
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 405 Session of
1993

INTRODUCED BY GODSHALL, MAYERNIK, GRUPPO, PESCI, CLYMER,
HALUSKA, NAILOR, BUNT, OLASZ, CORNELL, BELFANTI AND McCALL,
FEBRUARY 10, 1993

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
FEBRUARY 10, 1993

AN ACT

1 Regulating the practice and licensure of dietetics and
2 nutrition; creating the State Board of Dietitian-Nutritionist
3 Licensure and providing for its powers and duties; imposing
4 penalties; and making an appropriation.

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20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 CHAPTER 1

23 GENERAL PROVISIONS

24 Section 101. Short title.

25 This act shall be known and may be cited as the Dietitian-
26 Nutritionist Licensure Law.

27 Section 102. Declaration of purpose.

28 It is the purpose of this act to provide for the
29 establishment of standards for the practice of dietetics-
30 nutrition in this Commonwealth through the licensure and

1 regulation and control of persons engaged in offering dietetic-
2 nutrition services to the general public to safeguard the public
3 health, safety and welfare, to protect the public from being
4 harmed by unqualified persons, to assure the highest degree of
5 professional care and conduct on the part of dietitians-
6 nutritionists, and to assure the availability of dietetic-
7 nutrition services of the highest quality to persons in need of
8 such services. It is not the purpose of this act to interfere
9 with the sale of food products or nutritional supplements not
10 marketed as a treatment of disease. It is not the purpose of
11 this act to limit freedom of speech with regard to the
12 dissemination of accurate information, either oral or in printed
13 form, describing the contents of these products.

14 Section 103. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Board." The State Board of Dietitian-Nutritionist Licensure
19 created by this act.

20 "Commissioner." The Commissioner of the Bureau of
21 Professional and Occupational Affairs in the Department of
22 State.

23 "Department." The Department of State of the Commonwealth.

24 "Dietetics-nutrition practice." The application and
25 integration of scientific principles of nutrition to the proper
26 nourishment, care and education of individuals or groups under
27 different health, social, cultural, physical, psychological and
28 economic conditions. The term includes the development,
29 management and provision of nutritional services.

30 "Dietetics-nutrition services for individuals and groups."

1 The term includes:

2 (1) Assessing and interpreting individual and community
3 food practice and nutritional status using anthropometric,
4 biochemical, clinical, dietary and demographic data for
5 clinical care and program planning purposes as a component of
6 nutrition counseling services.

7 (2) Developing, establishing and evaluating nutritional
8 care plans that establish priorities, goals and objectives
9 for meeting nutrient needs for individuals or groups.

10 (3) Nutrition counseling and education as a part of
11 preventive, restorative and rehabilitative health care
12 throughout the life cycle.

13 (4) Development, utilization, coordination and
14 management of human resources, materials and facilities
15 relative to fiscal accountability and the maintenance of
16 accepted quality in the administration of food services
17 systems in health care facilities.

18 "Dietitian-nutritionist." A person licensed under this act.

19 CHAPTER 3

20 STATE BOARD OF DIETITIAN-NUTRITIONIST LICENSURE

21 Section 301. State Board of Dietitian-Nutritionist Licensure.

22 (a) Creation.--There is hereby created a departmental
23 administrative board to be known as the State Board of
24 Dietitian-Nutritionist Licensure, which shall be in the Bureau
25 of Professional and Occupational Affairs of the Department of
26 State. It shall consist of seven members, all of whom shall be
27 residents of this Commonwealth and one of whom shall be a
28 representative of the public interest. The public member may not
29 have financial interest in provision of goods and services to
30 consumers, may not have financial interest in provision of goods

1 and services for dietitian-nutritionist and may not be a
2 dietitian-nutritionist or have a household member who is a
3 dietitian-nutritionist. One member shall be the Director of the
4 Bureau of Consumer Protection in the Office of the Attorney
5 General. One member shall be an individual exempted from the
6 licensure requirements of this act in accordance with section
7 502(1) through (5). The remaining four members shall be
8 dietitians-nutritionists licensed to practice in this
9 Commonwealth, except that those first appointed shall be
10 qualified to receive licensure under the terms of this act,
11 provided they have had at least five years' working experience
12 in Pennsylvania as dietitians-nutritionists immediately
13 preceding appointment.

14 (b) Appointments by Governor.--The Governor shall appoint
15 the members to serve on the board. The commissioner shall serve
16 as an ex officio member of the board. The Pennsylvania Dietetic
17 Association shall submit a list of names and addresses of
18 qualified dietitians-nutritionists willing to serve on the board
19 for the Governor's consideration.

20 (c) Term of office.--The members shall serve for four-year
21 terms, except as provided in subsection (c), and shall be
22 appointed by the Governor by and with the advice and consent of
23 a majority of the members elected to the Senate.

24 (d) Initial appointments.--Within 90 days of the effective
25 date of this act, the Governor shall nominate:

26 (1) One dietitian-nutritionist member to serve a four-
27 year term.

28 (2) The public member and one dietitian-nutritionist
29 member to serve three-year terms.

30 (3) One dietitian-nutritionist member to serve a two-

1 year term.

2 (4) One dietitian-nutritionist member to serve a one-
3 year term.

4 (e) Continuation in office.--Each board member shall
5 continue in office until a successor is duly appointed and
6 qualified but no longer than six months after the expiration of
7 the term. In the event that a board member shall die, resign or
8 otherwise become disqualified during the term of office, a
9 successor shall be appointed in the same way and with the same
10 qualifications as set forth in this section and shall hold
11 office for the unexpired portion of the unexpired term.

12 (f) Reappointment.--A member of the board shall be eligible
13 for reappointment. A member shall not be appointed to serve more
14 than two consecutive terms and shall continue to serve until a
15 successor is appointed and qualified, but in no event more than
16 six months beyond the end of the appointed term.

17 (g) Compensation.--Each member of the board, except the
18 commissioner, shall receive per diem compensation at the rate of
19 \$60 per diem when actually attending to the work of the board.
20 Members shall also receive reasonable traveling, hotel and other
21 necessary expenses incurred in the performance of their duties
22 in accordance with Commonwealth regulations.

23 (h) Forfeiture for nonattendance.--If the public member
24 fails to attend two consecutive statutorily mandated training
25 seminars in accordance with section 813(e) of the act of April
26 9, 1929 (P.L.177, No.175), known as The Administrative Code of
27 1929, he shall forfeit his seat unless the commissioner, upon
28 written request from the public member, finds that the public
29 member should be excused from a meeting because of illness or
30 the death of a family member.

1 (i) Meetings.--The board shall meet at least twice a year
2 and may hold additional meetings whenever necessary, subject to
3 the approval of the commissioner. The location of the meetings
4 shall be determined by the board, subject to the approval of the
5 commissioner, but shall be within this Commonwealth.

6 (1) A majority of the members of the board serving in
7 accordance with law shall constitute a quorum for purposes of
8 conducting the business of the board. Except for temporary
9 and automatic suspensions under this act, a member may not be
10 counted as part of a quorum or vote on any issue unless he or
11 she is physically in attendance at the meeting.

12 (2) Reasonable notice of all meetings shall be given in
13 conformity with the act of July 3, 1986 (P.L.388, No.84),
14 known as the Sunshine Act.

15 Section 302. Powers and duties of board.

16 (a) Powers and duties.--The board shall elect annually from
17 its membership a chairman, a vice chairman and a secretary. It
18 shall be the duty of the board to pass upon the qualifications
19 of applicants for licensure, to insure the conduct of
20 examinations, to issue and renew licenses to dietitians-
21 nutritionists who qualify under this act, and, in proper cases,
22 to suspend or revoke the license of a dietitian-nutritionist.
23 The board shall be authorized and empowered to refuse, revoke or
24 suspend a license of a dietitian-nutritionist under this act, to
25 conduct investigations, including the power to issue subpoenas,
26 and to hold hearings upon charges or information indicating a
27 violation of the provisions of this act, or the regulations
28 promulgated pursuant to this act.

29 (1) The board shall maintain a record listing the name
30 of every living dietitian-nutritionist licensed to practice

1 in this Commonwealth, the last known place of business, the
2 last known place of residence and the date and number of the
3 license of the licensee.

4 (2) The board shall submit annually a report to the
5 Consumer Protection and Professional Licensure Committee of
6 the Senate and the Professional Licensure Committee of the
7 House of Representatives containing a description of the
8 types of complaints received, status of the cases, board
9 action which has been taken and length of time from the
10 initial complaint to final board resolution.

11 (3) The board shall submit annually to the
12 Appropriations Committee of the Senate and the Appropriations
13 Committee of the House of Representatives, 15 days after the
14 Governor has submitted his budget to the General Assembly, a
15 copy of the budget request for the upcoming fiscal year which
16 the board previously submitted to the Department of State.

17 (b) Rules and regulations.--The board shall have the power
18 to promulgate and adopt rules and regulations not inconsistent
19 with this act as it considers necessary for the performance of
20 its duties and the proper administration of this act.

21 CHAPTER 5

22 LICENSURE PROVISIONS

23 Section 501. License required.

24 A person may not practice or offer to practice, or represent
25 himself as a dietitian-nutritionist in this Commonwealth, or use
26 any title, abbreviation, sign, card or device to indicate the
27 person is a dietitian-nutritionist unless the person is licensed
28 under this act.

29 Section 502. Exemptions.

30 This act shall not be construed as preventing or restricting

1 the following practices, services and activities:

2 (1) A person licensed in this Commonwealth in accordance
3 with the provisions of another law of this Commonwealth, from
4 engaging in the profession or occupation for which licensed.

5 (2) A student enrolled in an approved academic dietetics
6 or nutrition program recognized by the board, from
7 participating in the practice of dietetics or nutrition as
8 part of the program.

9 (3) A person employed by an agency, bureau or division
10 of the Federal Government, or bound by the regulations of the
11 Federal Government when discharging official duties,
12 provided, however, that if the person engages in the practice
13 of dietetics or nutrition in this Commonwealth outside the
14 scope of official duty, the person must be licensed as
15 provided in this act.

16 (4) Activities and services of food service directors,
17 other food service management personnel, and educators in
18 elementary or secondary schools, or accredited degree
19 granting educational institutions. This exemption shall apply
20 only to the duties performed by the person when engaged in
21 that capacity.

22 (5) A person may offer weight control classes without a
23 licensed dietitian-nutritionist on the person's staff if the
24 classes and services have been developed with the assistance
25 of a registered dietitian or have been approved by the
26 dietitian-nutritionist. The dietitian-nutritionist who has
27 approved the program must be licensed either in this
28 Commonwealth or in some other state within the United States.

29 (6) A person employed to assist a licensed dietitian-
30 nutritionist and who acts under the direct and personal

supervision of a licensed dietitian-nutritionist, is not required to be licensed under this act.

(7) A person who provides food and services embodying accurate nutrition information for a day-care provider, church, nursery school, kindergarten, elementary school or secondary school, which does not provide more than one full meal per day, is not required to be licensed under this act.

(8) A person who provides food and nutrition services to needy persons through a nonprofit soup kitchen, food bank or food cupboard or similar program is not required to be licensed under this act.

Section 503. Requirements for licensure.

An applicant applying for licensure as a dietitian-nutritionist shall submit a written application on forms provided by the board evidencing and insuring to the satisfaction of the board that the applicant:

(1) Is of good moral character.

(2) Has received a baccalaureate or higher degree from a regionally accredited college or university, including a major course of study in human nutrition, food and nutrition, dietetics or food systems management.

(3) Has completed a planned continuous pre-professional experience component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian.

(4) Has satisfactorily completed an examination approved by the board.

(5) Has not been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an offense under the laws of another jurisdiction, which, if committed

1 in this Commonwealth, would be a felony under The Controlled
2 Substance, Drug, Device and Cosmetic Act, unless:

3 (i) at least ten years have elapsed from the date of
4 conviction;

5 (ii) the applicant satisfactorily demonstrates to
6 the board that he or she has made significant progress in
7 personal rehabilitation since the conviction, proving
8 that licensure of the applicant should not be expected to
9 create a substantial risk of harm to the health and
10 safety of his or her clients or the public or a
11 substantial risk of further criminal violations; and

12 (iii) the applicant otherwise satisfies the
13 qualifications contained in or authorized by this act.

14 As used in this paragraph, the term "convicted" shall include
15 a judgment, an admission of guilt or a plea of nolo
16 contendere.

17 Section 504. Examination for licensure.

18 (a) Examinations required.--An individual applying for
19 licensure in accordance with this act shall be required to pass
20 a written examination approved by the board which is designed to
21 test the knowledge and experience necessary for safe, effective
22 and professional practice of dietetics-nutrition in this
23 Commonwealth. The examination shall test the applicant's
24 knowledge of the basic and clinical sciences relating to
25 dietetics-nutrition theory and practice, including the
26 applicant's professional skill and judgment in the utilization
27 of dietetics-nutrition techniques and methods, and other
28 subjects as the board considers useful to determine the
29 applicant's fitness to practice.

30 (b) Time and place.--Applicants for licensure shall be

1 examined at a time and place determined by the board.
2 Examinations shall be given at least twice a year. The board
3 shall notify applicants by mail of the time and place of
4 scheduled examinations.

5 (c) Applications and fees.--Individuals applying for
6 licensure shall remit as examination fee an amount to be
7 determined by the board prior to admission to take the written
8 examination, using forms provided by the board. A person who
9 fails an examination may submit an application for reexamination
10 to the board, accompanied by the prescribed fee.

11 (d) Subsequent examinations.--The board may adopt rules and
12 regulations governing the eligibility of applicants who have
13 failed to pass two examinations concerning their admittance to
14 subsequent examinations.

15 Section 505. Waiver of certain requirements for licensure.

16 A person who, on the effective date of this act, meets the
17 requirements of section 503, and who, in addition, has been
18 engaged in the practice of dietetics-nutrition for a period of
19 three years during the ten years immediately preceding the
20 effective date of this act, or a person who provides evidence of
21 current registration as a Registered Dietitian-Nutritionist by
22 the Commission of Dietetic Registration of the American Dietetic
23 Association on the effective date of this act, shall be
24 considered to meet the requirements of this act. This person
25 shall be licensed without the necessity of taking the
26 examination if an application is made to the board within six
27 months of the effective date of this act the appropriate fee is
28 paid.

29 Section 506. Reciprocity.

30 A person paying the appropriate fee and filing an application

1 who presents evidence satisfactory to the board of licensure as
2 a dietitian-nutritionist by another state, territory of the
3 United States or the District of Columbia may be licensed to
4 practice in this Commonwealth if the standards for licensure in
5 the other jurisdiction are at least equal to those provided for
6 in this act.

7 Section 507. Use of title.

8 The board shall issue a license to any person who has met the
9 requirements of this act, upon payment of the applicable license
10 fee. A person who is issued a license as a dietitian-
11 nutritionist under the provision of this act may use the title
12 "dietitian" or "nutritionist," or use the letters "L.D." in
13 connection with the title of place or business, to denote the
14 licensure of that person.

15 Section 508. Renewal of license and effect of license
16 suspension or revocation.

17 (a) Biennial renewal.--A license issued under this act shall
18 be renewed biennially upon payment of the renewal fee prescribed
19 by the board. It shall expire unless renewed in the manner
20 prescribed by the board. The board may provide for the late
21 renewal of a license upon the payment of a late fee. A late
22 renewal of a license shall not be granted more than four years
23 after its expiration. A license shall be renewed after the four-
24 year period only by complying with all the licensure provisions
25 of this act. The board may establish additional requirements for
26 license renewal designed to insure continued competency of the
27 applying dietitian-nutritionist.

28 (b) Continuing education.--A license issued under this act
29 shall not be renewed unless the licensee applying for renewal
30 submits proof to the board that, during the two calendar years

1 immediately preceding the application for renewal, the licensee
2 has satisfactorily completed a minimum of 30 hours of continuing
3 dietetic-nutrition education approved by the board.

4 (c) Suspended licenses.--A suspended license shall expire at
5 the end of its term and may be renewed as provided in this act.
6 A renewal shall not authorize a licensee, while the license
7 remains suspended, to engage in the licensed activity, or any
8 other activity in violation of the order or judgment by which
9 the license was suspended. Whenever a license revoked on
10 disciplinary grounds is reinstated, the licensee, as a condition
11 of reinstatement, shall pay a renewal fee and any late fee that
12 may be applicable.

13 Section 509. Refusal, suspension, revocation or refusal to
14 renew licenses and injunctive relief.

15 (a) Unprofessional conduct.--The board shall refuse to issue
16 a license to a person, and after a notice and hearing in
17 accordance with law, may suspend or revoke a license, or refuse
18 to renew a license, or may impose probationary conditions where
19 the licensee or applicant for license is guilty of
20 unprofessional conduct which has endangered or is likely to
21 endanger the health, welfare or safety of the public.
22 Unprofessional conduct shall include, but not be limited to, the
23 following:

24 (1) Obtaining a license by means of fraud,
25 misrepresentation or concealment of material facts.

26 (2) Being found guilty of immoral or unprofessional
27 conduct. Unprofessional conduct shall include any departure
28 from or failure to conform to acceptable and prevailing
29 standards. In proceedings based on this paragraph, actual
30 injury to the client need not be established.

1 (3) Being convicted of, or pleading guilty to or nolo
2 contendere to a crime which was found by the board to have a
3 direct bearing on whether the person should be entrusted to
4 serve the public as a dietitian-nutritionist.

5 (b) Board action.--When the board finds that the license or
6 application for license of any person may be refused, revoked,
7 restricted or suspended under the terms of subsection (a), the
8 board may:

9 (1) Deny the application for a license.

10 (2) Administer a public reprimand.

11 (3) Revoke, suspend, limit or otherwise restrict a
12 license as determined by the board.

13 (4) Require a licensee to submit to the care, counseling
14 or treatment of a physician designated by the board.

15 (5) Suspend enforcement of its findings and place a
16 licensee on probation with the right to vacate the
17 probationary order for noncompliance.

18 (6) Restore a suspended license and impose any
19 disciplinary or corrective measure which it might originally
20 have imposed.

21 (c) Hearing.--All actions of the board shall be taken
22 subject to the right of notice, hearing and adjudication and the
23 right of appeal therefrom in accordance with 2 Pa.C.S. (relating
24 to administrative law and procedure).

25 (d) Temporary suspension.--The board shall temporarily
26 suspend a license under circumstances as determined by the board
27 to be an immediate and clear danger to the public health and
28 safety. The board shall issue an order to that effect without a
29 hearing, but upon due notice to the licensee concerned at his
30 last known address, which shall include a written statement of

1 all allegations against the licensee. The provisions of
2 subsection (c) shall not apply to temporary suspension. The
3 board shall thereupon commence formal action to suspend, revoke
4 or restrict the license of the person concerned as otherwise
5 provided for in this act. All actions shall be taken promptly
6 and without delay. Within 30 days following the issuance of an
7 order temporarily suspending a license, the board shall conduct,
8 or cause to be conducted, a preliminary hearing to determine
9 that there is a prima facie case supporting the suspension. The
10 licensee whose license has been temporarily suspended may be
11 present at the preliminary hearing and may be represented by
12 counsel, cross-examine witnesses, inspect physical evidence,
13 call witnesses, offer evidence and testimony and make a record
14 of the proceedings. If it is determined that there is not a
15 prima facie case, the suspended license shall be immediately
16 restored. The temporary suspension shall remain in effect until
17 vacated by the board, but in no event longer than 180 days.

18 (e) Injunctions.--The Attorney General may, on behalf of the
19 board, apply for injunctive relief in any court of competent
20 jurisdiction, to enjoin a person from committing an act in
21 violation of this act. Injunctive proceedings shall be in
22 addition to, and not in lieu of, all penalties and other
23 remedies in this act.

24 (f) Hearings.--Any person who is licensed by the board, or
25 who is an applicant for examination for licensure by the board,
26 against whom any charges are preferred which would cause the
27 revocation or suspension of a license, shall be cited by the
28 board, and shall have a hearing before the board, or by a
29 hearing examiner as determined by the board.

30 Section 510. Reinstatement of license.

1 Unless ordered to do so by Commonwealth Court or an appeal
2 therefrom, the board shall not reinstate a license which has
3 been revoked. Any person whose license has been revoked may
4 apply for reinstatement, after a period of at least five years,
5 but must meet all of the licensing qualifications of this act,
6 including the examination requirement, if he desires to practice
7 as a dietitian-nutritionist under this act at any time after
8 revocation.

9 Section 511. Reporting of multiple licensure.

10 Any licensed dietitian-nutritionist of this Commonwealth who
11 is also licensed to practice in any other state, territory or
12 country shall report this information to the board on the
13 biennial renewal application. Any disciplinary action taken in
14 any other state, territory or country shall be reported to the
15 board on the biennial renewal application, or within 90 days of
16 disposition, whichever is sooner. Multiple licensure shall be
17 noted by the board on the licensee's record, and the state,
18 territory or country shall be notified by the board of any
19 disciplinary actions taken against the licensee in this
20 Commonwealth.

21 Section 512. Surrender of suspended or revoked license.

22 The board shall require a person whose license or
23 registration has been suspended or revoked to return the license
24 or registration in a manner as the board directs. Failure to do
25 so shall be a misdemeanor of the third degree.

26 CHAPTER 7

27 ENFORCEMENT

28 Section 701. Impaired professional.

29 (a) Appointment of professional consultant.--The board, with
30 the approval of the commissioner, shall appoint and fix the

1 compensation of a professional consultant who is a licensee of
2 the board, or other professional consultant as the board may
3 determine with education and experience in the identification,
4 treatment and rehabilitation of persons with physical or mental
5 impairments. The professional consultant shall be accountable to
6 the board and shall act as a liaison between the board and
7 treatment programs, such as alcohol and drug treatment programs
8 licensed by the Department of Health, psychological counseling,
9 and impaired professional support groups, which are approved by
10 the board and which provide services to licensees under this
11 act.

12 (b) Subsequent action by board.--The board may defer and
13 ultimately dismiss any of the types of corrective action set
14 forth in this act for an impaired professional so long as the
15 professional is progressing satisfactorily in an approved
16 treatment program, provided that the provisions of this
17 subsection shall not apply to a professional who has been
18 convicted of, pleaded guilty to or entered a plea of nolo
19 contendere to a felonious act prohibited by the act of April 14,
20 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
21 Device and Cosmetic Act, or has been convicted of, pleaded
22 guilty to or entered a plea of nolo contendere to a felony
23 relating to a controlled substance in a court of law of the
24 United States or any other state, territory or country. An
25 approved program provider shall, upon request, disclose to the
26 consultant information in its possession regarding any impaired
27 professional in treatment which the program provider is not
28 prohibited from disclosing by an act of this Commonwealth,
29 another state or the United States. The requirement of
30 disclosure by an approved program provider shall apply in the

1 case of impaired professionals who enter an agreement in
2 accordance with this section, impaired professionals who are the
3 subject of a board investigation or disciplinary proceeding and
4 impaired professionals who voluntarily enter a treatment program
5 other than under the provisions of this section but who fail to
6 complete the program successfully or to adhere to an aftercare
7 plan developed by the program provider.

8 (c) Agreement.--An impaired professional who enrolls in an
9 approved treatment program shall enter into an agreement with
10 the board under which the professional's license shall be
11 suspended or revoked but enforcement of the suspension or
12 revocation may be stayed for the length of time the professional
13 remains in the program, makes satisfactory progress, complies
14 with the terms of the agreement and adheres to any limitations
15 on his practice, imposed by the board to protect the public.
16 Failure to enter into an agreement shall disqualify the
17 professional from the impaired professional program and shall
18 activate an immediate investigation and disciplinary proceeding
19 by the board.

20 (d) Report by provider.--If, in the opinion of the
21 consultant after consultation with the provider, an impaired
22 professional who is enrolled in an approved treatment program
23 has not progressed satisfactorily, the consultant shall disclose
24 to the board all information in his or her possession relevant
25 to the issue of impairment regarding the professional, and the
26 board shall institute proceedings to determine if the stay of
27 enforcement of the suspension or revocation of the impaired
28 professional's license shall be vacated.

29 (e) Immunity.--An approved program provider who makes a
30 disclosure under this section shall not be subject to civil

1 liability for the disclosure or its consequences.

2 (f) Reports by others.--Any hospital or health care
3 facility, peer or colleague who has substantial evidence that a
4 professional has an active addictive disease for which the
5 professional is not receiving treatment, is diverting a
6 controlled substance or is mentally or physically incompetent to
7 carry out the duties of his license shall make or cause to be
8 made a report to the board, provided that any person who or
9 facility which acts in a treatment capacity to an impaired
10 professional in an approved treatment program is exempt from the
11 mandatory reporting requirements of this subsection. Any person
12 or facility who reports under this section in good faith and
13 without malice shall be immune from any civil or criminal
14 liability arising from the report. Failure to provide a report
15 within a reasonable time from receipt of knowledge of impairment
16 shall subject the person or facility to a fine of not more than
17 \$1,000. The board shall levy this penalty only after affording
18 the accused party the opportunity for a hearing, as provided in
19 2 Pa.C.S. (relating to administrative law and procedure).

20 Section 702. Penalties.

21 (a) Criminal penalty.--A person who violates this act
22 commits a misdemeanor of the third degree and shall, upon
23 conviction, be sentenced to pay a fine of not more than \$1,000
24 or to imprisonment for not more than 90 days, or both.

25 (b) Civil penalty.--In addition to any other civil remedy or
26 criminal penalty provided for in this act, the board, by a vote
27 of the majority of the maximum number of the authorized
28 membership of the board as provided by law, or by a vote of the
29 majority of the duly qualified and confirmed membership or a
30 minimum of three members, whichever is greater, may levy a civil

1 penalty of not more than \$1,000 on any current licensee who
2 violates any provision of this act or on any person who holds
3 himself out as a licensed dietitian-nutritionist without being
4 so licensed under this act. The board shall levy this penalty
5 only after affording the accused party the opportunity for a
6 hearing, as provided in 2 Pa.C.S. (relating to administrative
7 law and procedure).

8 (c) Disposition.--All fines and civil penalties imposed in
9 accordance with this section shall be paid into the Professional
10 Licensure Augmentation Account.

11 Section 703. Records.

12 A record of all persons licensed to practice as dietitian-
13 nutritionist in Pennsylvania shall be kept in the office of the
14 board and shall be open to public inspection and copying upon
15 payment of a nominal fee for copying the record.

16 Section 704. Fees.

17 (a) General rule.--All fees required under this act shall be
18 fixed by the board by regulation and shall be subject to the act
19 of June 25, 1982 (P.L.633, No.181), known as the Regulatory
20 Review Act. If the revenues raised by fees, fines and civil
21 penalties imposed under this act are not sufficient to meet
22 expenditures over a two-year period, the board shall increase
23 those fees by regulation so that the projected revenues will
24 meet or exceed projected expenditures.

25 (b) Bureau of Professional and Occupational Affairs.--If the
26 Bureau of Professional and Occupational Affairs determines that
27 the fees established by the board under paragraph (c)(1) are
28 inadequate to meet the minimum enforcement efforts required by
29 this act, then the bureau, after consultation with the board and
30 subject to the Regulatory Review Act, shall increase the fees by

1 regulation in an amount so that adequate revenues are raised to
2 meet the required enforcement effort.

3 Section 705. Subpoenas.

4 (a) Power to issue.--The board shall have the authority to
5 issue subpoenas, upon application of an attorney responsible for
6 representing the Commonwealth in disciplinary matters before the
7 board, for the purpose of investigating alleged violations of
8 the disciplinary provisions administered by the board. The board
9 shall have the power to subpoena witnesses, to administer oaths,
10 to examine witnesses and to take testimony or compel the
11 production of books, records, papers and documents as it may
12 consider necessary or proper in, and pertinent to, any
13 proceeding, investigation or hearing, held or had by it. The
14 board is authorized to apply to the Commonwealth Court to
15 enforce its subpoenas.

16 (b) Notification of board.--An attorney responsible for
17 representing the Commonwealth in disciplinary matters before the
18 board shall notify the board immediately upon receiving
19 notification of an alleged violation of this act. The board
20 shall maintain current records of all reports of alleged
21 violations and periodically review the records for the purpose
22 of determining that each alleged violation has been resolved in
23 a timely manner.

24 Section 706. Unlawful practice.

25 (a) Injunction.--Unlawful practice may be enjoined by the
26 courts upon petition of the commissioner or the board. In any
27 proceeding under this section, it shall not be necessary to show
28 that any person is individually injured by the actions
29 complained of. If the court finds that the respondent has
30 violated this section, it shall enjoin him from so practicing

1 until he has been duly licensed. Procedure in the cases shall be
2 the same as in any other injunction suit.

3 (b) Remedy cumulative.--The injunctive remedy provided in
4 this section shall be in addition to any other civil or criminal
5 prosecution and punishment.

6 CHAPTER 9

7 MISCELLANEOUS PROVISIONS

8 Section 901. Appropriation.

9 The sum of \$75,000, or as much thereof as may be necessary,
10 is hereby appropriated from the Professional Licensure
11 Augmentation Account in the General Fund to the Bureau of
12 Professional and Occupational Affairs in the Department of State
13 for the establishment and operation of the State Board of
14 Dietitian-Nutritionist Licensure. The appropriation granted
15 shall be repaid by the board within three years of the beginning
16 of issuance of licenses by the board.

17 Section 902. Effective date.

18 This act shall take effect in 90 days.