

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1851 Session of  
2015

INTRODUCED BY TALLMAN, THOMAS, O'BRIEN, MAHONEY, TOOHL,  
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FEBRUARY 17, 2016

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
FEBRUARY 17, 2016

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 of diabetes education and licensure of diabetes  
9 educators; and further providing for penalties.

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:

18 \* \* \*

19 (16) "Diabetes education" means a comprehensive  
20 collaborative process by which people with or at risk for

diabetes gain the knowledge and skills needed to modify behavior  
and successfully self-manage the disease and the related  
conditions of the disease.

(17) "Licensed diabetes educator" means a diabetes educator  
who holds a current license under this act.

(18) "Practice of diabetes education" means the assessment  
and development of a plan of care for an individual with or at  
risk for diabetes, the identification of self-management goals  
for the individual, the provision of self-management training  
according to the plan, the evaluation of the individual's  
outcome and the recording of a complete record of the  
individual's experience and follow-ups.

Section 2. Sections 2.1(f) and (k) and 2.2 of the act,  
amended June 29, 2002 (P.L.651, No.99), are amended to read:

Section 2.1. State Board of Nursing.--\* \* \*

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

\* \* \*

(k) The Board shall have the right and duty to establish  
rules and regulations for the practice of professional nursing,  
the practice of dietetics-nutrition, the practice of diabetes  
education and the administration of this act. Copies of such  
rules and regulations shall be available for distribution to the  
public.

\* \* \*

Section 2.2. Communication with Licensees.--The Board shall  
communicate with licensees on issues affecting the education,  
practice and regulation of nursing [or], dietetics-nutrition and

1 diabetes education on at least an annual basis.

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

3 Section 3.2. Licensed Diabetes Educator; License Required;  
4 and Use of Title.--It shall be unlawful for any individual to  
5 hold himself or herself forth as a licensed diabetes educator  
6 unless he or she shall first have obtained a license pursuant to  
7 this act. Only an individual who has received a license as a  
8 licensed diabetes educator pursuant to this act may use the  
9 title "licensed diabetes educator."

10 Section 4. Sections 6, 8 and 11 of the act are amended by  
11 adding a subsections to read:

12 Section 6. Fees; Qualifications for Licensure.--\* \* \*

13 (b.1) An applicant applying for licensure as a diabetes  
14 educator must pay the fee established by the Board and shall  
15 submit a written application on forms provided by the Board  
16 evidencing and insuring to the satisfaction of the Board that  
17 the applicant is of good moral character and meets one of the  
18 following requirements:

19 (1) Is certified by and in good standing with:

20 (i) the National Certification Board for Diabetes Educators  
21 as a Certified Diabetes Educator; or

22 (ii) the American Association of Diabetes Educators with  
23 Board-Certified Advanced Diabetes Management certification.

24 (2) Has:

25 (i) passed the National Certification Board for Diabetes  
26 Educators' Certification Examination for Diabetes Educators; and

27 (ii) successfully completed two hundred fifty (250) hours  
28 within a two-year time frame in an education program specific to  
29 diabetes self-management as approved by the Board.

30 \* \* \*

Section 8. Persons Entitled to Practice.--\* \* \*

(c) The Board shall issue to each person who meets the licensure requirements of this act a certificate setting forth that such person is licensed as a diabetes educator and entitled to use the title "licensed diabetes educator." A record of all persons licensed as diabetes educators in this Commonwealth shall be kept in the office of the Board and shall be open to public inspection and copying upon payment of a nominal fee for copying the record.

Section 11. Licenses; Duration; Renewal Fee; Inactive Status.--\* \* \*

(d) A diabetes educator license issued under this act shall not be renewed unless the licensee applying for renewal submits proof to the Board that during the two (2) calendar years immediately preceding the application for renewal the licensee has satisfactorily completed a minimum of fifteen (15) hours of continuing diabetes education approved by the Board by regulation.

Section 5. Sections 11.1, 13(b), 14 and 15.4 of the act, amended June 29, 2002 (P.L.651, No.99), are amended to read:

Section 11.1. Reporting of Multiple Licensure.--Any licensed professional nurse [or], dietitian-nutritionist or diabetes educator of this Commonwealth who is also licensed to practice nursing [or], dietetics-nutrition or diabetes education in any other state, territory, possession or country shall report this information to the Board on the biennial registration application. Any disciplinary action taken in other states shall be reported to the Board on the biennial registration application or within ninety (90) days of final disposition, whichever is sooner. Multiple licensure shall be noted by the

1 Board on the licensee's record, and such state, territory,  
2 possession or country shall be notified by the Board of any  
3 disciplinary actions taken against said licensee in this  
4 Commonwealth.

5 Section 13. Punishment for Violations.--\* \* \*

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

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

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

27 (1) The licensee is on repeated occasions negligent or  
28 incompetent in the practice of professional nursing [or],   
29 dietetics-nutrition or diabetes education.

30 (2) The licensee is unable to practice professional nursing

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

19 (2.1) The licensee is unable to practice dietetics-nutrition  
20 with reasonable skill and safety to individuals or groups by  
21 reason of mental or physical illness or condition or  
22 physiological or psychological dependence upon alcohol,  
23 hallucinogenic or narcotic drugs or other drugs which tend to  
24 impair judgment or coordination so long as such dependence shall  
25 continue. In enforcing this clause (2.1), the Board shall upon  
26 probable cause have authority to compel a licensee to submit to  
27 a mental or physical examination as designated by it. After  
28 notice, hearing, adjudication and appeal as provided for in  
29 section 15, failure of a licensee to submit to such examination  
30 when directed shall constitute an admission of the allegations

1 against him or her unless failure is due to circumstances beyond  
2 his or her control, consequent upon which a default and final  
3 order may be entered without the taking of testimony or  
4 presentation of evidence. A licensee affected under this  
5 paragraph shall at reasonable intervals be afforded an  
6 opportunity to demonstrate that he or she can resume a competent  
7 practice of dietetics-nutrition with reasonable skill and safety  
8 to individuals or groups.

9 (2.2) The licensee is unable to practice diabetes education  
10 with reasonable skill and safety to individuals or groups by  
11 reason of mental or physical illness or condition or  
12 physiological or psychological dependence upon alcohol,  
13 hallucinogenic or narcotic drugs or other drugs which tend to  
14 impair judgment or coordination so long as such dependence shall  
15 continue. In enforcing this clause (2.2), the Board shall upon  
16 probable cause have authority to compel a licensee to submit to  
17 a mental or physical examination as designated by it. After  
18 notice, hearing, adjudication and appeal as provided for in  
19 section 15, failure of a licensee to submit to such examination  
20 when directed shall constitute an admission of the allegations  
21 against him or her unless failure is due to circumstances beyond  
22 his or her control, consequent upon which a default and final  
23 order may be entered without the taking of testimony or  
24 presentation of evidence. A licensee affected under this  
25 paragraph shall at reasonable intervals be afforded an  
26 opportunity to demonstrate that he or she can resume a competent  
27 practice of diabetes education with reasonable skill and safety  
28 to individuals or groups.

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

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

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

(ii) the practice of dietetics-nutrition or in securing his or her license as a dietitian-nutritionist[.]; or

(iii) the practice of diabetes education or in securing his or her license as a diabetes educator.

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

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

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

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

(9) The licensee has been guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession. The ethical and quality standards of the profession are those embraced by the professional community in this Commonwealth. In proceedings based on this clause,



1 actual injury to a patient or individual or group need not be  
2 established.

3 (b) When the Board finds that the license of any nurse [or],  
4 dietitian-nutritionist or diabetes educator may be refused,  
5 revoked or suspended under the terms of subsection (a), the  
6 Board may:

7 (1) Deny the application for a license.

8 (2) Administer a public reprimand.

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

11 (4) Require a licensee to submit to the care, counseling or  
12 treatment of a physician or a psychologist designated by the  
13 Board.

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

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

21 Section 15.4. Injunction or Other Process.--It shall be  
22 unlawful for any person to practice or attempt to offer to  
23 practice nursing [or], to hold himself or herself forth as a  
24 licensed dietitian-nutritionist or to hold himself or herself  
25 forth as a licensed diabetes educator, as defined in this act,  
26 without having at the time of so doing a valid, unexpired,  
27 unrevoked and unsuspended license issued under this act. The  
28 unlawful practice of nursing as defined in this act may be  
29 enjoined by the courts on petition of the Board or the  
30 Commissioner of Professional and Occupational Affairs. In any

1 such proceeding, it shall not be necessary to show that any  
2 person is individually injured by the actions complained of. If  
3 it is determined that the respondent has engaged in the unlawful  
4 practice of nursing, the court shall enjoin him or her from so  
5 practicing unless and until he or she has been duly licensed.  
6 Procedure in such cases shall be the same as in any other  
7 injunction suit. The remedy by injunction hereby given is in  
8 addition to any other civil or criminal prosecution and  
9 punishment.

10 Section 6. The State Board of Nursing shall promulgate all  
11 regulations required to implement this act within two years of  
12 the effective date of this act.

13 Section 7. This act shall take effect in 90 days.