
By: **Delegate McHale**

Introduced and read first time: February 10, 2006

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2006

CHAPTER _____

1 AN ACT concerning

2 **State Board of Dietetic Practice - Licensing Provisions - Changes**

3 FOR the purpose of altering the quorum requirements for the State Board of Dietetic
 4 Practice; establishing additional powers of the Board; providing that a member
 5 of the Board is entitled to certain compensation; altering the sources of certain
 6 funds for the State Board of Dietetic Practice Fund; repealing a provision that
 7 allows certain individuals from practicing without a license; altering the
 8 qualifications for licensure as a dietitian-nutritionist; authorizing the Board to
 9 waive certain examination requirements for certain individuals certified by a
 10 certain group; altering the renewal provisions for certain licenses; establishing
 11 certain provisions for placing certain licenses on inactive status, the reactivation
 12 of certain licenses, and the reinstatement of certain licenses; requiring certain
 13 licensees to give the Board a certain written notice within a certain time period;
 14 establishing requirements for the surrender of certain licenses; altering the
 15 grounds for disciplinary action against certain licensees and applicants for
 16 certain licenses; providing for a certain civil penalty; altering certain hearing
 17 procedures; prohibiting a certain order of the Board from being stayed pending
 18 a certain review; defining certain terms; altering the definition of certain terms;
 19 and generally relating to changing licensing provisions under the State Board of
 20 Dietetic Practice.

21 BY repealing and reenacting, with amendments,
 22 Article - Health Occupations
 23 Section 5-101, 5-204, 5-205, 5-206, 5-301, 5-302, 5-305, 5-308, 5-310, 5-311,
 24 5-312, 5-313, and 5-314(a) and (b)
 25 Annotated Code of Maryland
 26 (2005 Replacement Volume)

1 BY repealing
2 Article - Health Occupations
3 Section 5-309
4 Annotated Code of Maryland
5 (2005 Replacement Volume)

6 BY adding to
7 Article - Health Occupations
8 Section 5-309, 5-310.1, and 5-311.1
9 Annotated Code of Maryland
10 (2005 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Health Occupations**

14 5-101.

15 (a) In this subtitle the following words have the meanings indicated.

16 (b) "Board" means the State Board of Dietetic Practice.

17 (c) "Certified nutrition specialist" means an individual certified by the
18 Certification Board for Nutrition Specialists, the accrediting body of the American
19 College of Nutrition.

20 (d) "Dietitian-nutritionist" means, unless the context requires otherwise, an
21 individual who is licensed by the Board to practice dietetics.

22 (e) "License" means, unless the context requires otherwise, a license issued by
23 the Board to practice dietetics.

24 (F) (1) "MEDICAL DEVICE" MEANS A HEALTH CARE PRODUCT USED IN THE
25 DIAGNOSIS, TREATMENT, OR PREVENTION OF DISEASE.

26 (2) "MEDICAL DEVICE" DOES NOT MEAN:

27 (I) A DRUG;

28 (II) A SURGICAL OR DENTAL INSTRUMENT;

29 (III) PHYSICAL THERAPY EQUIPMENT;

30 (IV) X-RAY APPARATUS; OR

31 (V) A COMPONENT PART OR ACCESSORY OF ANY OF THE ITEMS
32 LISTED IN THIS PARAGRAPH.

1 (G) "MEDICAL NUTRITION" MEANS THE NUTRITIONAL ADVICE OR COUNSEL
2 PROVIDED TO AN INDIVIDUAL BY A LICENSEE IN THEIR PROFESSIONAL CAPACITY
3 THAT IS DESIGNED FOR AN INDIVIDUAL TO ALLEVIATE A SPECIFIC PHYSIOLOGICAL
4 COMPLAINT, CONDITION, OR SYMPTOM.

5 [(f)] (H) (1) "Practice dietetics" means to apply the principles derived from
6 integrating knowledge of food, biochemistry, physiology, management science,
7 behavioral science, and social science to human nutrition.

8 (2) "Practice dietetics" includes:

9 (i) Assessing individual and community food practices and
10 nutritional status using anthropometric, biochemical, clinical, dietary, and
11 demographic data, for clinical, research, and program planning purposes;

12 (ii) Developing, establishing, and evaluating nutritional care plans
13 that establish priorities, goals, and objectives for meeting nutrient needs for
14 individuals or groups;

15 (iii) Nutrition counseling and education as a part of preventive or
16 restorative health care throughout the life cycle;

17 (iv) Determining, applying, and evaluating standards for food and
18 nutrition services; and

19 (v) Applying scientific research to the role of food in the
20 maintenance of health and the treatment of disease.

21 [(g)] (I) "Registered dietitian" means an individual registered with the
22 Commission on Dietetic Registration, the accrediting body of the American Dietetic
23 Association.

24 (J) "SUPERVISION" MEANS THE MANAGEMENT OF AN INDIVIDUAL WHO AIDS
25 IN THE PRACTICE OF DIETETICS BY A LICENSED DIETITIAN-NUTRITIONIST WHO MAY
26 OR MAY NOT BE ON THE PREMISES.

27 5-204.

28 (a) A majority of the [full authorized membership of] MEMBERS THEN
29 SERVING ON the Board is a quorum.

30 (b) The Board shall determine the times and places of its meetings.

31 (c) A member of the Board:

32 (1) ~~May not receive compensation; but~~ IS ENTITLED TO COMPENSATION
33 IN ACCORDANCE WITH THE BUDGET OF THE BOARD; AND

34 (2) Is entitled to reimbursement for expenses at a rate determined by the
35 Board.

1 (d) The Board may employ a staff in accordance with the budget of the Board.
2 5-205.

3 (a) In addition to the powers set forth elsewhere in this subtitle, the Board
4 may:

5 (1) Adopt regulations to carry out the provisions of this subtitle; [and]

6 (2) Sue to enforce any provision of this subtitle by injunction; AND

7 (3) ISSUE SUBPOENAS, SUMMON WITNESSES, ADMINISTER OATHS, TAKE
8 AFFIDAVITS, AND TAKE TESTIMONY ABOUT MATTERS THAT RELATE TO THE
9 JURISDICTION OF THE BOARD.

10 (b) In addition to the duties set forth elsewhere in this subtitle, the Board
11 shall:

12 (1) Keep a list of all dietitian-nutritionists who are currently licensed;

13 (2) Keep a record of its proceedings; and

14 (3) Submit an annual report of its transactions for the previous fiscal
15 year to the Governor by September 30 of each year.

16 5-206.

17 (a) There is a State Board of Dietetic Practice Fund.

18 (b) (1) The Board may set reasonable fees for the issuance and renewal of
19 licenses.

20 (2) The fees charged shall be set so as to approximate the cost of
21 maintaining the Board.

22 (3) Funds to cover the expenses of the Board members shall be generated
23 by fees set under this section.

24 (c) (1) The Board shall pay all funds collected under this title to the
25 Comptroller of the State.

26 (2) The Comptroller shall distribute the funds to the State Board of
27 Dietetic Practice Fund.

28 (d) (1) The Fund shall be used to cover the actual documented direct and
29 indirect costs of fulfilling the statutory and regulatory duties of the Board as provided
30 by the provisions of this article.

31 (2) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of
32 the State Finance and Procurement Article.

1 (3) Any unspent portions of the Fund may not be transferred or revert to
2 the General Fund of the State, but shall remain in the Fund to be used for the
3 purposes specified in this article.

4 (4) [No] EXCEPT AS OTHERWISE PROVIDED BY LAW, NO other State
5 money may be used to support the Fund.

6 (e) (1) A designee of the Board shall administer the Fund.

7 (2) Moneys in the Fund may be expended only for any lawful purpose
8 authorized under the provisions of this article.

9 (f) The Legislative Auditor shall audit the accounts and transactions of the
10 Fund as provided in § 2-1220 of the State Government Article.

11 5-301.

12 (a) Except as otherwise provided in this subtitle, an individual shall be
13 licensed by the Board before the individual may practice dietetics in the State.

14 (b) The following individuals may practice dietetics without a license:

15 (1) A student or trainee, working under the [direct or indirect]
16 supervision of a licensed dietitian-nutritionist while fulfilling an experience
17 requirement or pursuing a course of study to meet requirements for licensure, for a
18 limited period of time as determined by the Board[.];

19 (2) An individual employed by the United States government to practice
20 dietetics, while practicing within the scope of that employment[.]; AND

21 (3) An individual who aids in the practice of dietetics, if the individual
22 works under the [direct or indirect] supervision of a licensed dietitian-nutritionist or
23 licensed physician.

24 [(4) A registered dietitian who has recently become a resident of this
25 State, or is a resident of this State but is not licensed, and who:

26 (i) Has applied for licensure; and

27 (ii) Has not had a license application denied in this State.

28 (c) Subject to regulations adopted by the Board, an individual may practice
29 dietetics without a license if the individual:

30 (1) Has met the academic and experience requirements to be a licensed
31 dietitian-nutritionist;

32 (2) Has applied for or taken the licensing examination; and

33 (3) Is awaiting notification of the examination results.]

1 5-302.

2 (a) To qualify for a license, an applicant shall be an individual who meets the
3 requirements of this section.

4 (b) The applicant must be of good moral character.

5 (c) The applicant must be at least 18 years old.

6 (d) The applicant for licensure as a dietitian-nutritionist shall:

7 (1) (i) 1. Have satisfactorily completed academic requirements for
8 the field of dietetics as approved by the Board; AND

9 [(ii)] 2. Have received a baccalaureate degree [or a higher degree]
10 from a college or university [approved by the Board] ACCREDITED BY AN
11 EDUCATIONAL ACCREDITING ASSOCIATION RECOGNIZED BY THE COUNCIL ON
12 HIGHER EDUCATION AND ACCREDITATION; [and] OR

13 (II) HAVE RECEIVED A MASTER'S OR DOCTORAL DEGREE FROM A
14 COLLEGE OR UNIVERSITY ACCREDITED BY AN EDUCATIONAL ACCREDITING
15 ASSOCIATION RECOGNIZED BY THE COUNCIL ON HIGHER EDUCATION AND
16 ACCREDITATION IN NUTRITIONAL SCIENCES (WITH EMPHASIS IN HUMAN
17 NUTRITION), FOOD AND NUTRITION, DIETETICS, HUMAN NUTRITION, COMMUNITY
18 NUTRITION, PUBLIC HEALTH NUTRITION, OR EQUIVALENT TRAINING APPROVED BY
19 THE BOARD;

20 [(iii)] (2) Have satisfactorily completed a program of supervised
21 clinical experience approved by the [Commission on Dietetic Registration of the
22 American Dietetic Association, or a comparable experience approved by the] Board;
23 AND

24 (3) (I) SUBMIT TO THE BOARD PROOF OF CERTIFICATION BY THE
25 CERTIFICATION BOARD FOR NUTRITIONAL SPECIALISTS; OR

26 (II) SUBMIT TO THE BOARD PROOF OF REGISTRATION WITH THE
27 COMMISSION ON DIETETIC REGISTRATION OF THE AMERICAN DIETETIC
28 ASSOCIATION.

29 [(2) (i)] Have received a master's or doctoral degree from a college or
30 university accredited by a regional accrediting body recognized by the Council on
31 Post-Secondary Accreditation in nutritional sciences (with emphasis in human
32 nutrition), food and nutrition, dietetics, human nutrition, community nutrition,
33 public health nutrition, or equivalent training approved by the Board; and

34 (ii) Have satisfactorily completed a Board approved experience
35 component in dietetic or nutritionist practice which:

36 1. Consists of not less than 900 hours; and

1 5-308.

2 (a) (1) Unless the license is renewed for an additional term as provided in
3 this section, a license expires on the date set by the Board.

4 (2) A license may not be renewed for a term longer than 2 years.

5 (b) At least 1 month before the license expires, the Board shall send to the
6 licensee, by first-class mail to the last known address of the licensee, a renewal notice
7 that states:

8 (1) The date on which the current license expires;

9 (2) The date by which the Board must receive the renewal application for
10 the renewal to be issued and mailed before the license expires; and

11 (3) The amount of the renewal fee.

12 (c) Before the license expires, the licensee [periodically] may renew it for an
13 additional 2-year term, if the licensee:

14 (1) Otherwise is entitled to be licensed;

15 (2) Pays to the Board a renewal fee set by the Board; and

16 (3) Submits to the Board:

17 (i) A renewal application on the form that the Board requires; and

18 (ii) Satisfactory evidence of compliance with the continuing
19 education requirements for license renewal set by the Board under this section.

20 (d) In addition to any other qualifications and requirements established by
21 the Board, the Board shall establish continuing education requirements as a
22 condition to the renewal of licenses under this section.

23 (e) The Board shall renew the license of each licensee who meets the
24 requirements of this section.

25 [5-309.

26 The Board, in accordance with its regulations, shall reinstate the license of a
27 dietitian-nutritionist who has failed to renew the license for any reason if the
28 dietitian-nutritionist:

29 (1) Meets the renewal requirements of § 5-308 of this subtitle;

30 (2) Pays to the Board the reinstatement fee set by the Board; and

1 (3) Submits to the Board satisfactory evidence of compliance with the
2 qualifications and requirements established under this subtitle for license
3 reinstatements.]

4 5-309.

5 (A) (1) THE BOARD SHALL PLACE A LICENSEE ON INACTIVE STATUS IF THE
6 LICENSEE:

7 (I) SUBMITS TO THE BOARD AN APPLICATION FOR INACTIVE
8 STATUS ON THE FORM REQUIRED BY THE BOARD; AND

9 (II) PAYS TO THE BOARD THE INACTIVE STATUS FEE SET BY THE
10 BOARD.

11 (2) THE BOARD SHALL REACTIVATE THE LICENSE OF AN INDIVIDUAL
12 PLACED ON INACTIVE STATUS IF THE INDIVIDUAL:

13 (I) SATISFIES THE CONTINUING EDUCATION REQUIREMENTS
14 ESTABLISHED BY THE BOARD; AND

15 (II) PAYS TO THE BOARD A REACTIVATION FEE SET BY THE BOARD.

16 (B) THE BOARD, IN ACCORDANCE WITH ITS REGULATIONS, SHALL REINSTATE
17 THE LICENSE OF AN INDIVIDUAL WHO FAILED TO RENEW A LICENSE FOR ANY
18 REASON IF THE INDIVIDUAL:

19 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

20 (2) SATISFIES THE CONTINUING EDUCATION REQUIREMENTS
21 ESTABLISHED BY THE BOARD;

22 (3) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD;
23 AND

24 (4) APPLIES TO THE BOARD FOR REINSTATEMENT OF A LICENSE WITHIN
25 5 YEARS AFTER THE EXPIRATION OF THE LICENSE.

26 (C) (1) THE BOARD MAY NOT REINSTATE THE LICENSE OF AN INDIVIDUAL
27 WHO FAILS TO APPLY FOR REINSTATEMENT OF THE LICENSE WITHIN 5 YEARS AFTER
28 THE EXPIRATION OF THE LICENSE.

29 (2) AN INDIVIDUAL WHO FAILS TO APPLY FOR REINSTATEMENT OF A
30 LICENSE WITHIN 5 YEARS AFTER THE EXPIRATION OF THE LICENSE MAY BECOME
31 LICENSED BY MEETING THE REQUIREMENTS FOR OBTAINING AN INITIAL LICENSE
32 UNDER THIS TITLE.

33 5-310.

34 (a) Each licensee shall produce a valid license when requested to do so by an
35 existing or potential employer or client.

1 (b) Each licensee shall give the Board written notice of any change of address
2 WITHIN 30 DAYS OF ANY CHANGE OF ADDRESS.

3 5-310.1.

4 (A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A LICENSE,
5 A LICENSED DIETITIAN-NUTRITIONIST MAY NOT SURRENDER THE LICENSE NOR
6 MAY THE LICENSE LAPSE BY OPERATION OF LAW WHILE THE LICENSEE IS UNDER
7 INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE LICENSEE.

8 (B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE
9 LICENSEE UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING TO
10 ACCEPT SURRENDER OF THE LICENSE.

11 5-311.

12 Subject to the hearing provisions of § 5-312 of this subtitle, the Board, on the
13 affirmative vote of a majority of its members then serving, may deny a license to any
14 applicant, reprimand any licensee, or suspend or revoke a license if the applicant or
15 licensee:

16 (1) Fraudulently or deceptively obtains or attempts to obtain a license
17 for the applicant or licensee or for another;

18 (2) Fraudulently or deceptively uses a license;

19 (3) Violates any provision of this title or any regulations adopted under
20 this title;

21 (4) Refuses, withholds from, denies, or discriminates against an
22 individual with regard to the provision of professional service for which the licensee is
23 licensed and qualified to render because the individual is HIV positive;

24 (5) Commits fraud or deceit in the practice of dietetics;

25 (6) Is convicted of or pleads nolo contendere to a felony or to a crime
26 involving moral turpitude, whether or not any appeal or other proceeding is pending
27 to have the conviction or plea set aside;

28 (7) Obtains or attempts to obtain a fee through fraud or
29 misrepresentation;

30 (8) Employs any person to practice dietetics whose license or certificate
31 to practice a health occupation under this article has been suspended;

32 (9) [Intentionally uses] USES or promotes or causes the use of any
33 misleading, deceiving, or untruthful advertising matter, or promotional literature,
34 testimonial, guarantee, warranty, label, brand, insignia, or other representation;

35 (10) Commits any act of unprofessional conduct, as defined by the rules
36 and regulations of the Board, or violates the code of ethics adopted by the Board;

- 1 (11) Provides professional services while:
 - 2 (i) Under the influence of alcohol; or
 - 3 (ii) Using any narcotic or controlled dangerous substance, as
 - 4 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
 - 5 therapeutic amounts or without valid medical indication;
- 6 (12) Is disciplined by a licensing or disciplinary authority of any other
- 7 state or country or convicted or disciplined by a court of any other state or country for
- 8 an act that would be grounds for disciplinary action under this section;
- 9 (13) Practices dietetics with an unauthorized person or supervises or aids
- 10 an unauthorized person in the practice of dietetics;
- 11 (14) [Willfully fails] FAILS to file or record any report or record as
- 12 required by law in the practice of dietetics, [willfully] impedes or obstructs the filing
- 13 or recording of the report or record, or induces another to fail to file or record the
- 14 report or record;
- 15 (15) Submits a false statement to collect a fee;
- 16 (16) Is professionally, physically, or mentally incompetent; [or]
- 17 (17) Promotes the sale of devices, appliances, or goods to a patient so as to
- 18 exploit the patient for financial gain; OR
- 19 (18) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
- 20 BY THE BOARD.

21 5-311.1.

22 (A) IF AFTER A HEARING UNDER § 5-312 OF THIS SUBTITLE THE BOARD FINDS
23 THAT THERE ARE GROUNDS UNDER § 5-311 OF THIS SUBTITLE TO SUSPEND OR
24 REVOKE A LICENSE, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000:

- 25 (1) INSTEAD OF SUSPENDING THE LICENSE; OR
- 26 (2) IN ADDITION TO SUSPENDING OR REVOKING THE LICENSE OR
- 27 REPRIMANDING THE LICENSEE.

28 (B) THE BOARD SHALL ADOPT REGULATIONS TO SET STANDARDS FOR THE
29 IMPOSITION OF PENALTIES UNDER THIS SECTION.

30 (C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION
31 INTO THE GENERAL FUND OF THE STATE.

32 5-312.

33 (a) Except as otherwise provided in § 10-226 of the State Government Article,
34 before the Board takes any action under § 5-311 of this subtitle, it shall give the

1 individual against whom the action is contemplated an opportunity for a hearing
2 before the Board.

3 (b) The Board shall give notice and hold the hearing in accordance with Title
4 10, Subtitle 2 of the State Government Article.

5 (c) [The] OVER THE SIGNATURE OF AN OFFICER OR THE ADMINISTRATOR OF
6 THE BOARD, THE Board may ISSUE SUBPOENAS AND administer oaths in connection
7 with any [proceeding under this section] INVESTIGATION UNDER THIS TITLE AND
8 ANY HEARINGS OR PROCEEDINGS BEFORE IT.

9 (D) IF, WITHOUT LAWFUL EXCUSE, A PERSON DISOBEYS A SUBPOENA FROM
10 THE BOARD, AN ORDER BY THE BOARD TO TAKE ANY OATH OR TO TESTIFY, OR
11 ANSWER A QUESTION, THEN, ON PETITION OF THE BOARD, A COURT OF COMPETENT
12 JURISDICTION MAY PUNISH THE PERSON FOR CONTEMPT OF COURT.

13 (E) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS
14 CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND
15 DETERMINE THE MATTER.

16 [(d)] (F) The hearing notice to be given to the individual shall be sent by
17 certified mail to the last known address of the individual at least 14 days before the
18 hearing.

19 [(e)] (G) The individual may be represented at the hearing by counsel.

20 [(f)] (1) The Board may issue subpoenas in connection with any proceeding
21 under this section.

22 (2) If a person fails to comply with a subpoena issued under this
23 subsection, on petition of the Board, the circuit court may compel obedience to the
24 subpoena.]

25 5-313.

26 (a) Except as otherwise provided in this section for an action under § 5-311 of
27 this subtitle, any person aggrieved by a final decision of the Board in a contested case,
28 as defined in the Administrative Procedure Act, may:

29 (1) Appeal that decision to the Board of Review; and

30 (2) Then take any further appeal allowed by the Administrative
31 Procedure Act.

32 (b) (1) Any person aggrieved by a final decision of the Board under § 5-311
33 of this subtitle may not appeal to the Secretary or the Board of Review but may take
34 a direct judicial appeal.

35 (2) The appeal shall be made pursuant to the provisions on judicial
36 review of final decisions in Title 10, Subtitle 2 of the State Government Article.

1 (C) AN ORDER OF THE BOARD MAY NOT BE STAYED PENDING REVIEW.

2 5-314.

3 (a) In this section, "dietetic rehabilitation committee" means a committee
4 that:

5 (1) Is defined in subsection (b) of this section; and

6 (2) Performs any of the functions listed in subsection (d) of this section.

7 (b) For purposes of this section, a dietetic rehabilitation committee is a
8 committee of the Board or a committee OF AN ASSOCIATION REPRESENTING
9 LICENSED DIETITIAN-NUTRITIONISTS THAT:

10 (1) [Composed equally of members of:

11 (i) The Maryland Dietetic Association; and

12 (ii) The American Nutritionists Association;

13 (2) Recognized] IS RECOGNIZED by the Board; and

14 [(3)] (2) [That includes] INCLUDES but is not limited to
15 dietitian-nutritionists.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2006.