social sciences that are used in the practice of dietetics.
- (5) An employee of the State, a local political subdivision, or a local school administrative unit or a person that contracts with the State, a local political subdivision, or a local school administrative unit while engaged in the practice of dietetics/nutrition within the scope of that employment.
- (6) A retailer who does not hold himself out to be a dietitian or nutritionist when that retailer furnishes nutrition information to customers on food,

food materials, dietary supplements and other goods sold at his retail establishment in connection with the marketing and distribution of those goods at his retail establishment.

- (7) A person who provides weight control services; provided the program has been reviewed by, consultation is available from, and no program change can be initiated without prior approval of:
- a. A licensed dietitian/nutritionist;
 - b. A dietitian/nutritionist licensed in another state that has licensure requirements that are at least as stringent as under this Article; or
 - c. A dietitian registered by the Commission on Dietetic Registration of the American Dietetic Association.
- (8) Employees or independent contractors of a hospital health care facility licensed under Article 5 or Part A of Article 6 of Chapter 131E or Article 2 of Chapter 122C of the General Statutes.
- (9) A person who does not hold himself out to be a dietitian or nutritionist when that person furnishes nutrition information on food, food materials, or dietary supplements. This Article does not prohibit that person from making explanations to customers about foods or food products in connection with the marketing and distribution of these products.
- (10) An herbalist or other person who does not hold himself out to be a dietitian or nutritionist when the person furnishes nonfraudulent specific nutritional information and counseling about the reported or historical use of herbs, vitamins, minerals, amino acids, carbohydrates, sugars, enzymes, food concentrates, or other foods.

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

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

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

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

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

In the General Assembly read three times and ratified this the 13th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives