

## **CHAPTER 43-44 DIETITIANS AND NUTRITIONISTS**

### **43-44-01. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the board of dietetic practice.
2. "Dietetics" means the application of principles derived from integrating knowledge of food, nutrition, biochemistry, physiology, management, and behavioral and social science to achieve and maintain the health of people by providing nutrition assessment and nutrition care services.
3. "Dietitian" includes dietician.
4. "General nutrition services" means the counseling of individuals or groups in the selection of food to meet normal nutritional needs, and the assessment of nutritional needs of individuals or groups by planning, organizing, coordinating, and evaluating the nutritional components of community health services.
5. "Licensed nutritionist" means a person licensed to provide general nutrition services as provided in this chapter.
6. "Licensed registered dietitian" means a person licensed to practice dietetics as provided in this chapter.
7. "Nutrition assessment" means the screening and evaluation of the nutrition of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine their nutritional needs and recommend appropriate nutritional intake including enteral and parenteral nutrition.
8. "Nutrition care services" includes:
  - a. Providing nutrition assessment.
  - b. Planning or providing of food appropriate for physical and medical needs.
  - c. Providing nutrition counseling to meet both normal and therapeutic needs.
  - d. Providing general nutrition services and related nutrition activities.

### **43-44-02. Board of dietetic practice - Membership - Terms - Meetings.**

1. The governor shall appoint a board of dietetic practice, consisting of five members, all of whom must be residents of the state at the time of their appointment. The persons appointed must have been engaged in the teaching or rendering of dietetics or general nutrition services to the public, or in research in dietetics or general nutrition services for three years immediately preceding their appointment. Three board members must be licensed registered dietitians and one member must be a licensed nutritionist. The members first appointed to the board need not be licensed under this chapter for appointment to their first term on the board, but must possess the qualifications necessary for licensure under this chapter. One member must be appointed to represent consumers of health services.
2. The governor, prior to September 1, 1985, shall appoint two board members for a term of one year, two for a term of two years, and one for a term of three years. Appointments made thereafter are for terms of three years, but no person may be appointed to serve more than two consecutive full or partial terms. Terms begin on the first day of September and end on the last day of August or until successors are appointed. An appointment of any member to serve out the remaining term of any position on the board that becomes vacant must be made in the same manner as the original appointment for that position.
3. The governor may remove any board member for good cause after giving that member a written statement of the reasons for removal and after that member has had an opportunity for a hearing.
4. The board shall meet during September of each calendar year and select a chairperson. At least one additional meeting must be held before September of the next calendar year. Other meetings may be convened at the call of the chairperson or the written request of any two board members. All meetings of the board are open to the public, except that the board may hold closed sessions to approve an examination,

or upon request of an applicant who fails an examination, to prepare a response indicating any reason for the applicant's failure.

5. Members of the board receive no compensation for their services, but are entitled to mileage and travel expenses as provided in sections 54-06-09 and 44-08-04, and per diem as set by the board.

#### **43-44-03. Board powers, duties, and authority.**

The board shall administer, coordinate, and enforce this chapter, evaluate the qualifications, and approve an examination for licensure under this chapter. The board shall keep any records and minutes as are necessary to carry out its functions. The board may:

1. Issue subpoenas, examine witnesses, administer oaths, and investigate allegations of practices violating this chapter.
2. Adopt rules pursuant to chapter 28-32, to implement this chapter, including rules relating to professional licensure and the establishment of ethical standards of practice for licensed registered dietitians and licensed nutritionists.

#### **43-44-04. Board administrative authority and requirements.**

1. The board may employ an executive secretary and other officers and employees it deems necessary.
2. The executive secretary shall pay, upon approval of the board, all appropriate expenses incurred by the board in the administration of this chapter.

#### **43-44-05. Fees.**

The board shall set and collect fees for application, initial license, renewal of license, late renewal, and limited permit. These fees must be set in such an amount as to reimburse the board, to the extent feasible, for the cost of the services rendered.

#### **43-44-06. License required - Title - Abbreviations.**

A person may not practice or represent as able to practice as a dietitian, or use the title "dietitian", "registered dietitian", "licensed dietitian", or "licensed registered dietitian", or the abbreviations "RD", "LD", or "LRD" unless so licensed under this chapter. A licensed registered dietitian may use the title "licensed registered dietitian" and the abbreviation "LRD". A person may not practice, or represent that the person is able to practice, as a licensed nutritionist using the title "licensed nutritionist" or the abbreviation "LN" unless so licensed under this chapter. A licensed nutritionist may use the title "licensed nutritionist" and the abbreviation "LN".

#### **43-44-07. Requirements for licensure - Licensed nutritionist.**

1. An applicant for licensure as a licensed nutritionist must file a written application with the board and:
  - a. Have satisfactorily completed academic requirements required by the board, and have received a baccalaureate degree in the field of dietetics or food and nutrition, as approved by the board, from an accredited college or university;
  - b. Have received a master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition from an accredited college or university, or have received a master's or doctorate degree in a related field that meets eligibility requirements of the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization;
  - c. Maintain membership in one of the following organizations: American institute of nutrition, American society for clinical nutrition, or the American board of nutrition; or
  - d. Present evidence to the board regarding employment and competence as a nutritionist before July 1, 1985, and the inability to meet the criteria of subdivision a, b, or c.
2. An applicant for renewal of a license as a licensed nutritionist must:

- a. Comply with subsection 1.
- b. Have satisfactorily completed continuing education requirements as specified and approved by the board.

**43-44-08. Requirements for licensure - Licensed registered dietitian.**

1. Applicants for licensure as a licensed registered dietitian must:
  - a. Comply with subsection 1 of section 43-44-07.
  - b. Have satisfactorily completed the education and experience requirements for dietitians approved by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
  - c. Have satisfactorily completed the examination approved and administered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
2. Applicants for renewal of licensure as a licensed registered dietitian must:
  - a. Comply with subsection 1.
  - b. Have satisfactorily completed continuing education requirements specified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.

**43-44-09. Waiver of requirements for licensure of dietitians.**

Upon application, the board shall grant a license to any person certified prior to July 1, 1985, as a registered dietitian by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization. Upon application of any person certified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization after July 1, 1985, the board may waive the examination, education, and experience requirements and grant the applicant a license if the board determines that the requirements for certification are equivalent to the related requirements for licensure in this chapter.

**43-44-10. Persons excepted from license requirement.**

This chapter does not prevent or restrict the practice, services, or activities of:

1. Persons licensed to practice medicine, nursing, pharmacy, or dentistry consistent with the accepted standards of their profession, if the persons do not represent themselves as licensed registered dietitians or licensed nutritionists.
2. Any person pursuing a course of study in an approved program leading to a degree in the field of dietetics from an accredited college or university, if the person is designated by a title which clearly indicates that person's status as a student or trainee.
3. Any person in the process of fulfilling the experience requirements of section 43-44-07 or 43-44-08, if the activities and services constitute a part of the experience necessary to meet the requirements of those sections and the person is designated by a title which clearly indicates that person's status as a student or trainee.
4. Any person who does not meet the requirements of subdivision a, b, or c of subsection 1 of section 43-44-07, and who provides nutrition care services, including weight control programs, under the supervision of a licensed registered dietitian, a dietitian licensed in another state that has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter, or a dietitian registered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
5. A person practicing dietetics or providing general nutrition services as a duty of serving in the armed forces.
6. Any person practicing dietetics in this state for no more than ten days annually, if the person has met the commonly accepted standards for the practice of dietetics specifically defined by the board.

7. Any person practicing dietetics in this state for more than ten days annually who has pending before the board an application for licensure as a licensed registered dietitian under this chapter.
8. An educator who is in the employ of a federal, state, county, or municipal agency, or other political subdivision, or an elementary or secondary school, or an accredited institution of higher education insofar as the activities and services are part of the duties of the employee's position; or who is in the employ or service of a nonprofit organization approved by the board.
9. Any person having received a baccalaureate degree in home economics, if the person does not represent that the person is a licensed registered dietitian or licensed nutritionist, insofar as the services and activities are within the scope of that person's education and training.
10. A person who markets or distributes food, food materials, or dietary supplements, or any person who engages in the advising of the use of those products, or the preparation of those products, or the counseling of individuals or groups in the selection of products to meet normal nutritional needs, if that person does not represent that that person is a licensed registered dietitian or licensed nutritionist.

**43-44-11. Issuance of license.**

The board shall issue a license to any person who meets the requirements of this chapter upon payment of the prescribed fee.

**43-44-12. Limited permits.**

A limited permit to practice as a licensed registered dietitian must be issued by the board upon application and submission of evidence of successful completion of the education and experience requirements under subdivision b of subsection 1 of section 43-44-08. The limited permit expires one year from the date of issuance. The limited permit may be renewed for a period not to exceed six months upon submission to the board of a satisfactory explanation for the applicant's failure to become licensed within the original one-year period.

**43-44-13. Reciprocity.**

The board shall grant a license to any applicant who presents proof of current licensure as a dietitian in another state which has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter.

**43-44-14. Renewal of license.**

Any license issued under this chapter expires one year after it is issued unless renewed in the manner prescribed by the rules of the board. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules, but no late renewal of a license may be granted more than one year after its expiration.

**43-44-15. Suspension and revocation of license - Refusal to renew.**

1. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions on a licensee if the licensee or applicant has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes:
  - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
  - b. Being guilty of unprofessional conduct as defined by rules adopted by the board, or violating any code of ethics adopted by the academy of nutrition and dietetics or its predecessor or successor organization.
  - c. Being convicted of an offense, as defined by section 12.1-01-04, that the board determines has a direct bearing upon a person's ability to serve the public as a licensed registered dietitian or a licensed nutritionist or, following conviction of

any offense, if the board determines that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

- d. Violating any lawful order or rule of the board.
  - e. Violating this chapter.
2. A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board after a hearing pursuant to rules adopted by the board. An application for reinstatement may be made to the board one year from the date of the revocation of a license. The board may at its discretion accept or reject an application to consider such reinstatement.

**43-44-16. Injunction.**

The civil remedy of injunction is available to the board to restrain and enjoin violations of this chapter.

**43-44-17. Penalty.**

Any person who violates this chapter is guilty of a class B misdemeanor.