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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 513 Session of  
2019

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INTRODUCED BY TOEPEL, OBERLANDER, BARRAR, DALEY, HILL-EVANS,  
McCLINTON, McNEILL, OTTEN, REESE AND TOOHL,  
FEBRUARY 19, 2019

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
FEBRUARY 19, 2019

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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 lactation consultation and licensure of lactation  
9 consultants; 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 paragraphs 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) "Lactation care and services" means the clinical  
20 application of scientific principles and a multidisciplinary

1 body of evidence for the evaluation, problem identification,  
2 treatment, education and consultation for the provision of  
3 lactation care and services to families, including:

4 (i) Clinical lactation assessment through the systematic  
5 collection of subjective and objective data.

6 (ii) Analysis of data and creation of a plan of care.

7 (iii) Implementation of a lactation care plan with  
8 demonstration and instruction to parents and communication to  
9 primary health care providers.

10 (iv) Evaluation of outcomes.

11 (v) Provision of lactation education to parents and health  
12 care providers.

13 (vi) Recommendation and use of assistive devices.

14 (17) "Licensed lactation consultant" means a lactation  
15 consultant who holds a current license under this act.

16 (18) "Practice of lactation consultation" means a course of  
17 business in which lactation care and services are rendered or  
18 offered to an individual, family or group of two or more  
19 individuals.

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

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

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

27 \* \* \*

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, the practice of lactation

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

4 \* \* \*

5 Section 2.2. Communication with Licensees.--The Board shall  
6 communicate with licensees on issues affecting the education,  
7 practice and regulation of nursing [or], dietetics-nutrition and  
8 lactation care and services on at least an annual basis.

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

10 Section 3.2. Licensed Lactation Consultant; License  
11 Required; and Use of Title.--It shall be unlawful for an  
12 individual to hold himself or herself forth as a licensed  
13 lactation consultant unless he or she shall first have obtained  
14 a license under this act. Only an individual who has received a  
15 license as a licensed lactation consultant under this act may  
16 use the title "licensed lactation consultant."

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 lactation  
21 consultant must pay the fee established by the Board and shall  
22 submit a written application on forms provided by the Board  
23 evidencing and insuring to the satisfaction of the Board that  
24 the applicant is of good moral character and holds current  
25 certification from the International Board of Lactation  
26 Consultant Examiners after demonstrating the appropriate  
27 education, knowledge and experience necessary for independent  
28 clinical practice.

29 \* \* \*

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

1 (c) The Board shall issue to each person who meets the  
2 licensure requirements of this act a certificate setting forth  
3 that the person is licensed as a lactation consultant and  
4 entitled to use the title "licensed lactation consultant." A  
5 record of all persons licensed as lactation consultants in this  
6 Commonwealth shall be kept in the office of the Board and shall  
7 be open to public inspection and copying upon payment of a  
8 nominal fee for copying the record.

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

11 (d) A lactation consultant license issued under this act  
12 shall not be renewed unless the licensee applying for renewal  
13 submits proof to the Board that, during the two (2) calendar  
14 years immediately preceding the application for renewal, the  
15 licensee has satisfactorily completed a minimum of fifteen (15)  
16 hours of continuing education in lactation care and services  
17 approved by the Board by regulation.

18 Section 5. Sections 11.1, 13(b), 14 and 15.4 of the act are  
19 amended to read:

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

1 possession or country shall be notified by the Board of any  
2 disciplinary actions taken against said licensee in this  
3 Commonwealth.

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

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

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

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

25 (1) The licensee is on repeated occasions negligent or  
26 incompetent in the practice of professional nursing [or],  
27 dietetics-nutrition or lactation consultation.

28 (2) The licensee is unable to practice professional nursing  
29 with reasonable skill and safety to patients by reason of mental  
30 or physical illness or condition or physiological or

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

18 (2.1) The licensee is unable to practice dietetics-nutrition  
19 with reasonable skill and safety to individuals or groups by  
20 reason of mental or physical illness or condition or  
21 physiological or psychological dependence upon alcohol,  
22 hallucinogenic or narcotic drugs or other drugs which tend to  
23 impair judgment or coordination so long as such dependence shall  
24 continue. In enforcing this [clause (2.1)] paragraph, the Board  
25 shall upon probable cause have authority to compel a licensee to  
26 submit to a mental or physical examination as designated by it.  
27 After notice, hearing, adjudication and appeal as provided for  
28 in section 15, failure of a licensee to submit to such  
29 examination when directed shall constitute an admission of the  
30 allegations against him or her unless failure is due to

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

8 (2.2) The licensee is unable to practice lactation  
9 consultation with reasonable skill and safety to individuals or  
10 groups by reason of mental or physical illness or condition or  
11 physiological or psychological dependence upon alcohol,  
12 hallucinogenic or narcotic drugs or other drugs which tend to  
13 impair judgment or coordination for the time the dependence  
14 continues. In enforcing this paragraph, the Board shall upon  
15 probable cause have authority to compel a licensee to submit to  
16 a mental or physical examination as designated by it. After  
17 notice, hearing, adjudication and appeal as provided for in  
18 section 15, failure of a licensee to submit to an examination  
19 when directed shall constitute an admission of the allegations  
20 against him or her unless failure is due to circumstances beyond  
21 his or her control, consequent on which a default and final  
22 order may be entered without the taking of testimony or  
23 presentation of evidence. A licensee affected under this  
24 paragraph shall at reasonable intervals be afforded an  
25 opportunity to demonstrate that he or she can resume a competent  
26 practice of lactation consultation with reasonable skill and  
27 safety to individuals or groups.

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

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

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

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

5 (iii) the practice of lactation consultation or in securing  
6 his or her license as a lactation consultant.

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

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

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

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

24 (9) The licensee has been guilty of immoral or  
25 unprofessional conduct. Unprofessional conduct shall include  
26 departure from or failing to conform to an ethical or quality  
27 standard of the profession. The ethical and quality standards of  
28 the profession are those embraced by the professional community  
29 in this Commonwealth. In proceedings based on this [clause]  
30 paragraph, actual injury to a patient or individual or group



1 need not be established.

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

6 (1) Deny the application for a license.

7 (2) Administer a public reprimand.

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

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

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

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

20 Section 15.4. Injunction or Other Process.--It shall be  
21 unlawful for any person to practice or attempt to offer to  
22 practice nursing or hold himself or herself forth as a licensed  
23 dietitian-nutritionist or licensed lactation consultant, as  
24 defined in this act, without having at the time of so doing a  
25 valid, unexpired, unrevoked and unsuspended license issued under  
26 this act. The unlawful practice of nursing as defined in this  
27 act may be enjoined by the courts on petition of the Board or  
28 the Commissioner of Professional and Occupational Affairs. In  
29 any such proceeding, it shall not be necessary to show that any  
30 person is individually injured by the actions complained of. If

1 it is determined that the respondent has engaged in the unlawful  
2 practice of nursing, the court shall enjoin him or her from so  
3 practicing unless and until he or she has been duly licensed.  
4 Procedure in such cases shall be the same as in any other  
5 injunction suit. The remedy by injunction hereby given is in  
6 addition to any other civil or criminal prosecution and  
7 punishment.

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

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