
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1919

Session of
1987

INTRODUCED BY MARKOSEK, ITKIN, KUKOVICH, COHEN, COLAFELLA,
DUFFY, ACOSTA, HERMAN, FARMER, CAPPABIANCA, PETRARCA,
JAROLIN, MICOZZIE, STABACK, PRESTON AND CORRIGAN, OCTOBER 28,
1987

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
OCTOBER 28, 1987

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;
4 prescribing penalties; and making an appropriation.

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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Short title.

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

22 Section 2. Declaration of purpose.

23 It is the purpose of this act to provide for the
24 establishment of standards for the practice of dietetics-
25 nutrition in this Commonwealth through the licensure and
26 regulation and control of persons engaged in offering dietetic-
27 nutrition services to the general public to safeguard the public
28 health, safety and welfare, to protect the public from being
29 harmed by unqualified persons, to assure the highest degree of
30 professional care and conduct on the part of dietitians-

1 nutritionists, and to assure the availability of dietetic-
2 nutrition services of the highest quality to persons in need of
3 such services.

4 Section 3. Definitions.

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

8 "Board." The State Board of Dietitian-Nutritionist Licensure
9 created by this act.

10 "Commissioner." The Commissioner of the Bureau of
11 Professional and Occupational Affairs in the Department of
12 State.

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

14 "Dietetics-Nutrition Practice." The application and
15 integration of scientific principles of nutrition to the proper
16 nourishment, care and education of individuals or groups under
17 different health, social, cultural, physical, psychological and
18 economic conditions. The term includes the development,
19 management and provision of nutritional services.

20 "Dietetics-Nutrition Services for Individuals and Groups."

21 The term includes:

22 (1) Assessing and interpreting individual and community
23 food practice and nutritional status using anthropometric,
24 biochemical, clinical, dietary and demographic data for
25 clinical care and program planning purposes as a component of
26 nutrition counseling services.

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

30 (3) Nutrition counseling and education as a part of

preventive, restorative and rehabilitative health care throughout the life cycle.

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

"Dietitian-Nutritionist." A person licensed under this act.

Section 4. License required.

No person shall practice or offer to practice, or represent himself as a dietitian-nutritionist in this Commonwealth, or use any title, abbreviation, sign, card or device to indicate such person is a dietitian-nutritionist unless such person is licensed under this act.

Section 5. Exemptions.

This act shall not be construed as preventing or restricting the following practices, services and activities:

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

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

(3) Any person employed by an agency, bureau or division of the Federal Government, or bound by the regulations of the Federal Government when discharging official duties, provided, however, that if the person engages in the practice of dietetics or nutrition in this Commonwealth outside the scope of such official duty, the person must be licensed as

1 provided in this act.

2 (4) Activities and services of an educator in an
3 elementary or secondary school, or accredited degree granting
4 educational institution insofar as such activities and
5 services are part of a salaried position.

6 (5) A person may offer weight control classes and
7 services without a licensed dietitian-nutritionist on the
8 person's staff if the classes and services have been
9 developed with the assistance of, and have been approved by,
10 the dietitian-nutritionist. The dietitian-nutritionist who
11 has approved the program must be licensed either in this
12 Commonwealth or in some other state within the United States.

13 Section 6. State Board of Dietitian-Nutritionist Licensure.

14 (a) Creation.--There is hereby created a departmental
15 administrative board to be known as a State Board of Dietitian-
16 Nutritionist Licensure, which shall be in the Bureau of
17 Professional and Occupational Affairs of the Department of
18 State. It shall consist of seven members, all of whom shall be
19 residents of this Commonwealth and one of whom shall be a
20 representative of the public interest. The public member may not
21 have financial interest in provision of goods and services to
22 consumers; may not have financial interest in provision of goods
23 and services for dietitian-nutritionist; and may not be a
24 dietitian-nutritionist or have a household member who is a
25 dietitian-nutritionist. One member shall be the Director of the
26 Bureau of Consumer Protection in the Office of the Attorney
27 General. One member shall be an individual exempted from the
28 licensure requirements of this act in accordance with section
29 5(1) through (5). The remaining four members shall be
30 dietitians-nutritionists licensed to practice in this

1 Commonwealth, except that those first appointed shall be
2 qualified to receive licensure under the terms of this act,
3 provided they have had at least five years' working experience
4 in Pennsylvania as dietitians-nutritionists immediately
5 preceding appointment.

6 (b) Appointments by Governor.--The Governor shall appoint
7 the members to serve on the board. The commissioner shall serve
8 as an ex officio member of the board. The Pennsylvania Dietetic
9 Association shall submit a list of names and addresses of
10 qualified dietitians-nutritionists willing to serve on the board
11 for the Governor's consideration.

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

16 (d) Initial appointments.--Within 90 days of the effective
17 date of this act, the Governor shall nominate one dietitian-
18 nutritionist member to serve a four-year term; the public member
19 and one dietitian-nutritionist member to serve three-year terms;
20 one dietitian-nutritionist member to serve a two-year term; and
21 one dietitian-nutritionist member to serve a one-year term.

22 (e) Continuation in office.--Each board member shall
23 continue in office until a successor is duly appointed and
24 qualified but no longer than six months after the expiration of
25 the term. In the event that a board member shall die, resign or
26 otherwise become disqualified during the term of office, a
27 successor shall be appointed in the same way and with the same
28 qualifications as set forth in this section and shall hold
29 office for the unexpired portion of the unexpired term.

30 (f) Reappointment.--A member of the board shall be eligible

1 for reappointment. A member shall not be appointed to serve more
2 than two consecutive terms and shall continue to serve until a
3 successor is appointed and qualified, but in no event more than
4 six months beyond the end of the appointed term.

5 (g) Compensation.--Each member of the board, except the
6 commissioner, shall receive per diem compensation at the rate of
7 \$60 per diem when actually attending to the work of the board.
8 Members shall also receive reasonable traveling, hotel and other
9 necessary expenses incurred in the performance of their duties
10 in accordance with Commonwealth regulations.

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

19 (i) Meetings.--The board shall meet at least twice a year
20 and may hold additional meetings whenever necessary, subject to
21 the approval of the commissioner. The location of the meetings
22 shall be determined by the board, subject to the approval of the
23 commissioner, but shall be within this Commonwealth.

24 (1) A majority of the members of the board serving in
25 accordance with law shall constitute a quorum for purposes of
26 conducting the business of the board. Except for temporary
27 and automatic suspensions under section 11(d) and (e), a
28 member may not be counted as part of a quorum or vote on any
29 issue unless he or she is physically in attendance at the
30 meeting.

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

Section 7. Powers and duties of board.

(a) Powers and duties.--The board shall elect annually from its membership a chairman, a vice chairman and a secretary. It shall be the duty of the board to pass upon the qualifications of applicants for licensure, to insure the conduct of examinations, to issue and renew licenses to dietitians-

nutritionists who qualify under this act, and, in proper cases, to suspend or revoke the license of a dietitian-nutritionist.

The board shall be authorized and empowered to refuse, revoke or suspend a license of a dietitian-nutritionist pursuant to this act, to conduct investigations, including the power to issue subpoenas, and to hold hearings upon charges or information indicating a violation of the provisions of this act, or the regulations promulgated pursuant thereto.

(1) The board shall maintain a record listing the name of every living dietitian-nutritionist licensed to practice in this Commonwealth, the last known place of business, the last known place of residence and the date and number of the license of the licensee.

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

(3) The board shall submit annually to the

1 Appropriations Committees of the House of Representatives and
2 the Senate, 15 days after the Governor has submitted his
3 budget to the General Assembly, a copy of the budget request
4 for the upcoming fiscal year which the board previously
5 submitted to the Department of State.

6 (b) Rules and regulations.--The board shall have the power
7 to promulgate and adopt rules and regulations not inconsistent
8 with this act as it deems necessary for the performance of its
9 duties and the proper administration of this act.

10 Section 8. Requirements for licensure.

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

15 (1) Is of good moral character.

16 (2) Has satisfactorily completed the academic
17 requirements for the profession of dietetics as established
18 in regulation by the board and has received a baccalaureate
19 or higher degree from an accredited college or university
20 approved by the board.

21 (3) Has completed a minimum number of hours of dietetic-
22 nutrition experience satisfactory to the board and in
23 accordance with the board's regulations.

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

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

1 Substance, Drug, Device and Cosmetic Act, unless:

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

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

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

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

16 Section 9. Examination for licensure.

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

29 (b) Time and place.--Applicants for licensure shall be
30 examined at a time and place determined by the board.

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

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

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

14 Section 10. Waiver of certain requirements for licensure.

15 A person who, on the effective date of this act, meets the
16 requirements of section 8, and who, in addition, has been
17 engaged in the practice of dietetics-nutrition for a period of
18 three years during the ten years immediately preceding the
19 effective date of this act, or persons who provide evidence of
20 current registration as a Registered Dietitian-Nutritionist by
21 the Commission of Dietetic Registration of the American Dietetic
22 Association on the effective date of this act, shall be
23 considered to have met the requirements of this act, and shall
24 be licensed without the necessity of taking the examination;
25 provided that an application is made to the board within six
26 months of the effective date of this act and the appropriate fee
27 is paid.

28 Section 11. Reciprocity.

29 A person paying the appropriate fee and filing an application
30 who presents evidence satisfactory to the board of licensure as

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

6 Section 12. Use of title.

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

14 Section 13. Renewal of license; effect of license suspension or
15 revocation.

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

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

1 has satisfactorily completed a minimum of 30 hours of continuing
2 dietetic-nutrition education approved by the board.

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

12 Section 14. Refusal, suspension, revocation or refusal to renew
13 licenses; injunctive relief.

14 (a) Unprofessional conduct.--The board shall refuse to issue
15 a license to a person, and after a notice and hearing in
16 accordance with law, may suspend or revoke a license, or refuse
17 to renew a license, or may impose probationary conditions where
18 the licensee or applicant for license is guilty of
19 unprofessional conduct which has endangered or is likely to
20 endanger the health, welfare or safety of the public.

21 Unprofessional conduct shall include, but not be limited to, the
22 following:

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

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

30 (3) Being convicted of, or pleading guilty of, or nolo

1 contendere to a crime which was found by the board to have a
2 direct bearing on whether the person should be entrusted to
3 serve the public as a dietitian-nutritionist.

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

8 (1) Deny the application for a license.

9 (2) Administer a public reprimand.

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

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

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

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

20 (c) Hearing.--All actions of the board shall be taken
21 subject to the right of notice, hearing and adjudication and the
22 right of appeal therefrom in accordance with Title 2 of the
23 Pennsylvania Consolidated Statutes (relating to administrative
24 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 or
30 her last known address, which shall include a written statement

1 of 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 15. 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 or she desires to
7 practice as a dietitian-nutritionist pursuant to this act at any
8 time after such revocation.

9 Section 16. 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 such 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 17. 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 such manner as the board directs. Failure to
25 do so shall be a misdemeanor of the third degree.

26 Section 18. Impaired professional.

27 (a) Appointment of professional consultant.--The board, with
28 the approval of the commissioner, shall appoint and fix the
29 compensation of a professional consultant who is a licensee of
30 the board, or such other professional consultant as the board

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

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

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

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

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

27 (e) Immunity.--An approved program provider who makes a
28 disclosure pursuant to this section shall not be subject to
29 civil liability for the disclosure or its consequences.

30 (f) Reports by others.--Any hospital or health care

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

19 Section 19. Penalties.

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

24 (b) Civil penalty.--In addition to any other civil remedy or
25 criminal penalty provided for in this act, the board, by a vote
26 of the majority of the maximum number of the authorized
27 membership of the board as provided by law, or by a vote of the
28 majority of the duly qualified and confirmed membership or a
29 minimum of three members, whichever is greater, may levy a civil
30 penalty of not more than \$1,000 on any current licensee who

1 violates any provision of this act or on any person who holds
2 himself out as a licensed dietitian-nutritionist without being
3 so licensed pursuant to this act. The board shall levy this
4 penalty only after affording the accused party the opportunity
5 for a hearing, as provided in Title 2 of the Pennsylvania
6 Consolidated Statutes (relating to administrative law and
7 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. Records.--A record of all
11 persons licensed to practice as board and shall be open to
12 public inspection and copying upon payment of a nominal fee for
13 copying the record.

14 Section 20. Records.

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

19 Section 21. Fees.

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

28 (b) Bureau of Professional and Occupational Affairs.--If the
29 Bureau of Professional and Occupational Affairs determines that
30 the fees established by the board pursuant to paragraph (c)(1)

1 are inadequate to meet the minimum enforcement efforts required
2 by this act, then the bureau, after consultation with the board
3 and subject to the Regulatory Review Act, shall increase the
4 fees by regulation in an amount so that adequate revenues are
5 raised to meet the required enforcement effort.

6 Section 22. Subpoenas.

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

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

27 Section 23. Unlawful practice.

28 (a) Injunction.--Unlawful practice may be enjoined by the
29 courts upon petition of the commissioner or the board. In any
30 proceeding under this section, it shall not be necessary to show

1 that any person is individually injured by the actions
2 complained of. If the court finds that the respondent has
3 violated this section, it shall enjoin him or her from so
4 practicing until he or she has been duly licensed. Procedure in
5 such cases shall be the same as in any other injunction suit.

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

9 Section 24. Appropriation.

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

18 Section 25. Severability.

19 The provisions of this act are severable. If any provision of
20 this act or its application to any person or circumstance is
21 held invalid, the invalidity shall not affect other provisions
22 or applications of this act which can be given effect without
23 the invalid provision or application.

24 Section 26. Effective date.

25 This act shall take effect in 90 days.