

TITLE XXX

OCCUPATIONS AND PROFESSIONS

CHAPTER 326-H

LICENSED DIETITIANS

326-H:1 Short Title. – This chapter may be cited as the "Dietitians Licensure Act."

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:2 Purpose. – The general court recognizes that dietitians play an important role in treating illness, injury, and other medical conditions; and in improving the quality of life of seriously ill patients; all of which can result in cost savings to the health care system. The general court finds and declares that the practices of dietitians in the state of New Hampshire affect public health, safety, and welfare; these practices make important and distinct contributions to patient care, and it is in the public's best interest to have qualified individuals who practice in this profession. In doing so, the general court recognizes that there are many aspects of nutrition and it is not the purpose of this act to restrict the ability of any person to provide advice, counseling, or assessments in matters of food, diet, or nutrition and to receive compensation for such services, thereby assuring that all persons can obtain nutrition and dietary information, dietary counseling, and information regarding food, food products, dietary supplements, and their proper use, from any source of that person's choosing. The purpose of this act, therefore, is to establish regulations and standards of qualification, training, and experience for individuals who are practicing dietitians.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:3 Definitions. – In this chapter:

- I. "Board" means the board of licensed dietitians.
- II. "Commission on Dietetic Registration" means the national autonomous credentialing body.
- III. "Dietitian" means a person who is a food and nutrition professional who meets the minimum academic and professional requirements that have enabled that individual to be credentialed by the Commission on Dietetic Registration as a registered dietitian.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:4 Exceptions. –

- I. This chapter shall not apply to a dietitian who is:
 - (a) Serving in the armed forces of the United States;
 - (b) Engaged in a state or federally funded public health program;
 - (c) Employed by the Veterans Administration, provided such dietetic activities are related to such service or employment; or
 - (d) Licensed, certified, or registered under other laws of this state who is performing services within his or her authorized scope of practice.
- II. Nothing in this chapter shall be construed to restrict, prevent, or otherwise interfere with a person who does not hold himself or herself out as a licensed dietitian from providing advice,

counseling or assessments in matters of food, diet or nutrition; or from marketing or distributing food products, including dietary supplements as defined by the federal Dietary Supplement Health and Education Act; or from providing explanations to or communicating with customers with regard to the uses of such products.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:5 License Required; License Title. –

I. No person shall practice or represent himself or herself as a dietitian in this state without first applying for and receiving a license from the board to practice as a licensed dietitian.

II. Licensees shall use the title "licensed dietitian" and the recognized abbreviation "LD".

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:6 Scope of Practice. – Licensed dietitians shall be authorized to practice applications from food, nutrition, biochemistry, physiology, management, behavioral, and social sciences used in the treatment of illness, injury and other medical conditions, and the maintenance of human health.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:7 Board of Licensed Dietitians; Removal; Expenses. –

I. There is established a board of licensed dietitians, consisting of 5 members. Initial appointments shall be made pursuant to RSA 326-H:8. Thereafter, the board shall be appointed by the governor with consent of the executive council and shall consist of 4 licensed dietitians and one public member.

II. Members of the board shall serve 3-year terms, shall hold office until successors are appointed and qualified, and shall serve no more than 2 consecutive terms.

III. The board may remove a member for malfeasance, misfeasance, or nonfeasance.

IV. Each member of the board shall be reimbursed for in-state actual and necessary travel expenses incurred in the discharge of official duties at the state employee mileage rate.

V. All members of the board shall have been residents of this state for at least 3 years immediately preceding appointment to the board. The public member shall not be, nor ever have been, a member of the dietitian profession nor have or have had a material, financial interest in either the provision of dietitian services or an activity directly related to the dietitian profession, including the representation of the board or profession for a fee at any time during the 5 years preceding appointment.

VI. The commissioner of the department of health and human services shall provide administrative services to the board. All administrative services shall be a cost to the board and shall be reimbursed by fees collected by the board through rules adopted under RSA 326-H:10.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:8 Initial Appointments; Meeting; Election of Initial Chairperson. –

I. The initial appointments to the board shall be made by the governor with the consent of the executive council and shall serve initial terms as follows: 2 practicing dietitians who shall serve a term of one year; and 2 practicing dietitians and one public member who shall serve a term of 2 years.

II. The initial board members shall be appointed within 6 months of January 1, 2001. The initial chairperson shall be elected from among the board members no later than the second meeting of the board.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:9 Duties of the Board. – The board shall:

- I. Conduct meetings as required.
- II. Select a chairperson and officers from the members of the board.
- III. Maintain a true record of the board's official acts which shall be public and open to inspection at all reasonable times, except for records compiled in connection with disciplinary proceedings.
- IV. Adopt a code of ethics for the practices of licensed dietitians in this state.
- V. Establish appropriate disciplinary actions including penalties, sanctions, supplemental training requirements and treatment and counseling requirements for licensees involved in violations of the code of ethics, which may include revocation of license, suspension of license, fines, community service, oral or written reprimand, additional education or training, and supervised training and counseling, including substance abuse treatment and counseling.

Source. 2000, 168:1, eff. Jan. 1, 2001. 2004, 165:1, eff. July 23, 2004.

326-H:10 Rulemaking. –

- I. The board shall adopt rules, pursuant to RSA 541-A, relative to:
 - (a) The application procedures for licensure or temporary licensure to practice as a licensed dietitian in this state.
 - (b) The renewal, suspension, revocation, and reinstatement of licenses.
 - (c) The establishment of fees for licenses, renewals, and reinstatement of licenses.
 - (d) Educational qualifications for licensure.
 - (e) The conditions and fees for licensing out-of-state dietitians.
 - (f) Continuing education requirements.
 - (g) Procedures for investigations and hearings held under this chapter.
 - (h) Procedures for appealing hearing board decisions.
 - (i) Disciplinary actions including penalties, sanctions, supplemental training requirements, and treatment and counseling requirements for licensees involved in violations of the code of ethics, which may include revocation of license, suspension of license, fines, community service, oral or written reprimand, additional education or training, and supervised training and counseling, including substance abuse treatment and counseling.
- II. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

Source. 2000, 168:1, eff. Jan. 1, 2001. 2004, 165:2, 3, eff. July 23, 2004.

326-H:11 Immunity from Civil Action. – No civil action shall be maintained against the board or any member of the board or its agents or employees, against any organization or its members, or against any other person for or by reason of any statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:12 Requirements for Licensure. – To be eligible to be a licensed dietitian under this chapter, an applicant shall be a person of good character and shall:

- I. Hold a baccalaureate or higher degree from a college or university approved by the board with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, public health nutrition, or food systems management;
- II. Have successfully completed a dietetic internship of no less than 900 hours, pre-

professional practice program, or coordinated program with documented experience in the practice of dietetics under supervision of a registered, certified, or licensed dietitian;

III. Have successfully passed the examination administered by the Commission on Dietetic Registration; and

IV. Maintain continuing professional education requirements as determined by the board.

Source. 2000, 168:1. 2002, 163:2, eff. May 15, 2002. 2004, 165:5, eff. July 23, 2004.

326-H:12-a Exception of Requirements for Licensure. – An applicant for licensure as a dietitian under this chapter who was registered as a dietitian with the Commission on Dietetic Registration on or before December 31, 2000, shall be deemed to have met the requirements for licensure under RSA 326-H:12, I, II, and III.

Source. 2002, 163:1, eff. May 15, 2002.

326-H:13 Reciprocity. – The board may, in its discretion, grant a license under this chapter to an individual certified or licensed in another state if it determines that the requirements or standards for certification or licensure in that state are equivalent to, or greater than, those established by this chapter.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:14 Issuance, Expiration, and Renewal of License. –

I. The board shall license as a dietitian each applicant who proves to the satisfaction of the board his or her qualifications under this chapter and under rules adopted by the board under RSA 326-H:10. The board shall issue to each person qualified a license, which shall be prima facie evidence of the right of the person to whom it is issued to represent himself or herself as a licensed dietitian subject to the conditions and limitations of this chapter.

II. All licenses issued by the board shall be valid for 2 years from the date of issuance and shall be renewed biennially or reissued pursuant to rules adopted and upon payment of fees established by the board. The board shall cause notification of impending license expiration to be sent to each licensed person at least 60 days prior to the expiration of the license. Licenses shall continue as valid until final action is exercised by the board on an application for renewal, provided that the application is filed before the expiration date of the license.

III. Any person licensed under this chapter who seeks to renew his or her license shall provide to the board satisfactory documentation of the required continuing professional education.

IV. Any person who fails to renew a license issued under this chapter may be issued a license only upon reapplication for licensure.

Source. 2000, 168:1, eff. Jan. 1, 2001. 2004, 165:5, eff. July 23, 2004.

326-H:15 Continuing Professional Education. – It shall be deemed sufficient for the renewal of a license issued under this chapter for an applicant for renewal to have completed 20 hours of continuing professional education related to the relevant practice in the previous 24 months. Continuing education programs shall be approved by the board.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:16 Suspension and Revocation of License. – The board, after providing an opportunity for a hearing, may take appropriate disciplinary action as follows:

I. Suspend or revoke the license if the person has obtained the license by fraudulent or

deceitful means.

II. Suspend or revoke the license if the person has been convicted of a class A felony or found guilty of malpractice or gross misconduct in practice as a dietitian.

III. Suspend or revoke if by reason of negligent habits, neglect, willful action, or other causes engaged in actions inconsistent with the health of the person or persons under the care of the licensee.

IV. Take appropriate disciplinary action such as suspension, revocation, penalties, sanctions, additional training or other requirements for all other violations of this chapter, and the rules and code of ethics adopted by the board.

Source. 2000, 168:1, eff. Jan. 1, 2001. 2004, 165:6, eff. July 23, 2004.

326-H:17 Hearings. –

I. The board shall take no disciplinary action without providing an opportunity for a hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints received by the board within 3 months of the date notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

II. The board may administer oaths or affirmations, preserve testimony, and issue subpoenas, upon the approval of the attorney general, for witnesses and for documents relative to formal investigations or adjudicatory hearings.

III. Witnesses summoned before the board shall be paid the same fees as witnesses summoned to appear before the superior court, and such summons issued by any justice of the peace shall have the same effect as though issued for appearance before such court.

IV. All notice and hearing procedures shall comply with RSA 541-A.

Source. 2000, 168:1, eff. Jan. 1, 2001. 2004, 165:7, eff. July 23, 2004.

326-H:18 Reinstatement. – Any person whose license has been suspended or revoked by the board may apply to the board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a new license or modify the suspension or revocation of the license.

Source. 2000, 168:1, eff. Jan. 1, 2001.

326-H:19 Offenses. – It shall be a class B misdemeanor for any person to:

I. Sell, fraudulently obtain, or furnish any license established under this chapter or aid and abet such conduct.

II. Practice as a licensed dietitian under the guise of any diploma, permit, certificate, license, or record illegally or fraudulently obtained or issued.

III. Impersonate in any manner a licensed dietitian by use of any title that contains the word "dietitian", use of the abbreviation "LD", or use any words, signs, symbols, or devices which represent a person licensed under this chapter.

IV. Fail to notify the board of the suspension, probation, or revocation of any past or present license, certification, or registration required to practice as a dietitian in this or any other jurisdiction.

V. Make false representations or impersonate or act as proxy for another person or allow or aid any person to impersonate him or her in connection with any examination or application for

licensure or request to be licensed.

VI. Violate any other provision of this chapter.

Source. 2000, 168:1, eff. Jan. 1, 2001.