

ENROLLED ACT NO. 74, SENATE

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to professions and occupations; creating the dietetics licensing board; specifying membership; specifying board duties, powers and immunity; providing for licensure of dietitians; specifying requirements for licensure; providing exceptions; granting rulemaking authority; providing definitions; specifying grounds for denial, suspension, revocation or restriction of license; providing for hearings and appeals; providing for injunctive relief; providing an appropriation; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 33-47-101 through 33-47-110 are created to read:

CHAPTER 47
DIETETICS LICENSURE ACT

33-47-101. Short title.

This act shall be known and may be cited as the "Dietetics Licensure Act."

33-47-102. Definitions.

(a) As used in this article:

(i) "Board" means the dietetics licensing board;

(ii) "Commission" means the commission on dietetic registration, the credentialing agency for the American dietetic association;

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(iii) "Dietetics" means the integration and application of principles derived from the sciences of food, nutrition, management, communication, and biological, physiological, behavioral, and social sciences to achieve and maintain optimal human health. "Dietetics" includes the nutrition care process and medical nutrition therapy. "Dietetics" does not include medical differential diagnosis of the health status of an individual;

(iv) "General nonmedical nutrition information" means information on any one (1) or more of the following:

(A) Principles of good nutrition and food preparation;

(B) Food to be included in the normal daily diet;

(C) The essential nutrients needed by the body;

(D) Recommended amounts of the essential nutrients, based on established standards;

(E) The actions of nutrients on the body;

(F) The effects of deficiencies or excesses of nutrients;

(G) Food and supplements that are good sources of essential nutrients.

(v) "Medical nutrition therapy" means the use of specific nutrition services for the purpose of disease management to treat or rehabilitate an illness, injury or condition and includes:

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(A) Interpreting dietary data and recommending nutrient needs relative to medically prescribed diets, including but not limited to tube feedings, specialized intravenous solutions and specialized oral feedings;

(B) Food and prescription drug interactions; and

(C) Developing and managing food service operations whose chief function is nutrition care and provision of medically prescribed diets.

(vi) "Medically prescribed diet" means a diet prescribed when specific food or nutrient levels need to be monitored, altered, or both, as a component of a treatment program from an individual whose health status is impaired or at risk due to disease, injury or surgery and may only be performed as initiated by or in consultation with a physician licensed in this state or an individual authorized by a state license to prescribe medical care;

(vii) "Nutrition assessment" means the systematic process of obtaining, verifying and interpreting biochemical, anthropometric, physical and dietary data in order to make decisions about the nature and cause of nutrition related problems. It is an ongoing, dynamic process that involves not only initial data collection but also reassessment and analysis of client or community needs and provides the foundation for nutrition diagnosis and nutritional recommendations including enteral and parenteral nutrition;

(viii) "Nutrition care process" means the systematic problem solving method that dietitians use to

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critically think and make decisions when providing medical nutrition therapy or to address nutrition related problems and provide safe, effective, high quality care. The nutrition care process consists of four (4) distinct but interrelated steps including nutrition assessment, nutrition diagnosis, nutrition intervention and nutrition monitoring and evaluation;

(ix) "Nutrition diagnosis" means identifying and labeling nutritional problems that a dietetics practitioner is responsible for treating independently;

(x) "Nutrition intervention" means purposefully planned actions intended to positively change a nutrition related behavior, risk factor, environmental condition or aspect of health status for an individual, the individual's family, caregivers, target groups or the community at large;

(xi) "Nutrition monitoring and evaluation" means identifying patient or client outcomes relevant to the nutrition diagnosis and intervention plans and goals, and comparing those outcomes with previous status, intervention goals or a reference standard to determine the progress made in achieving desired outcomes of nutrition care. The purpose of nutrition monitoring and evaluation is to determine whether planned interventions should be continued or revised;

(xii) "Registered dietitian" means an individual registered with the commission or its successor organization;

(xiii) "This act" means W.S. 33-47-101 through 33-47-110.

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33-47-103. Exemptions; persons and practices not affected.

(a) The following shall not be considered to be practicing dietetics under this act:

(i) A qualified member of a legally recognized profession who is otherwise licensed or certified by this state, while performing services consistent with the license or certification, provided the member does not purport to be practicing dietetics and does not claim to be a dietitian;

(ii) A student enrolled in an accredited program in dietetics while engaged as part of the program in the practice of dietetics under the supervision of a licensed dietitian;

(iii) A dietitian who is serving in the armed forces or the public health service of the United States, who is employed by the veterans administration or a Wyoming department of health nutritional services program under the supervision of a licensed dietitian, while engaged in the practice of dietetics provided the practice is related to that service or employment;

(iv) A person employed by a school district who is responsible for menu planning, purchasing of food, meal preparation or food safety, who uses general nonmedical nutrition information in the performance of the person's duties and who does not purport to be practicing dietetics and does not claim to be a dietitian;

(v) A retailer who furnishes oral or written general nonmedical nutrition information related to food,

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food materials or dietary supplements or the marketing of food, food materials or dietary supplements;

(vi) A person who is employed as an instructor at a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, public health nutrition, food and nutrition, dietetics or food systems management or an equivalent major course of study as approved by the board;

(vii) A person providing weight control services;

(viii) A nonresident registered dietitian licensed in another state if the requirements for licensure are at least as stringent as the requirements for licensure contained in this act, or registered by the commission if the state of residence does not require licensure, while practicing dietetics in this state for up to twenty (20) days annually;

(ix) A person offering general nonmedical nutritional information, either as part of the sales of nutritional products or independently, who does not represent that they are a licensed dietitian.

33-47-104. Board created; membership; appointment; terms; removal; meetings; immunity.

(a) The dietetics licensing board is created. The board shall regulate the practice of dietetics in the state by providing for the licensing and regulation of persons engaged in the practice of dietetics to ensure the safety of the public seeking nutritional advice.

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(b) The board shall consist of three (3) members. The initial board shall consist of one (1) member of the public and two (2) registered dietitians who shall have been engaged in the practice of dietetics for a period of not less than five (5) years immediately preceding appointment to the board. Thereafter, dietitian members shall be licensed under this act prior to appointment to the board.

(c) The governor shall appoint the members of the board. The initial appointments shall be for staggered terms with one (1) registered dietitian appointed for a term of three (3) years, one (1) member of the public appointed for a term of two (2) years and one (1) registered dietitian appointed for a term of one (1) year. Thereafter, members shall be appointed for three (3) year terms.

(d) Vacancies in the board shall be filled by appointment by the governor as provided in subsection (b) of this section for the balance of an unexpired term. Each member shall serve until the member's successor is appointed and qualified. The governor may remove any member from the board as provided in W.S. 9-1-202.

(e) The board shall meet at least twice each year and shall elect a chairman at the first meeting each year. The board may convene at the request of the chairman or as the board may determine for any other meeting as may be deemed necessary by the chairman to transact the board's business. The board shall adopt rules for the transaction of its business. Two (2) board members shall constitute a quorum.

(f) Members of the board shall not receive compensation for their services but shall receive mileage and per diem in the same manner and amount as state

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employees while engaged in the discharge of official duties.

(g) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their duties under this act, as provided in W.S. 1-39-104.

33-47-105. Board powers and authority.

(a) The board shall:

(i) Examine, license and renew the licenses of duly qualified applicants;

(ii) Maintain an up-to-date list of every person licensed to practice dietetics under this act. The list shall show the licensee's last known place of employment, the license issue date and the registration number of the license;

(iii) Keep a record of all proceedings of the board and make the record available to the public for inspection during regular business hours;

(iv) Maintain an up-to-date list of persons whose licenses have been suspended, revoked or denied. The list shall include the names, type and cause of action, date and penalty incurred and the length of penalty. The list shall be available for public inspection during regular business hours and shall be supplied to similar boards in other states upon request;

(v) Establish reasonable fees for application, examination, licensing, certification, specialty examination designation, renewal, late renewal,

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reinstatement and other services provided pursuant to W.S.
33-1-201;

(vi) Adopt rules and regulations related to
application, fees, discipline, suspension and revocation.

(b) The board may:

(i) Employ personnel or enter into an agreement
as necessary to perform the functions of the board;

(ii) Establish relicensure requirements and
procedures as are appropriate, including adopting and
publishing a code of ethics as well as compliance guidance
opinions as deemed necessary by the board;

(iii) Secure the services of resource
consultants. Resource consultants shall receive travel and
per diem expenses in the same manner and amount as state
employees while engaged in consultative service to the
board;

(iv) Enter into contracts with appropriate
organizations for the purpose of developing, administering,
grading or reporting the results of licensing examinations.
The contracting organizations shall be capable of providing
an examination which meets the standards of the commission
or an equivalent organization. The examination shall be
validated and nationally recognized as testing dietetic
core competencies;

(v) Establish continuing education requirements
for license renewal.

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33-47-106. Licensure; application; qualifications; issuance and revocation of licenses; fees; temporary permits.

(a) An applicant for a license to practice dietetics shall submit to the board written evidence, verified by oath, that the applicant:

(i) Has received a baccalaureate or post baccalaureate degree from a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, public health nutrition, food and nutrition, dietetics, food systems management or an equivalent major course of study as approved by the board. Applicants who have obtained a degree outside of the United States and its territories shall have their academic degree validated by the board as equivalent to the same degree conferred by a regionally accredited college or university in the United States;

(ii) Has completed a documented supervised preprofessional practice experience component in dietetics of not less than nine hundred (900) hours under the supervision of a registered dietitian, a licensed dietitian or an individual with a doctoral degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics or food systems management;

(iii) Has successfully completed the registration examination for dietitians administered by the commission or an examination of an equivalent level approved by the board;

(iv) Has reached the age of majority; and

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(v) Has not been convicted of a felony or a misdemeanor that relates adversely to the practice of dietetics, or the ability to practice dietetics, in the courts of this state, another jurisdiction or another country. As used in this paragraph, "conviction" includes a finding or verdict of guilt, an admission of guilt, a plea of nolo contendere, a plea agreement in which the defendant has pled guilty yet not admitted to all the facts that comprise the crime or a conditional plea as part of a deferred prosecution or deferred sentencing agreement.

(b) Until June 30, 2012, the board shall waive the examination required by subsection (a) of this section and shall grant a license to any applicant who:

(i) Makes satisfactory application to the board and is registered with the commission; or

(ii) Received a baccalaureate or post baccalaureate degree from a United States regionally accredited college or university with a program in dietetics or an equivalent major course of study as approved by the board and who has completed a board approved practical experience and met the educational requirements for registration by the commission or its equivalent.

(c) If an applicant fails to complete the requirements for licensing within one (1) year from the date of filing an application, the application shall be deemed to be abandoned.

(d) The board may issue a temporary permit to practice dietetics for a period of six (6) months to an applicant for licensing, provided:

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(i) The applicant is currently practicing or has within the last twelve (12) months practiced as a licensed dietitian in another state, territory or country that required licensure of dietitians;

(ii) The applicant is currently practicing or has within the last twelve (12) months practiced as a registered dietitian in another state, territory or country that did not require licensure of dietitians; or

(iii) The applicant is a student in a commission approved dietetics education program who expects to graduate within thirty (30) calendar days of the application filing date. Upon notification that a student in an approved program who has received a temporary permit under this section fails to successfully complete the program, the permit shall immediately expire.

(e) On payment of an additional fee established pursuant to W.S. 33-47-105(a)(v), the board may extend a permit to practice dietetics for an additional period not to exceed six (6) months from the date of issuance of the original permit.

(f) Upon payment of a fee established pursuant to W.S. 33-47-105(a)(v), the board shall issue a license to practice dietetics to an applicant who was a dietitian registered prior to July 1, 2011 by the commission or its equivalent.

(g) Unless licensed to practice under this act, no person shall represent himself to the public as being a dietitian or a licensed dietitian. Only a person holding a license to practice dietetics in this state may use the

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title "licensed dietitian" or the abbreviation "LD" to indicate that the person is a licensed dietitian.

33-47-107. License renewal, revocation; hearings.

(a) A licensed dietitian shall renew the license every two (2) years. The board shall notify and provide applications for renewal to licensed dietitians at least sixty (60) calendar days prior to expiration of the license. A licensee seeking renewal shall complete the application for renewal and return it to the board with the renewal fee at least fifteen (15) days before the license expiration date. The renewal request shall be accompanied by evidence satisfactory to the board that the licensee has complied with this act and completed any applicable continuing education requirements.

(b) Upon receipt of the application for renewal and the fee, the board shall promptly verify its contents and issue a renewal license.

(c) A licensee who fails to submit a timely application for renewal may be reinstated by the board upon payment of the renewal fee and reinstatement fee established by the board provided that the request for reinstatement is made within ninety (90) days of the license expiration date.

(d) A licensed dietitian who does not engage in the practice of dietetics following expiration of the dietitian's license is not required to pay the renewal fee and shall be deemed inactive. If an inactive licensee desires to resume the practice of dietetics, the license shall be reissued upon application to the board, payment of renewal and reinstatement fees and submission of evidence

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that the applicant satisfies the current requirements for licensure.

(e) Fees received by the board and any monies collected under this act shall be deposited and credited to the board as provided in W.S. 33-1-202.

(f) The board may revoke, suspend or refuse to renew any license or permit or place on probation, reprimand a licensee or deny a license to an applicant if it finds that the person:

(i) Is guilty of fraud or deceit in procuring or attempting to procure a license or renewal of license to practice dietetics;

(ii) Is unfit or incompetent by reason of negligence, habits or other causes of incompetency as defined in the rules and regulations of the board;

(iii) Is addicted to a drug or intoxicant to a degree that renders the licensee unsafe or unfit to practice dietetics;

(iv) Is guilty of unprofessional conduct as defined by rules of the board, or has violated the code of ethics adopted and published by the board;

(v) Has practiced dietetics under cover of any permit or license illegally or fraudulently obtained or issued, or under a license that has expired or been suspended;

(vi) Has violated or aided or abetted others in violation of any provision of this act.

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(g) Upon filing of written complaint with the board charging a person with having been guilty of any of the acts prohibited by this act, the executive director or other authorized employee of the board shall conduct an appropriate investigation. If the board finds reasonable grounds to substantiate the allegations of the complaint, the board may refuse to grant, revoke, suspend or restrict the license of an applicant or licensee.

(h) The applicant or licensee shall be afforded an opportunity for a hearing on the board's action under subsection (f) or (g) of this section. Notices, hearings and appeals shall be in accordance with the Wyoming Administrative Procedure Act. The board may issue subpoenas for the attendance of witnesses and the production of necessary evidence in any hearing before it. Upon request of the respondent or his counsel, the board shall issue subpoenas on behalf of the respondent.

33-47-108. Reciprocity.

Reciprocity may be provided for dietitians licensed in other states which have laws at least as stringent as this act, or registered dietitians if their previous state of residence does not require licensure, provided that the applicant meets the requirements of W.S. 33-47-106.

33-47-109. Disclosure of information.

A licensed dietitian or any person employed in a licensed dietitian's professional practice shall not disclose without the consent of the client any communication made by a client to the dietitian or the dietitian's employees in the course of professional practice, except as required by law.

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33-47-110. Injunctive relief.

The board may seek an injunction in the district court to enjoin any person from violating this act.

Section 2. There is appropriated twenty thousand dollars (\$20,000.00) from the general fund to the department of administration and information. This appropriation shall be for the period beginning with the effective date of this section and ending June 30, 2012. This appropriation shall only be expended for the purpose of providing necessary support and executive secretary services for the dietetics licensing board created under section 1 of this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2012. The board shall submit a standard budget request for the fiscal biennium beginning July 1, 2012 and for subsequent biennia through the normal budget process.

Section 3.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2011.

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(b) W.S. 33-47-104 and 33-47-105 created by section 1 of this act and section 2 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution. The dietetics licensing board may immediately commence drafting and adoption of rules and regulations for the implementation of this act and may immediately accept applications for dietitian licenses to be issued on or after July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk