

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 463

6
7 S.P. 171

In Senate, February 7, 1985

8 Referred to the Committee on Business and Commerce. Sent down for
9 concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Gill of Cumberland.

11 Cosponsored by Senator Bustin of Kennebec, Representative Telow of
Lewiston and Representative Martin of Van Buren.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to License Dietitians.
18

19 Be it enacted by the People of the State of Maine as
20 follows:

21 Sec. 1. 10 MRSA §8001, as amended by PL 1983, c.
22 746, §1 and c. 758, §1, is repealed and the following
23 enacted in its place:

24 §8001. Department; agencies within department

25 There is created and established the Department
26 of Business, Occupational and Professional Regula-
27 tion, in this chapter referred to as the "depart-
28 ment," to regulate financial institutions, insurance
29 companies, commercial sports, grantors of consumer
30 credit and to license and regulate professions and
31 occupations. The department shall be composed of the
32 following bureaus, boards and commissions:

33 Banking, Bureau of;

1 Consumer Credit Protection, Bureau of;
2 Insurance, Bureau of;
3 Athletic Commission, Maine;
4 Penobscot Bay and River Pilotage Commission;
5 Real Estate Commission;
6 Running Horse Racing Commission, State;
7 Arborist Examining Board;
8 Auctioneers Advisory Board;
9 Commercial Driver Education, Board of;
10 Dietetic Practice, Board of;
11 Electricians' Examining Board;
12 Foresters, State Board of Registration for Pro-
13 fessional;
14 Funeral Service, State Board of;
15 Geologists and Soil Scientists, State Board of
16 Certification for;
17 Hearing Aid Dealers and Fitters, Board of;
18 Manufactured Housing Board;
19 Occupational Therapy Practice, Board of;
20 Oil and Solid Fuel Board;
21 Physical Therapy, Board of Examiners in;
22 Plumbers' Examining Board;
23 Psychologists, State Board of Examiners of;
24 Social Worker Registration, State Board of;
25 Speech Pathology and Audiology, Board of Examin-
26 ers on; and

1 A. Assess the nutritional needs of individuals
2 and groups and determine the source of con-
3 straints in the various practice settings;

4 B. Establish priorities, goals and objectives
5 that meet nutritional needs and are consistent
6 with available resources and constraints;

7 C. Provide nutrition counseling in both health
8 and disease; and

9 D. Develop, implement and manage systems in
10 clinical nutrition care.

11 5. Dietetic technician. "Dietetic technician"
12 means a person who assists in the practice of
13 dietetics under the supervision of a dietitian and
14 nutritionist of no less than 8 hours a month and who
15 is licensed in accordance with this chapter.

16 6. Dietitian and nutritionist. "Dietitian and
17 Nutritionist" means a person licensed to practice
18 dietetics under this chapter.

19 7. Nutrition aide. "Nutrition aide" means a
20 person who assists in the provision of dietetic and
21 nutritional information in university extension pro-
22 grams.

23 §9903. Board of Dietetic Practice; establishment;
24 compensation

25 1. Establishment and membership. There is es-
26 tablished within the Department of Business, Occupa-
27 tional and Professional Regulation, a Board of
28 Dietetic Practice. The board shall consist of 5 mem-
29 bers appointed by the Governor. The persons ap-
30 pointed to the board other than the public member,
31 must have been engaged in rendering dietetic and nu-
32 tritional services to the public, teaching or re-
33 search in dietetics for at least 2 years immediately
34 preceding their appointments. At least 3 board mem-
35 bers shall be dietitians and nutritionists. The 4th
36 member shall be either a dietitian or a dietetic
37 technician. These members shall at all times be
38 holders of valid licenses for the practice of
39 dietetics in the State, except for the members of the

1 first board, all of whom shall fulfill the require-
2 ments for licensure of this chapter. The remaining
3 member shall be a representative of the public.

4 2. Terms of appointment. The Governor, within
5 60 days following the effective date of this chapter,
6 shall appoint 2 board members for a term of one year,
7 2 for a term of 2 years and one for a term of 3
8 years. Appointments made thereafter shall be for
9 3-year terms, but no person may be appointed to serve
10 more than 2 consecutive terms. Terms shall begin on
11 the first day of the calendar year and end on the
12 last day of the calendar year or until successors are
13 appointed, except for the first appointed members who
14 shall serve through the last calendar day of the year
15 in which they are appointed, before commencing the
16 terms prescribed by this section.

17 Any member of the board may be removed from of-
18 fice for cause by the Governor. A member may not
19 serve more than 2 full successive terms, provided
20 that, for this purpose only, a period actually served
21 which exceeds 1/2 of the 3-year term shall be deemed
22 a full term.

23 3. Meetings. The board shall meet during the
24 first month of each calendar year to select a chair-
25 man and for other purposes. At least one additional
26 meeting shall be held before the end of each calendar
27 year. Other meetings may be convened at the call of
28 the chairman or the written request of any 2 board
29 members. A majority of the members of the board
30 shall constitute a quorum for all purposes.

31 4. Compensation. Members of the board shall re-
32 ceive no compensation for their services, but shall
33 be entitled to expenses on the same basis as provided
34 for state employees.

35 §9904. Board of Dietetics Practice; powers and du-
36 ties

37 1. Powers. The board shall administer and en-
38 force this chapter and evaluate the qualifications of
39 applicants for licensure. The board may issue sub-
40 poenas, examine witnesses, administer oaths and may
41 investigate or cause to be investigated any com-

1 plaints made to it or any cases of noncompliance with
2 or violation of this chapter.

3 2. Rules. The board may adopt, in accordance
4 with the Maine Administrative Procedure Act, Title 5,
5 chapter 375, rules relating to professional conduct
6 to carry out the policy of this chapter, including,
7 but not limited to, rules relating to professional
8 licensure and to the establishment of ethical stan-
9 dards of practice for persons holding a license to
10 practice dietetics in this State.

11 3. Hearings. Hearings may be conducted by the
12 board to assist with investigations, to determine
13 whether grounds exist for suspension, revocation or
14 denial of a license, or as otherwise deemed necessary
15 to the fulfillment of its responsibilities under this
16 chapter.

17 4. Records. The board shall keep such records
18 and minutes as are necessary to the ordinary dispatch
19 of its functions.

20 5. Contracts. The board may enter into con-
21 tracts to carry out its responsibilities under this
22 chapter.

23 6. Reports. No later than August 1st of each
24 year, the board shall submit to the commissioner, for
25 the preceding fiscal year ending June 30th, its annu-
26 al report of its operations and financial position,
27 together with such comments and recommendations as
28 the commissioner deems essential.

29 §9905. Board of Dietetic Practice; administrative
30 provisions

31 1. Officers. The board shall appoint a secre-
32 tary and may appoint other officers as it deems nec-
33 essary.

34 2. Employees. With the advice of the board, the
35 commissioner may appoint, subject to the Personnel
36 Law, such employees as may be necessary to carry out
37 this chapter. Any person so employed shall be lo-
38 cated in the department and under the administrative
39 and supervisory direction of the commissioner.

1 3. Budget. The board shall submit to the com-
2 missioner its budgetary requirements in the same man-
3 ner as is provided in Title 5, section 1665.

4 §9906. Licenses

5 1. License required. No person may practice
6 dietetics, or hold himself out to be a dietitian,
7 nutritionist, diet technician or use related terms or
8 words, unless he is licensed in accordance with this
9 chapter.

10 2. Individual license. Only an individual may
11 be licensed under this chapter.

12 3. Penalty; injunction. A person who violates
13 the provisions of this section or any lawful order or
14 rule of the board is guilty of a Class E crime.

15 The State may bring an action in Superior Court
16 to enjoin any person from violating this chapter, re-
17 gardless of whether proceedings have been or may be
18 instituted in the Administrative Court or whether
19 criminal proceedings have been or may be instituted.

20 §9907. Persons and practices exempt

21 Nothing in this chapter may be construed as pre-
22 venting or restricting the practice, services or ac-
23 tivities of:

24 1. Licensed persons. Any person licensed in
25 this State by any other law from engaging in the pro-
26 fession or occupation for which he is licensed;

27 2. Students or trainees. Any person pursuing a
28 supervised course of study leading to a degree in nu-
29 trition or dietetics at an accredited or approved ed-
30 ucational program, if the person is designated by a
31 title which clearly indicates his status as a student
32 or trainee;

33 3. Nutrition aides. Nutrition aides;

34 4. Marketing or distribution of food products
35 including dietary supplements. Individuals or em-
36 ployees of programs who do not hold themselves out to

1 be dietitians or nutritionists and who market or dis-
2 tribute food products, including dietary supplements
3 as defined by the Food and Drug Administration and
4 who may engage in the explanation to and education of
5 customers regarding the use of those products for
6 nontherapeutic needs; or

7 5. Persons employed in federally funded pro-
8 grams. Persons employed in federally funded head
9 start and womens, infants and childrens programs as
10 of the effective date of this chapter.

11 §9908. Temporary license

12 A temporary license may be granted to a person
13 who has completed the education and experience re-
14 quirements of this chapter. This permit allows the
15 person to practice dietetics in association with and
16 under supervision of a licensed dietitian and
17 nutritionist. This permit is valid until the person
18 is issued a license under section 9910 or 9911, or
19 until the results of the national exam taken by the
20 person are available to the board.

21 §9909. Requirements for licensure

22 1. Application; requirement. An applicant ap-
23 plying for a license as a dietitian and nutritionist
24 or dietetic technician shall file a written applica-
25 tion provided by the board, showing to the satisfac-
26 tion of the board that he meets the following re-
27 quirements:

28 A. An applicant applying for a license as a
29 dietitian and nutritionist shall file a written
30 application on forms provided by the board, show-
31 ing to the satisfaction of the board that he is
32 of good moral character and meets the require-
33 ments of this section;

34 B. An applicant shall present evidence satisfac-
35 tory to the board of having successfully com-
36 pleted the academic requirements established by
37 the American Dietetic Association or its equiva-
38 lent as determined by the board and received a
39 baccalaureate or higher degree from an accredited
40 college or university. Such a program shall in-

1 clude courses in organic and inorganic chemistry,
2 human physiology, microbiology, principles of
3 sociology or psychology, basic communication
4 skills, economics, food composition, nutrition
5 and management theory;

6 C. An applicant shall submit to the board evi-
7 dence of having successfully completed the expe-
8 rience requirements approved by the American
9 Dietetic Association or equivalent experience ap-
10 proved by the board. That experience shall in-
11 clude at least 6 months full-time clinical expe-
12 rience in the field of nutrition and dietetics,
13 or its part-time equivalent. The experience
14 shall be acquired during or within 5 years of
15 completion of the academic requirements in pa-
16 raph B, and not more than 5 years before the
17 date of license application; and

18 D. Successful completion of an examination given
19 by the American Dietetic Association or its
20 equivalent as determined and administered by the
21 board.

22 2. For a dietetic technician:

23 A. An applicant applying for a license as a
24 dietetic technician shall file a written applica-
25 tion on forms provided by the board, showing to
26 the satisfaction of the board that he is of good
27 moral character and meets the requirements of
28 this section; and

29 B. Graduation from a dietetic technician program
30 approved by the Commission on Accreditation of
31 the American Dietetic Association or its equiva-
32 lent, as determined by the board, or graduation
33 with a Bachelor of Science Degree in Food and Nu-
34 trition from an approved 4-year program.

35 §9910. Waiver of requirements for licensure

36 The board shall grant a license to any person
37 who, prior to the effective date of this chapter, has
38 met the requirements for dietetic registration of the
39 American Dietetic Association or who has met the re-
40 quirements for dietetic technicians as set forth in

1 section 9909 or who has practiced in Maine as a
2 dietetic technician and is deemed by the board to
3 have met the equivalent requirements to function as a
4 dietetic technician.

5 §9911. Issuance of license

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

9 §9912. Renewal of license

10 1. Biennial renewal. Any license issued under
11 this chapter shall be subject to biennial renewal and
12 shall expire, unless renewed in the manner prescribed
13 by the rules of the board, upon the payment of a re-
14 newal fee. Licenses may be renewed up to 90 days af-
15 ter the date of expiration upon payment of a late fee
16 of \$10 in addition to the renewal fee. Any person
17 who submits an application for renewal more than 90
18 days after the license renewal date shall be subject
19 to all requirements governing new applicants under
20 this chapter, except that the board may in its dis-
21 cretion, giving due consideration to the protection
22 of the public, waive examination if that renewal ap-
23 plication is made within 2 years from the date of
24 that expiration.

25 2. Inactive status. Upon request, the board
26 shall grant inactive status to a licensee who does
27 not practice but maintains any continuing competency
28 requirements established by the board.

29 3. Continued competency. Each license renewal
30 shall be accompanied with evidence of continuing
31 competencies and education as determined by the
32 board.

33 §9913. Disciplinary actions

34 1. Complaints. The board may order an investi-
35 gation of a complaint on its own motion or on written
36 complaint filed with the board regarding noncompli-
37 ance with or violation of any section of this chapter
38 or of any rules adopted by the board.

1 2. Disciplinary actions; grounds. The board may
2 suspend or revoke a license pursuant to Title 5, sec-
3 tion 10004. The board may refuse to renew or the Ad-
4 ministrative Court may revoke, suspend or refuse to
5 renew any license issued under this chapter or any
6 rule or order of the board. The following shall be
7 grounds for an action to refuse to issue, modify,
8 suspend, revoke or refuse to renew the license of a
9 person under this chapter:

10 A. The practice of fraud or deceit in obtaining
11 a license under this chapter or in connection
12 with service rendered within the scope of the li-
13 cence issued;

14 B. Unprofessional conduct. A licensee shall be
15 deemed to have engaged in unprofessional conduct
16 if he violates any standard of professional be-
17 havior which has been established in the practice
18 for which the licensee is licensed;

19 C. Subject to the limitations of Title 5, chap-
20 ter 341, conviction of a crime which involves
21 dishonesty or false statement or which relates
22 directly to the practice for which the licensee
23 is licensed or conviction of any crime for which
24 imprisonment for one year or more may be imposed;
25 or

26 D. Any violation of this chapter or rules
27 adopted by the board .

28 3. Reinstatement. An application for reinstatement
29 may be made to the board one year from the date
30 of revocation of a license. The board may accept or
31 reject an application for reinstatement and hold a
32 hearing to consider the reinstatement.

33 §9914. Fees

34 1. Amount. Fees may be established by the board
35 in amounts which are reasonable and necessary for
36 their respective purposes. The fees may not exceed
37 the following amounts:

38 A. For an initial application for a dietitian
39 and nutritionist license, \$80;

1 B. For an initial application for a dietetic
2 technician license, \$60; or

3 C. For a temporary license, \$25.

4 Biennial renewal of licenses shall be for the same
5 amount as initial licenses.

6 2. Disposal of fees. All fees received by the
7 board shall be paid to the Treasurer of State to be
8 used for carrying out this chapter. Any balance of
9 fees shall not lapse but shall be carried forward as
10 a continuing account to be expended for the same pur-
11 poses in the following fiscal years.

12 §9915. Reciprocity

13 The board may, in its discretion, grant a license
14 under this chapter to an individual licensed in an-
15 other state if it determines that the requirements or
16 standards for licensure in that state are equivalent
17 to, or greater than, this chapter.

18 STATEMENT OF FACT

19 Americans today spend billions of dollars on
20 health fraud, unproven cures and unnecessary, and in
21 some cases, dangerous food and vitamin supplements.
22 As Americans interest in nutrition and health contin-
23 ues to grow, more and more individuals are going into
24 the business of providing information, counseling and
25 other related services to citizens.

26 In order to protect the public, most other health
27 care professionals, and nonhealthcare occupations,
28 are currently licensed by the State. There are no
29 guidelines or standards at the state level for deter-
30 mining qualified professionals in the field of
31 dietetics.

32 Currently in Maine, over 200 trained dietitians
33 and dietetic technicians work in a variety of set-
34 tings, including hospitals, nursing homes, facilities
35 for the retarded, the public schools, private prac-
36 tice and even in corporations. They have come to be
37 recognized as an increasingly important part of the

1 health care continuum and the overall medical team,
2 providing advice frequently to individuals suffering
3 from diabetes and other acute or chronic illnesses.

4 This bill establishes a licensing board and pro-
5 cess for dietitians and nutritionists in Maine. It
6 sets up this process in the Department of Business,
7 Professional and Occupational Regulation and conforms
8 to all of the standard administrative procedures de-
9 veloped for licensing boards adopted by that depart-
10 ment in the last several years.

11 This bill delineates specific licensing standards
12 for dietitians and nutritionists and for dietetic
13 technicians. It does not require licensing for
14 weight-control programs such as Weight Watchers or
15 Diet Centers because of the involvement of physi-
16 cians, nurses and other already-licensed profession-
17 als within those programs.

18 This bill is supported by physicians, hospital
19 administrators, consumers and others who have had ex-
20 perience in dealing with dietitians and nutritionists
21 and recognize the value and the timeliness of a li-
22 censing mechanism for this profession.

23

0860012185