

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 497 Session of
2001

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WANSACZ, WILT, WOJNAROSKI, WRIGHT AND YOUNGBLOOD,
FEBRUARY 6, 2001

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
FEBRUARY 6, 2001

AN ACT

1 Amending the act of May 22, 1951 (P.L.317, No.69), entitled, as
2 amended, "An act relating to the practice of professional
3 nursing; providing for the licensing of nurses and for the
4 revocation and suspension of such licenses, subject to
5 appeal, and for their reinstatement; providing for the
6 renewal of such licenses; regulating nursing in general;
7 prescribing penalties and repealing certain laws," regulating
8 the practice and licensure of dietetics and nutrition;
9 further providing for penalties; and making an appropriation.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 2 of the act of May 22, 1951 (P.L.317,
13 No.69), known as The Professional Nursing Law, is amended by
14 adding clauses to read:

15 Section 2. Definitions.--When used in this act, the
16 following words and phrases shall have the following meanings
17 unless the context provides otherwise:

1 * * *

2 (7) The "Practice of dietetics-nutrition" means the
3 integration and application of principles derived from the
4 sciences of food nutrition, biochemistry, physiology, management
5 and behavior to provide for all aspects of nutrition therapy for
6 individuals and groups, including nutrition therapy services and
7 medical nutrition therapy, compatible with dietitian-
8 nutritionist education and professional competence.

9 (8) "Department" means the Department of State of the
10 Commonwealth.

11 (9) "Licensed dietitian-nutritionist" means a dietitian-
12 nutritionist who holds a current license under this act.

13 (10) "Medical nutrition therapy" means the component of
14 nutrition therapy that concerns determining and recommending
15 nutrient needs based on nutritional assessment and medical
16 problems relative to diets prescribed by a licensed physician
17 including:

18 (i) tube feedings;
19 (ii) specialized intravenous solutions;
20 (iii) specialized oral solutions; and
21 (iv) interactions of prescription drugs with food or
22 nutrients.

23 (11) "Nutrition therapy services" means assessing the
24 nutritional needs of individuals and groups, considering the
25 resources and constraints in the practice setting, providing
26 nutrition counseling in health and disease, developing,
27 implementing and managing:

28 (i) nutrition therapy of; and
29 (ii) food service systems for
30 individuals and groups and maintaining appropriate standards of

1 quality in food and nutrition therapy services for individuals
2 and groups.

3 Section 2. Sections 2.1 and 2.2 of the act, amended or added
4 December 20, 1985 (P.L.409, No.109), are amended to read:

5 Section 2.1. State Board of Nursing.--(a) The State Board
6 of Nursing shall consist of the Commissioner of Professional and
7 Occupational Affairs, [three] four members appointed by the
8 Governor, with the advice and consent of a majority of the
9 members elected to the Senate, who shall be persons representing
10 the public at large, and [seven] nine members appointed by the
11 Governor, with the advice and consent of a majority of the
12 members elected to the Senate, five of whom shall be registered
13 nurses, graduated from schools of nursing where practical and
14 theoretical instruction is given, at least three of whom shall
15 possess Masters' degrees in nursing, [and] two of whom shall be
16 licensed practical nurses, and one of whom shall be a licensed
17 dietitian-nutritionist, and all of whom shall have been engaged
18 in nursing or the practice of dietetics-nutrition in this
19 Commonwealth for the five-year period immediately preceding
20 appointment. The dietitian-nutritionist member of the board
21 initially appointed need not be licensed by the licensure
22 examination adopted by the board but, at the time of
23 appointment, must have satisfied the education and experience
24 requirements of this act for licensure as a dietitian-
25 nutritionist. In making appointments to the Board, the Governor
26 shall give due consideration to providing representation from
27 diversified fields of nursing or dietetics-nutrition, including,
28 but not limited to, specialized nurses or dietitian-
29 nutritionists of all types. The persons representing the public
30 at large may not have a financial interest in the provision of

1 goods and services for dietitian-nutritionists and may not be a
2 dietitian-nutritionist or have a household member who is a
3 dietitian-nutritionist.

4 (b) The terms of the members of the Board shall be six years
5 or until his or her successor has been appointed and qualified
6 but not longer than six months beyond the six-year period. In
7 the event that any of said members shall die or resign or
8 otherwise become disqualified during his or her term, his or her
9 successor shall be appointed in the same way and with the same
10 qualifications and shall hold office for the unexpired term. No
11 member shall be eligible for appointment to serve more than two
12 consecutive terms.

13 (c) A majority of the members of the Board serving in
14 accordance with law shall constitute a quorum. Except for
15 temporary and automatic suspensions under section 15.1 of this
16 act or section 17.1 of the act of March 2, 1956 (1955 P.L.1211,
17 No.376), known as the "Practical Nurse Law," a member may not be
18 counted as part of a quorum or vote on any issue, unless he or
19 she is physically in attendance at the meeting.

20 (d) The Board shall select annually a chairman from among
21 its members. The Board shall select an executive secretary who,
22 with the approval of the Commissioner of Professional and
23 Occupational Affairs, need not be a member of the Board.

24 (e) Each member of the Board, except the Commissioner of
25 Professional and Occupational Affairs, shall receive sixty
26 dollars (\$60) per diem when actually attending to the work of
27 the Board. Members shall also receive the amount of reasonable
28 traveling, hotel and other necessary expenses incurred in the
29 performance of their duties in accordance with Commonwealth
30 regulations.

1 (f) The Board is subject to evaluation, review and
2 termination within the time and in the manner provided in the
3 act of December 22, 1981 (P.L.508, No.142), known as the "Sunset
4 Act."

5 (g) A member of the Board who fails to attend three
6 consecutive meetings shall forfeit his or her seat unless the
7 Commissioner of Professional and Occupational Affairs, upon
8 written request from the member, finds that the member should be
9 excused from a meeting because of illness or the death of a
10 family member.

11 (h) A public member who fails to attend two consecutive
12 statutorily mandated training seminars in accordance with
13 section 813(e) of the act of April 9, 1929 (P.L.177, No.175),
14 known as "The Administrative Code of 1929," shall forfeit his or
15 her seat unless the Commissioner of Professional and
16 Occupational Affairs, upon written request from the public
17 member, finds that the public member should be excused from a
18 meeting because of illness or the death of a family member.

19 (i) The Board, with the approval of the Commissioner of
20 Professional and Occupational Affairs, shall also appoint and
21 fix the compensation of one or more State educational advisors
22 of schools of nursing and one or more State practice advisors,
23 who shall have the same qualifications as the nurse members of
24 the Board who hold Masters' degrees in nursing.

25 (j) The Board shall meet at least once every two months and
26 at such additional times as may be necessary to conduct the
27 business of the Board.

28 (k) The Board shall have the right and duty to establish
29 rules and regulations for the practice of professional nursing,
30 the practice of dietetics-nutrition and the administration of

1 this act. Copies of such rules and regulations shall be
2 available for distribution to the public.

3 Section 2.2. Communication with Licensees.--The Board shall
4 communicate with licensees on issues affecting the education,
5 practice and regulation of nursing or dietetics-nutrition on at
6 least an annual basis.

7 Section 3. The act is amended by adding a section to read:

8 Section 3.1. Dietitian-Nutritionist License Required.--It
9 shall be unlawful for any individual to hold himself or herself
10 forth as a licensed dietitian-nutritionist unless he or she
11 shall first have obtained a license pursuant to this act. Only
12 individuals who have received licenses as licensed dietitian-
13 nutritionists pursuant to this act may use the letters "L.D.N."
14 in connection with their names.

15 Section 4. Section 5 of the act, amended or added December
16 20, 1985 (P.L.409, No.109) and December 15, 1986 (P.L.1607,
17 No.179), is amended to read:

18 Section 5. Examinations and Certificates.--(a) The Board
19 shall, once every year and at such other times and under such
20 conditions as shall be provided by its regulations, examine all
21 eligible applicants for licensure; and shall, subject to the
22 provisions of section 6 of this act, issue a license to each
23 person passing said examination to the satisfaction of the
24 Board.

25 (b) The Board may admit to examination any person who has
26 satisfactorily completed an approved nursing education program
27 for the preparation of registered professional nurses or an
28 approved dietetics-nutrition education program in Pennsylvania
29 or such a program in any other state, territory or possession of
30 the United States, considered by the Board to be equivalent to

1 that required in this Commonwealth at the time such program was
2 completed, and who meets the requirements of character and
3 preliminary education.

4 (c) The Board may admit to examination any person who has
5 satisfactorily completed a nursing education program for the
6 preparation of registered professional nurses or an approved
7 dietetics-nutrition education program in a country or territory
8 not mentioned above who has been licensed, registered, or duly
9 recognized there as a professional nurse, dietitian-
10 nutritionist, dietitian or nutritionist provided such a program
11 is considered by the Board to be equal to that required in this
12 Commonwealth at the time such program was completed and who
13 meets the requirements of character and preliminary education.

14 (d) In establishing the education requirements for
15 admittance to the nursing licensure examination under this
16 section, the Board shall not deny access to the examination for
17 licensure as a registered nurse to a graduate of a State-
18 approved associate degree, diploma or baccalaureate degree
19 nursing program.

20 (e) A person who meets the requirements of section 6, and
21 who, in addition, has been engaged in the practice of dietetics-
22 nutrition for a period of five (5) years during the seven (7)
23 years immediately preceding the effective date of this
24 subsection, or a person who provides evidence of current
25 registration as a Registered Dietitian-Nutritionist by the
26 Commission of Dietetic Registration of the American Dietetic
27 Association, shall be considered to meet the requirements of
28 this act. This person shall be licensed without the necessity of
29 taking the examination if an application is made to the Board
30 within one (1) year of the effective date of this subsection and

1 the appropriate fee is paid.

2 Section 5. Section 6 of the act, amended December 15, 1986
3 (P.L.1607, No.179), is amended to read:

4 Section 6. Fees; Qualifications for Licensure.--(a) No
5 application for licensure as a registered nurse shall be
6 considered unless accompanied by a fee determined by the Board
7 by regulation. Every applicant, to be eligible for examination
8 for licensure as a registered nurse, shall furnish evidence
9 satisfactory to the Board that he or she is of good moral
10 character, has completed work equal to a standard high school
11 course as evaluated by the Board and has satisfactorily
12 completed an approved program of professional nursing. Approved
13 programs shall include baccalaureate degree, associate degree
14 [and], diploma nursing programs and programs in transition from
15 approved diploma to degree granting programs when all other
16 requirements of the Board have been met.

17 (b) An applicant applying for licensure as a dietitian-
18 nutritionist shall submit a written application on forms
19 provided by the Board evidencing and insuring to the
20 satisfaction of the Board that the applicant:

21 (1) Is of good moral character.

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

26 (3) Has completed a planned continuous preprofessional
27 experience component in dietetic practice of not less than nine
28 hundred (900) hours under the supervision of a registered
29 dietitian, a dietitian-nutritionist licensed under this act or
30 an individual with a doctoral degree conferred by a regionally

1 accredited college or university in the United States with a
2 major course of study in human nutrition, food and nutrition,
3 nutrition education, dietetics or food systems management as
4 approved by the Board.

5 (4) Has satisfactorily completed an examination approved by
6 the Board. The Board shall contract with a professional testing
7 organization for the examination of qualified applicants for
8 licensure. All written, oral and practical examinations shall be
9 prepared and administered by a qualified and approved
10 professional testing organization in the manner prescribed for
11 written examinations by section 812.1 of the act of April 9,
12 1929 (P.L.177, No.175), known as "The Administrative Code of
13 1929."

14 (c) The Board shall not issue a license or certificate to an
15 applicant who has been convicted of a felonious act prohibited
16 by the act of April 14, 1972 (P.L.233, No.64), known as "The
17 Controlled Substance, Drug, Device and Cosmetic Act," or
18 convicted of a felony relating to a controlled substance in a
19 court of law of the United States or any other state, territory
20 or country unless:

21 (1) at least ten (10) years have elapsed from the date of
22 conviction;

23 (2) the applicant satisfactorily demonstrates to the Board
24 that he has made significant progress in personal rehabilitation
25 since the conviction such that licensure of the applicant should
26 not be expected to create a substantial risk of harm to the
27 health and safety of patients or the public or a substantial
28 risk of further criminal violations; and

29 (3) the applicant otherwise satisfies the qualifications
30 contained in or authorized by this act.

1 As used in this subsection the term "convicted" shall include a
2 judgment, an admission of guilt or a plea of nolo contendere. An
3 applicant's statement on the application declaring the absence
4 of a conviction shall be deemed satisfactory evidence of the
5 absence of a conviction, unless the Board has some evidence to
6 the contrary.

7 Section 6. Sections 7, 8, 11, 11.1 and 13 of the act,
8 amended or added December 20, 1985 (P.L.409, No.109), are
9 amended to read:

10 Section 7. Graduates of Schools of Other States, Territories
11 or Dominion of Canada.--(a) The Board may issue a license
12 without examination to a graduate of a school of nursing or a
13 dietetics-nutrition program who has completed a course of study
14 in nursing or dietetics-nutrition considered by the Board to be
15 equivalent to that required in this State at the time such
16 course was completed, and who is registered or licensed by
17 examination in any other state, or territory of the United
18 States or the Dominion of Canada, and who has met all the
19 foregoing requirements as to character, and preliminary
20 education.

21 (b) The Board may issue a certification to registered nurse
22 practitioners who have completed a course of study considered by
23 the Board to be equivalent to that required in this State at the
24 time such course was completed or who is licensed or certified
25 by another state, territory or possession of the United States
26 or a foreign country as deemed equivalent to Pennsylvania's
27 certification requirements in accordance with the joint rules
28 and regulations of the Boards of Nursing and Medicine.

29 Section 8. Persons Entitled to Practice.--(a) The Board
30 shall issue to each person who meets the professional nursing

1 licensure requirements of this act, a certificate setting forth
2 that such person is licensed to engage in the practice of
3 professional nursing and entitled to use the title "registered
4 nurse" and the letters "R.N."

5 (b) The Board shall issue to each person who meets the
6 dietitian-nutritionist licensure requirements of this act a
7 certificate setting forth that such person is licensed as a
8 dietitian-nutritionist and entitled to use the title "dietitian-
9 nutritionist," "dietitian" or "nutritionist" and the letters
10 "L.D.N." A record of all persons licensed as dietitian-
11 nutritionists, dietitians or nutritionists in this Commonwealth
12 shall be kept in the office of the Board and shall be open to
13 public inspection and copying upon payment of a nominal fee for
14 copying the record.

15 Section 11. Licenses; Duration; Renewal Fee; Inactive
16 Status.--(a) Licenses issued pursuant to this act shall expire
17 on the thirty-first day of October of each biennium, or on such
18 other biennial expiration date as may be established by
19 regulation of the Board. Application for renewal of a license
20 shall biennially be forwarded to each registrant holding a
21 current license prior to the expiration date of the current
22 renewal biennium. The application form may be completed and
23 returned to the Board, accompanied by the required fee as
24 determined by the Board by regulation; upon approval of each
25 application, the applicant shall receive a renewal of license.

26 (b) Any registrant licensed under this act may request an
27 application for inactive status. The application form may be
28 completed and returned to the Board. Upon receipt of each
29 application, the applicant shall be maintained on inactive
30 status without fee and shall be entitled to apply at any time.

1 Any person who requests an active status license who has been on
2 inactive status for a period of five (5) consecutive years shall
3 prior to receiving an active license satisfy the requirements of
4 the Board's regulations for ensuring continued competence and
5 remit the required fee. A person shall not be denied active
6 status as a result of any increased educational requirements for
7 licensure since the time he or she received his or her original
8 license.

9 (c) A dietetics-nutrition license issued under this act
10 shall not be renewed unless the licensee applying for renewal
11 submits proof to the Board that, during the two (2) calendar
12 years immediately preceding the application for renewal, the
13 licensee has satisfactorily completed a minimum of thirty (30)
14 hours of continuing dietetic-nutrition education approved by the
15 Board by regulation.

16 Section 11.1. Reporting of Multiple Licensure.--Any licensed
17 professional nurse or dietitian-nutritionist of this
18 Commonwealth who is also licensed to practice nursing or
19 dietetics-nutrition in any other state, territory, possession or
20 country shall report this information to the Board on the
21 biennial registration application. Any disciplinary action taken
22 in other states shall be reported to the Board on the biennial
23 registration application or within ninety (90) days of final
24 disposition, whichever is sooner. Multiple licensure shall be
25 noted by the Board on the [nurse's] licensee's record, and such
26 state, territory, possession or country shall be notified by the
27 Board of any disciplinary actions taken against said [nurse]
28 licensee in this Commonwealth.

29 Section 13. Punishment for Violations.--(a) Any person, or
30 the responsible officers or employees of any corporation,

1 copartnership, institution or association violating any of the
2 provisions of this act, or any rule or regulation of the Board,
3 commits a misdemeanor and, upon conviction thereof, shall be
4 sentenced to pay a fine of not more than one thousand dollars
5 (\$1,000), or undergo imprisonment for not more than six (6)
6 months for the first violation. On the second and each
7 subsequent conviction, he shall be sentenced to pay a fine of
8 not more than two thousand dollars (\$2,000), or undergo
9 imprisonment for not less than six (6) months or more than one
10 (1) year in jail, or both.

11 (b) In addition to any other civil remedy or criminal
12 penalty provided for in this act, the Board, by a vote of the
13 majority of the maximum number of the authorized membership of
14 the Board as provided by law or by a vote of the majority of the
15 duly qualified and confirmed membership or a minimum of five (5)
16 members, whichever is greater, may levy a civil penalty of up to
17 one thousand dollars (\$1,000) on any current licensee who
18 violates any provision of this act or on any person who
19 practices nursing or holds himself or herself forth as a
20 licensed dietitian-nutritionist without being properly licensed
21 to do so under this act or on the responsible officers or
22 employees of any corporation, copartnership, institution or
23 association violating any of the provisions of this act. The
24 Board shall levy this penalty only after affording the accused
25 party the opportunity for a hearing, as provided in Title 2 of
26 the Pennsylvania Consolidated Statutes (relating to
27 administrative law and procedure).

28 Section 7. Section 14 of the act, amended December 20, 1985
29 (P.L.409, No.109) and May 27, 1994 (P.L.248, No.35), is amended
30 to read:

1 Section 14. Refusal, Suspension or Revocation of Licenses.--

2 (a) The Board may refuse, suspend or revoke any license in any
3 case where the Board shall find that--

4 (1) The licensee is on repeated occasions negligent or
5 incompetent in the practice of professional nursing or
6 dietetics-nutrition.

7 (2) The licensee is unable to practice professional nursing
8 with reasonable skill and safety to patients by reason of mental
9 or physical illness or condition or physiological or
10 psychological dependence upon alcohol, hallucinogenic or
11 narcotic drugs or other drugs which tend to impair judgment or
12 coordination, so long as such dependence shall continue. In
13 enforcing this clause (2), the Board shall, upon probable cause,
14 have authority to compel a licensee to submit to a mental or
15 physical examination as designated by it. After notice, hearing,
16 adjudication and appeal as provided for in section 15, failure
17 of a licensee to submit to such examination when directed shall
18 constitute an admission of the allegations against him or her
19 unless failure is due to circumstances beyond his or her
20 control, consequent upon which a default and final order may be
21 entered without the taking of testimony or presentation of
22 evidence. A licensee affected under this paragraph shall at
23 reasonable intervals be afforded an opportunity to demonstrate
24 that he or she can resume a competent practice of professional
25 nursing with reasonable skill and safety to patients.

26 (2.1) The licensee is unable to practice dietetics-nutrition
27 with reasonable skill and safety to individuals or groups by
28 reason of mental or physical illness or condition or
29 physiological or psychological dependence upon alcohol,
30 hallucinogenic or narcotic drugs or other drugs which tend to

1 impair judgment or coordination, so long as such dependence
2 shall continue. In enforcing this clause (2.1), the Board shall,
3 upon probable cause, have authority to compel a licensee to
4 submit to a mental or physical examination as designated by it.
5 After notice, hearing, adjudication and appeal as provided for
6 in section 15, failure of a licensee to submit to such
7 examination when directed shall constitute an admission of the
8 allegations against him or her unless failure is due to
9 circumstances beyond his or her control, consequent upon which a
10 default and final order may be entered without the taking of
11 testimony or presentation of evidence. A licensee affected under
12 this paragraph shall at reasonable intervals be afforded an
13 opportunity to demonstrate that he or she can resume a competent
14 practice of dietetics-nutrition with reasonable skill and safety
15 to individuals or groups.

16 (3) The licensee has wilfully or repeatedly violated any of
17 the provisions of this act or of the regulations of the Board.

18 (4) The licensee has committed fraud or deceit in:

19 (i) the practice of nursing, or in securing his or her
20 admission to such practice or nursing school; or

21 (ii) the practice of dietetics-nutrition, or in securing his
22 or her license as a dietitian-nutritionist.

23 (5) The licensee has been convicted, or has pleaded guilty,
24 or entered a plea of nolo contendere, or has been found guilty
25 by a judge or jury, of a felony or a crime of moral turpitude,
26 or has received probation without verdict, disposition in lieu
27 of trial or an Accelerated Rehabilitative Disposition in the
28 disposition of felony charges, in the courts of this
29 Commonwealth, the United States or any other state, territory,
30 possession or country.

1 (6) The licensee has his or her license suspended or revoked
2 or has received other disciplinary action by the proper
3 licensing authority in another state, territory, possession or
4 country.

5 (7) The licensee has acted in such a manner as to present an
6 immediate and clear danger to the public health or safety.

7 (8) The licensee possessed, used, acquired or distributed a
8 controlled substance or caution legend drug for other than an
9 acceptable medical purpose.

10 (9) The licensee has been guilty of immoral or
11 unprofessional conduct. Unprofessional conduct shall include
12 departure from or failing to conform to an ethical or quality
13 standard of the profession. The ethical and quality standards of
14 the profession are those embraced by the professional community
15 in this Commonwealth. In proceedings based on this clause,
16 actual injury to a patient or individual or group need not be
17 established.

18 (b) When the Board finds that the license of any nurse or
19 dietitian-nutritionist may be refused, revoked or suspended
20 under the terms of subsection (a), the Board may:

21 (1) Deny the application for a license.

22 (2) Administer a public reprimand.

23 (3) Revoke, suspend, limit or otherwise restrict a license
24 as determined by the Board.

25 (4) Require a licensee to submit to the care, counseling or
26 treatment of a physician or a psychologist designated by the
27 Board.

28 (5) Suspend enforcement of its finding thereof and place a
29 licensee on probation with the right to vacate the probationary
30 order for noncompliance.

(6) Restore or reissue, in its discretion, a suspended license to practice professional or practical nursing or dietetics-nutrition and impose any disciplinary or corrective measure which it might originally have imposed.

Section 8. Section 14.1 of the act, added December 20, 1985 (P.L.409, No.109), is amended to read:

Section 14.1. Impaired [Nurses] Professionals Program.--(a) The Board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the Board with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the Board and shall act as a liaison between the Board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired [nurses] professionals support groups approved by the Board and which provide services to [nursing] licensees under this act.

(b) The Board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the licensee is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a licensee who has been convicted of, pleaded guilty to or entered a plea of nolo contendere to a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or the conviction of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the

1 consultant such information in its possession regarding an
2 impaired [nurse] professional in treatment which the program
3 provider is not prohibited from disclosing by an act of this
4 Commonwealth, another state or the United States. Such
5 requirement of disclosure by an approved program provider shall
6 apply in the case of impaired professionals who enter an
7 agreement in accordance with this section, impaired
8 professionals who are the subject of a Board investigation or
9 disciplinary proceeding and impaired professionals who
10 voluntarily enter a treatment program other than under the
11 provisions of this section but who fail to complete the program
12 successfully or to adhere to an after-care plan developed by the
13 program provider.

14 (c) An impaired professional who enrolls in an approved
15 treatment program shall enter into an agreement with the Board
16 under which the professional's license shall be suspended or
17 revoked but enforcement of that suspension or revocation may be
18 stayed for the length of time the professional remains in the
19 program and makes satisfactory progress, complies with the terms
20 of the agreement, and adheres to any limitations on his practice
21 imposed by the Board to protect the public. Failure to enter
22 into such an agreement shall disqualify the [nurse] professional
23 from the impaired [nurse] professional program and shall
24 activate an immediate investigation and disciplinary proceeding
25 by the Board.

26 (d) If, in the opinion of such consultant after consultation
27 with the provider, an impaired [nurse] professional who is
28 enrolled in an approved treatment program has not progressed
29 satisfactorily, the consultant shall disclose to the Board all
30 information in his or her possession regarding such [nurse]

1 professional, and the Board shall institute proceedings to
2 determine if the stay of the enforcement of the suspension or
3 revocation of the impaired professional's license shall be
4 vacated.

5 (e) An approved program provider who makes a disclosure
6 pursuant to this section shall not be subject to civil liability
7 for such disclosure or its consequences.

8 (f) Any hospital or health care facility, peer or colleague
9 who has substantial evidence that a [nurse] professional has an
10 active addictive disease for which the professional is not
11 receiving treatment, is diverting a controlled substance or is
12 mentally or physically incompetent to carry out the duties of
13 his license shall make or cause to be made a report to the
14 Board: Provided, That any person or facility who acts in a
15 treatment capacity to impaired [nurses] professionals in an
16 approved treatment program is exempt from the mandatory
17 reporting requirement of this subsection. Any person or facility
18 who reports pursuant to this section in good faith and without
19 malice shall be immune from any civil or criminal liability
20 arising from such report. Failure to provide such report within
21 a reasonable time from receipt of knowledge of impairment shall
22 subject the person or facility to a fine not to exceed one
23 thousand dollars (\$1,000). The Board shall levy this penalty
24 only after affording the accused party the opportunity for a
25 hearing, as provided in Title 2 of the Pennsylvania Consolidated
26 Statutes (relating to administrative law and procedure).

27 Section 9. Sections 15.2 and 15.4 of the act, added December
28 20, 1985 (P.L.409, No.109), are amended to read:

29 Section 15.2. Reinstatement of License.--Unless ordered to
30 do so by Commonwealth Court or an appeal therefrom, the Board

1 shall not reinstate the license of a person to practice nursing
2 or dietetics-nutrition which has been revoked. Any person whose
3 license has been revoked may reapply for a license, after a
4 period of at least five (5) years, but must meet all of the
5 licensing qualifications of this act for the license applied
6 for, to include the examination requirement, if he or she
7 desires to practice at any time after such revocation.

8 Section 15.4. Injunction or Other Process.--It shall be
9 unlawful for any person to practice or attempt to offer to
10 practice nursing or hold himself or herself forth as a licensed
11 dietitian-nutritionist, as defined in this act, without having
12 at the time of so doing a valid, unexpired, unrevoked and
13 unsuspended license issued under this act. The unlawful practice
14 of nursing as defined in this act may be enjoined by the courts
15 on petition of the Board or the Commissioner of Professional and
16 Occupational Affairs. In any such proceeding, it shall not be
17 necessary to show that any person is individually injured by the
18 actions complained of. If it is determined that the respondent
19 has engaged in the unlawful practice of nursing, the court shall
20 enjoin him or her from so practicing unless and until he or she
21 has been duly licensed. Procedure in such cases shall be the
22 same as in any other injunction suit. The remedy by injunction
23 hereby given is in addition to any other civil or criminal
24 prosecution and punishment.

25 Section 10. The sum of \$95,000, or as much thereof as may be
26 necessary, is hereby appropriated from the Professional
27 Licensure Augmentation Account in the General Fund to the Bureau
28 of Professional and Occupational Affairs in the Department of
29 State for the operation of the State Board of Nursing for the
30 additional duties imposed by this act. The appropriation shall

1 be repaid by the board within three years of the beginning of
2 issuance of dietitian-nutritionist licenses by the board.

3 Section 11. The State Board of Nursing shall promulgate all
4 regulations required to implement this act within two years of
5 the effective date of this act.

6 Section 12. This act shall take effect in 90 days.