
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1617 Session of
2017

INTRODUCED BY TALLMAN, OBERLANDER, WARD, O'BRIEN, MURT,
D. COSTA, LONGIETTI AND DEASY, JUNE 23, 2017

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 23, 2017

AN ACT

1 Amending the act of May 22, 1951 (P.L.317, No.69), entitled "An
2 act relating to the practice of professional nursing;
3 providing for the licensing of nurses and for the revocation
4 and suspension of such licenses, subject to appeal, and for
5 their reinstatement; providing for the renewal of such
6 licenses; regulating nursing in general; prescribing
7 penalties and repealing certain laws," regulating the
8 practice of diabetes self-management education and training
9 and the licensure of diabetes educators; and further
10 providing for penalties.

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

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

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

19 * * *

20 (16) "Diabetes self-management education and training" means
21 a comprehensive collaborative process by which individuals with
22 or at risk for diabetes gain the knowledge and skills needed to

1 modify behavior and successfully self-manage the disease and the
2 related conditions of the disease.

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

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

12 Section 2. Sections 2.1(f) and (k) and 2.2 of the act are
13 amended to read:

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

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

19 * * *

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

26 * * *

27 Section 2.2. Communication with Licensees.--The Board shall
28 communicate with licensees on issues affecting the education,
29 practice and regulation of nursing [or], dietetics-nutrition and
30 diabetes self-management education and training on at least an

1 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 Use of Title.--(a) It shall be unlawful for any individual to

5 hold himself or herself forth as a licensed diabetes educator

6 unless the individual shall first have obtained a license

7 pursuant to this act. Only an individual who has received a

8 license as a licensed diabetes educator pursuant to this act may

9 use the title "licensed diabetes educator."

10 (b) Nothing in this act relating to the licensure of

11 diabetes educators shall be construed to limit, restrict or

12 interfere with a health care practitioner practicing or acting

13 within the scope of the health care practitioner's license,

14 registration or certificate, or as otherwise authorized by law,

15 including using the title authorized by the practitioner's

16 licensing act.

17 Section 4. Sections 6, 8 and 11 of the act are amended by

18 adding subsections to read:

19 Section 6. Fees; Qualifications for Licensure.--* * *

20 (b.1) An applicant applying for licensure as a diabetes

21 educator must pay the fee established by the Board and shall

22 submit a written application on forms provided by the Board

23 evidencing and ensuring to the satisfaction of the Board that

24 the applicant is of good moral character and meets one of the

25 following requirements:

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

27 (i) the National Certification Board for Diabetes Educators

28 as a Certified Diabetes Educator; or

29 (ii) the American Association of Diabetes Educators with

30 Board-Certified Advanced Diabetes Management certification.

1 (2) Meets the National Certification Board for Diabetes
2 Educators' eligibility requirements, which shall include:

3 (i) Is one of the following:

4 (A) A registered nurse.

5 (B) A physician.

6 (C) A physician assistant holding active registration with
7 the National Commission on Certification of Physician
8 Assistants.

9 (D) A physical therapist.

10 (E) An occupational therapist.

11 (F) A pharmacist.

12 (G) A clinical psychologist.

13 (H) An optometrist.

14 (I) A podiatrist.

15 (J) A dietician or dietician-nutritionist holding active
16 registration with the Commission on Dietetic Registration.

17 (K) A clinical exercise professional holding active
18 certification with the American College of Sports Medicine
19 (ACSM) as a Certified Clinical Exercise Physiologist or a
20 clinical exercise professional holding active certification with
21 the ACSM as a Registered Clinical Exercise Physiologist.

22 (L) A health educator holding active certification as a
23 Master Certified Health Education Specialist with the National
24 Commission for Health Education Credentialing.

25 (M) A health professional with a master's degree or higher
26 in social work from a college or university in the United States
27 that is accredited by a nationally recognized regional
28 accrediting body.

29 (ii) Has a minimum of fifteen (15) hours of continuing
30 education activities applicable to diabetes within the two (2)

1 years prior to applying for licensure;

2 (iii) has passed the National Certification Board for
3 Diabetes Educators' Certification Examination for Diabetes
4 Educators.

5 (iv) has successfully completed two hundred fifty (250)
6 hours within a two-year time frame in an education program
7 specific to diabetes self-management as approved by the Board.

8 * * *

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

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

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

20 (d) A diabetes educator license issued under this act shall
21 not be renewed unless the licensee applying for renewal submits
22 proof to the Board that during the two (2) calendar years
23 immediately preceding the application for renewal the licensee
24 has satisfactorily completed a minimum of thirty (30) hours of
25 continuing diabetes education approved by the Board by
26 regulation.

27 Section 5. Sections 11.1, 11.2(a), 13(b), 14 and 15.4 of the
28 act are amended to read:

29 Section 11.1. Reporting of Multiple Licensure.--Any licensed
30 professional nurse [or], dietitian-nutritionist or diabetes

1 educator of this Commonwealth who is also licensed to practice
2 nursing [or], dietetics-nutrition or diabetes self-management
3 education and training in any other state, territory, possession
4 or country shall report this information to the Board on the
5 biennial registration application. Any disciplinary action taken
6 in other states shall be reported to the Board on the biennial
7 registration application or within ninety (90) days of final
8 disposition, whichever is sooner. Multiple licensure shall be
9 noted by the Board on the licensee's record, and such state,
10 territory, possession or country shall be notified by the Board
11 of any disciplinary actions taken against said licensee in this
12 Commonwealth.

13 Section 11.2. Setting of Fees and Disposition of Fees, Fines
14 and Civil Penalties.--(a) All fees required under this act
15 shall be fixed by the Board by regulation and shall be subject
16 to the act of June 25, 1982 (P.L.633, No.181), known as the
17 "Regulatory Review Act." If the revenues raised by the fees,
18 fines and civil penalties imposed under this act are not
19 sufficient to meet expenditures over a two-year period, the
20 Board shall increase those fees by regulation so that projected
21 revenues will meet or exceed projected expenditures. The fees
22 for licensed diabetes educators shall not exceed the initial
23 registration fees set for nurses.

24 * * *

25 Section 13. Punishment for Violations.--* * *

26 (b) In addition to any other civil remedy or criminal
27 penalty provided for in this act, the Board, by a vote of the
28 majority of the maximum number of the authorized membership of
29 the Board as provided by law or by a vote of the majority of the
30 duly qualified and confirmed membership or a minimum of five (5)

1 members, whichever is greater, may levy a civil penalty of up to
2 one thousand dollars (\$1,000) on any current licensee who
3 violates any provision of this act or on any person who
4 practices nursing [or], holds himself or herself forth as a
5 licensed dietitian-nutritionist or holds himself or herself
6 forth as a licensed diabetes educator without being properly
7 licensed to do so under this act or on the responsible officers
8 or employes of any corporation, copartnership, institution or
9 association violating any of the provisions of this act. The
10 Board shall levy this penalty only after affording the accused
11 party the opportunity for a hearing, as provided in Title 2 of
12 the Pennsylvania Consolidated Statutes (relating to
13 administrative law and procedure).

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

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

17 (1) The licensee is on repeated occasions negligent or
18 incompetent in the practice of professional nursing [or],
19 dietetics-nutrition or diabetes self-management education and
20 training.

21 (2) The licensee is unable to practice professional nursing
22 with reasonable skill and safety to patients by reason of mental
23 or physical illness or condition or physiological or
24 psychological dependence upon alcohol, hallucinogenic or
25 narcotic drugs or other drugs which tend to impair judgment or
26 coordination, so long as such dependence shall continue. In
27 enforcing this clause (2), the Board shall, upon probable cause,
28 have authority to compel a licensee to submit to a mental or
29 physical examination as designated by it. After notice, hearing,
30 adjudication and appeal as provided for in section 15, failure

1 of a licensee to submit to such examination when directed shall
2 constitute an admission of the allegations against him or her
3 unless failure is due to circumstances beyond his or her
4 control, consequent upon which a default and final order may be
5 entered without the taking of testimony or presentation of
6 evidence. A licensee affected under this paragraph shall at
7 reasonable intervals be afforded an opportunity to demonstrate
8 that he or she can resume a competent practice of professional
9 nursing with reasonable skill and safety to patients.

10 (2.1) The licensee is unable to practice dietetics-nutrition
11 with reasonable skill and safety to individuals or groups by
12 reason of mental or physical illness or condition or
13 physiological or psychological dependence upon alcohol,
14 hallucinogenic or narcotic drugs or other drugs which tend to
15 impair judgment or coordination so long as such dependence shall
16 continue. In enforcing this clause (2.1), the Board shall upon
17 probable cause have authority to compel a licensee to submit to
18 a mental or physical examination as designated by it. After
19 notice, hearing, adjudication and appeal as provided for in
20 section 15, failure of a licensee to submit to such examination
21 when directed shall constitute an admission of the allegations
22 against him or her unless failure is due to circumstances beyond
23 his or her control, consequent upon which a default and final
24 order may be entered without the taking of testimony or
25 presentation of evidence. A licensee affected under this
26 paragraph shall at reasonable intervals be afforded an
27 opportunity to demonstrate that he or she can resume a competent
28 practice of dietetics-nutrition with reasonable skill and safety
29 to individuals or groups.

30 (2.2) The licensee is unable to practice diabetes self-

1 management education and training with reasonable skill and
2 safety to individuals or groups by reason of mental or physical
3 illness or condition or physiological or psychological
4 dependence upon alcohol, hallucinogenic or narcotic drugs or
5 other drugs which tend to impair judgment or coordination so
6 long as such dependence shall continue. In enforcing this clause
7 (2.2), the Board shall upon probable cause have authority to
8 compel a licensee to submit to a mental or physical examination
9 as designated by it. After notice, hearing, adjudication and
10 appeal as provided for in section 15, failure of a licensee to
11 submit to such examination when directed shall constitute an
12 admission of the allegations against him or her unless failure
13 is due to circumstances beyond his or her control, consequent
14 upon which a default and final order may be entered without the
15 taking of testimony or presentation of evidence. A licensee
16 affected under this paragraph shall at reasonable intervals be
17 afforded an opportunity to demonstrate that he or she can resume
18 a competent practice of diabetes self-management education and
19 training with reasonable skill and safety to individuals or
20 groups.

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

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

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

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

28 (iii) the practice of diabetes self-management education and
29 training or in securing his or her license as a diabetes
30 educator.

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

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

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

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

18 (9) The licensee has been guilty of immoral or
19 unprofessional conduct. Unprofessional conduct shall include
20 departure from or failing to conform to an ethical or quality
21 standard of the profession. The ethical and quality standards of
22 the profession are those embraced by the professional community
23 in this Commonwealth. In proceedings based on this clause,
24 actual injury to a patient or individual or group need not be
25 established.

26 (b) When the Board finds that the license of any nurse [or],
27 dietitian-nutritionist or diabetes educator may be refused,
28 revoked or suspended under the terms of subsection (a), the
29 Board may:

30 (1) Deny the application for a license.

1 (2) Administer a public reprimand.

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

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

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

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

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

1 addition to any other civil or criminal prosecution and
2 punishment.

3 Section 6. 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 7. This act shall take effect in 90 days.