

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 171, L.D. 463)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1397

8 S.P. 520

In Senate, April 24, 1985

9 Reported by Majority Report from the Committee on Business and
10 Commerce and printed under Joint Rule 2. Original bill sponsored by Senator
11 Gill of Cumberland. Cosponsored by Senator Bustin of Kennebec,
Representative Telow of Lewiston and Representative Martin of Van Buren.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT to License Dietitians.
19

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

22 Sec. 1. 5 MRSA §12004, sub-§1, ¶A, sub-¶(9-A) is
23 enacted to read:

24 (9-A) Board of Dietetic Expenses 32 MRSA §9903
25 Practice Only

26 Sec. 2. 10 MRSA §8001, as amended by PL 1983, c.
27 746, §1 and c. 758, §1, is repealed and the following
28 enacted in its place:

29 §8001. Department; agencies within department

30 There is created and established the Department
31 of Business, Occupational and Professional Regula-
32 tion, in this chapter referred to as the "depart-
33 ment," to regulate financial institutions, insurance

1 companies, commercial sports, grantors of consumer
2 credit and to license and regulate professions and
3 occupations. The department shall be composed of the
4 following bureaus, boards and commissions:

5 Banking, Bureau of;

6 Consumer Credit Protection, Bureau of;

7 Insurance, Bureau of;

8 Athletic Commission, Maine;

9 Penobscot Bay and River Pilotage Commission;

10 Real Estate Commission;

11 Running Horse Racing Commission, State;

12 Arborist Examining Board;

13 Auctioneers Advisory Board;

14 Commercial Driver Education, Board of;

15 Dietetic Practice, Board of;

16 Electricians' Examining Board;

17 Foresters, State Board of Registration for Pro-
18 fessional;

19 Funeral Service, State Board of;

20 Geologists and Soil Scientists, State Board of
21 Certification for;

22 Hearing Aid Dealers and Fitters, Board of;

23 Manufactured Housing Board;

24 Occupational Therapy Practice, Board of;

25 Oil and Solid Fuel Board;

26 Physical Therapy, Board of Examiners in;

1 Plumbers' Examining Board;
2 Psychologists, State Board of Examiners of;
3 Social Worker Registration, State Board of;
4 Speech Pathology and Audiology, Board of Examin-
5 ers on; and
6 Substance Abuse Counselors, Board of Registration
7 of.

8 Sec. 3. 32 MRSA c. 105 is enacted to read:

9 CHAPTER 105

10 DIETITIANS

11 §9901. Declaration of purpose

12 In order to safeguard public health, safety and
13 welfare, to protect the public from incompetent and
14 unauthorized persons, to assure the highest degree of
15 professional conduct on the part of dietitians and
16 dietetic technicians and to assure the availability
17 of dietetic services of high quality to persons in
18 need of those services, it is the purpose of this
19 chapter to provide for the regulation of persons of-
20 fering dietetic services.

21 §9902. Definitions

22 As used in this chapter, unless the context oth-
23 erwise indicates, the following terms have the fol-
24 lowing meanings.

25 1. Board. "Board" means the Board of Dietetic
26 Practice established under this chapter.

27 2. Commissioner. "Commissioner" means the Com-
28 missioner of Business, Occupational and Professional
29 Regulation.

30 3. Department. "Department" means the Depart-
31 ment of Business, Occupational and Professional Regu-
32 lation.

1 4. Dietetics. "Dietetics" means the profession-
2 al discipline of assessing health, physical, psycho-
3 logical, social, cultural and economic needs and con-
4 ditions as they affect the nutrition of an individual
5 and applying scientific principles of nutrition to
6 ensure their proper nourishment, care and education.

7 5. Dietetic technician. "Dietetic technician"
8 means a person who assists in the practice of
9 dietetics under the supervision of a dietitian of no
10 less than 8 hours a month and who is licensed in ac-
11 cordance with this chapter.

12 6. Dietitian. "Dietitian" means a person li-
13 icensed to practice dietetics under this chapter.

14 §9903. Board of Dietetic Practice; establishment;
15 compensation

16 1. Establishment and membership. There is es-
17 tablished, within the Department of Business, Occupa-
18 tional and Professional Regulation, the Board of
19 Dietetic Practice. The board shall consist of 5 mem-
20 bers appointed by the Governor, including 2 public
21 members who are residents of this State, who do not
22 hold licenses to practice dietetics and who have no
23 direct or indirect financial interest in the practice
24 or delivery of dietetic services. The persons ap-
25 pointed to the board, other than the public members,
26 must have been engaged in rendering dietetic services
27 to the public, teaching or research in dietetics for
28 at least 2 years immediately preceding their appoint-
29 ments. At least 2 board members shall be dietitians.
30 The 3rd member shall be either a dietitian or a
31 dietetic technician. These members shall at all
32 times be holders of valid licenses for the practice
33 of dietetics in the State, except for the members of
34 the first board, all of whom shall fulfill the re-
35 quirements for licensure of this chapter.

36 2. Terms of appointment. The Governor shall ap-
37 point 2 board members for terms of one year, 2 for
38 terms of 2 years and one for a term of 3 years. Ap-
39 pointments made thereafter shall be for 3-year terms,
40 but no person may be appointed to serve more than 3
41 consecutive terms. Terms shall begin on the first
42 day of the calendar year and end on the last day of

1 the calendar year or until successors are appointed,
2 except for the first appointed members who shall
3 serve through the last calendar day of the year in
4 which they are appointed, before commencing the terms
5 prescribed by this section.

6 Any member of the board may be removed from office
7 for cause by the Governor. A member may not serve
8 more than 3 full successive terms, provided that, for
9 this purpose only, a period actually served which ex-
10 ceeds 1/2 of the 3-year term shall be deemed a full
11 term.

12 3. Meetings. The board shall meet at least once
13 a year to conduct its business and to elect its offi-
14 cers. Additional meetings shall be held as necessary
15 to conduct the business of the board and may be con-
16 vened at the call of the chairman or a majority of
17 the board members. The board shall elect one of its
18 members as chairman at its annual meeting. A majori-
19 ty of the members of the board shall constitute a
20 quorum for all purposes.

21 4. Compensation. Members of the board shall re-
22 ceive no compensation for their services, but shall
23 be entitled to expenses on the same basis as provided
24 for state employees.

25 §9904. Board of Dietetic Practice; powers and duties

26 1. Powers. The board shall administer and en-
27 force this chapter and evaluate the qualifications of
28 applicants for licensure. The board may issue sub-
29 poenas, examine witnesses, administer oaths and may
30 investigate or cause to be investigated any com-
31 plaints made to it or any cases of noncompliance with
32 or violation of this chapter.

33 2. Rules. The board may adopt, in accordance
34 with the Maine Administrative Procedure Act, Title 5,
35 chapter 375, rules relating to professional conduct
36 to carry out the policy of this chapter, including,
37 but not limited to, rules relating to professional
38 licensure and to the establishment of ethical stan-
39 dards of practice for persons holding a license to
40 practice dietetics in this State.

1 3. Hearings. Hearings may be conducted by the
2 board to assist with investigations, to determine
3 whether grounds exist for suspension, revocation or
4 denial of a license or as otherwise deemed necessary
5 to the fulfillment of its responsibilities under this
6 chapter. Hearings shall be conducted in accordance
7 with the Maine Administrative Procedure Act, Title 5,
8 chapter 375, subchapter IV, to the extent applicable.

9 4. Records. The board shall keep such records
10 and minutes as are necessary to the ordinary dispatch
11 of its functions.

12 5. Contracts. The board may enter into con-
13 tracts to carry out its responsibilities under this
14 chapter.

15 6. Reports. No later than August 1st of each
16 year, the board shall submit to the commissioner, for
17 the preceding fiscal year ending June 30th, its annu-
18 al report of its operations and financial position,
19 together with such comments and recommendations as
20 the commissioner deems essential.

21 §9905. Board of Dietetic Practice; administrative
22 provisions

23 1. Officers. The board may appoint officers as
24 it deems necessary.

25 2. Employees. With the advice of the board, the
26 commissioner may appoint, subject to the Personnel
27 Law, such employees as may be necessary to carry out
28 this chapter. Any person so employed shall be lo-
29 cated in the department and under the administrative
30 and supervisory direction of the commissioner.

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

34 §9906. Licenses

35 1. License required. No person may practice
36 dietetics, or hold himself out to be a dietitian or
37 dietetic technician or use related terms or words,
38 unless he is licensed in accordance with this chap-
39 ter.

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

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

6 The State may bring an action in Superior Court to
7 enjoin any person from violating this chapter, re-
8 gardless of whether proceedings have been or may be
9 instituted in the Administrative Court or whether
10 criminal proceedings have been or may be instituted.

11 §9907. Persons and practices exempt

12 Nothing in this chapter may be construed as pre-
13 venting or restricting the practice, services or ac-
14 tivities of:

15 1. Licensed persons. Any person licensed or
16 registered in this State under any other law from en-
17 gaging in the profession or occupation for which he
18 is licensed or registered;

19 2. Students or trainees. Any person pursuing a
20 supervised course of study leading to a degree in nu-
21 trition or dietetics at an accredited or approved ed-
22 ucational program, if the person is designated by a
23 title which clearly indicates his status as a student
24 or trainee;

25 3. Persons giving general nutrition-related in-
26 formation. Individuals who give general
27 nutrition-related guidance, information or lectures
28 to individuals or groups based on general nutritional
29 principles, but who do not engage in the practice of
30 dietetics. This exemption includes, but is not lim-
31 ited to, persons employed as health educators, nutri-
32 tion aides and persons employed in state and federal-
33 ly funded head start and women, infants and childrens
34 programs; or

35 4. Marketing or distribution of food products
36 including dietary supplements. Individuals who mar-
37 ket or distribute food products, including dietary
38 supplements as defined by the Federal Food and Drug
39 Administration, and in connection with the Federal

1 Food and Drug Administration provide explanations and
2 education to customers regarding the proper use of
3 those products for nontherapeutic needs, but who do
4 not engage in the practice of dietetics.

5 §9908. Temporary license

6 A temporary license may be granted to a person
7 who has completed the education and experience re-
8 quirements of this chapter. This license allows the
9 person to practice dietetics in association with and
10 under supervision of a licensed dietitian. This li-
11 cence is valid until the person is issued a license
12 under section 9910 or 9911, until the results of the
13 national exam taken by the person under section 9909,
14 subsection 1, paragraph D, are available to the
15 board, or for a one-year period, whichever time peri-
16 od is shorter. A person may obtain one renewal of a
17 temporary license.

18 §9909. Requirements for licensure

19 1. Dietitian's license. An applicant for a li-
20 cence as a dietitian shall file a written application
21 on forms provided by the board, showing to the satis-
22 faction of the board that he meets the following re-
23 quirements.

24 A. The applicant must be of good moral character
25 and meet the requirements of this section.

26 B. An applicant shall present evidence satisfac-
27 tory to the board of having successfully com-
28 pleted the academic requirements established by
29 the American Dietetic Association or equivalent
30 requirements as determined by the board and re-
31 ceived a baccalaureate or higher degree from an
32 accredited college or university. Such a program
33 shall include courses in organic and inorganic
34 chemistry, human physiology, microbiology, prin-
35 ciples of sociology or psychology, basic communi-
36 cation skills, economics, food composition, nu-
37 trition and management theory.

38 C. An applicant shall submit to the board evi-
39 dence of having successfully completed the expe-
40 rience requirements approved by the American

1 Dietetic Association or equivalent experience ap-
2 proved by the board. That experience shall in-
3 clude at least 6 months full-time clinical expe-
4 rience in the field of dietetics, or its part-
5 time equivalent. The experience shall be ac-
6 quired during or within 5 years of completion of
7 the academic requirements in paragraph B, and not
8 more than 5 years before the date of license ap-
9 plication.

10 D. The applicant must have successfully com-
11 pleted an examination given by the American
12 Dietetic Association or its equivalent as deter-
13 mined and administered by the board.

14 2. Dietetic technician's license. An applicant
15 for a license as a dietetic technician shall file a
16 written application on forms provided by the board
17 showing to the satisfaction of the board that he
18 meets the following requirements.

19 A. The applicant must be of good moral character
20 and meets the requirements of this section.

21 B. The applicant must have graduated from a
22 dietetic technician program approved by the Com-
23 mission on Accreditation of the American Dietetic
24 Association or its equivalent, as determined by
25 the board, or graduated with a Bachelor of Sci-
26 ence Degree in Food and Nutrition from an ap-
27 proved 4-year program.

28 §9910. Waiver of requirements for licensure

29 The board shall grant a license to any person
30 who, prior to the effective date of this chapter, has
31 met the requirements for dietetic registration estab-
32 lished by the American Dietetic Association or has
33 equivalent qualifications as determined by the board,
34 or who has met the requirements for licensure as a
35 dietetic technician set forth in section 9909 or has
36 practiced in Maine as a dietetic technician and is
37 considered by the board to have met the equivalent
38 requirements to qualify as a dietetic technician.

39 §9911. Issuance of license

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

4 §9912. Renewal of license

5 1. Annual renewal. Licenses shall expire annu-
6 ally on December 31st and shall become invalid on
7 that date unless a renewal fee is paid and the li-
8 cence renewed in the manner prescribed by the board.
9 On or before December 1st of each year, the board
10 shall notify each licensee of the expiration date of
11 his license and the fee that is required to renew the
12 license.

13 Licenses may be renewed up to 90 days after the date
14 of expiration upon payment of a late fee of \$10 in
15 addition to the renewal fee. Any person who submits
16 an application for renewal more than 90 days after
17 the license renewal date shall be subject to all re-
18 quirements governing new applicants under this chap-
19 ter, except that the board may in its discretion,
20 giving due consideration to the protection of the
21 public, waive examination if that renewal application
22 is made within 2 years from the date of that expira-
23 tion.

24 2. Continued competency. Each license renewal
25 shall be accompanied with evidence of continuing
26 competencies and education as determined by the
27 board.

28 §9913. Disciplinary actions

29 1. Complaints. The board may order an investi-
30 gation of a complaint on its own motion or on written
31 complaint filed with the board regarding noncompli-
32 ance with or violation of any section of this chapter
33 or of any rules adopted by the board.

34 2. Disciplinary actions; grounds. The board may
35 suspend or revoke a license pursuant to Title 5, sec-
36 tion 10004. The board may refuse to renew or the Ad-
37 ministrative Court may revoke, suspend or refuse to
38 renew any license issued under this chapter or any
39 rule or order of the board. The following shall be
40 grounds for an action to refuse to issue, modify,

1 suspend, revoke or refuse to renew the license of a
2 person under this chapter:

3 A. The practice of fraud or deceit in obtaining
4 a license under this chapter or in connection
5 with service rendered within the scope of the li-
6 cence issued;

7 B. Unprofessional conduct. A licensee shall be
8 deemed to have engaged in unprofessional conduct
9 if he violates any standard of professional be-
10 havior which has been established in the practice
11 for which the licensee is licensed;

12 C. Subject to the limitations of Title 5, chap-
13 ter 341, conviction of a crime which involves
14 dishonesty or false statement or which relates
15 directly to the practice for which the licensee
16 is licensed or conviction of any crime for which
17 imprisonment for one year or more may be imposed;
18 or

19 D. Any violation of this chapter or rules
20 adopted by the board.

21 3. Reinstatement. An application for reinstatement
22 may be made to the board one year from the date
23 of revocation of a license. The board may accept or
24 reject an application for reinstatement and hold a
25 hearing to consider the reinstatement.

26 §9914. Fees

27 1. Amount. Application and examination fees may
28 be established by the board in amounts which are rea-
29 sonable and necessary for their respective purposes.
30 The fees may not exceed the following amounts:

31 A. For an initial application for a dietitian
32 license, \$40;

33 B. For an initial application for a dietetic
34 technician license, \$40; or

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

36 License renewal fees shall be in the same amounts as
37 for initial licenses.

1 2. Deposit of fees. All fees received by the
2 board shall be paid to the Treasurer of State to be
3 used for carrying out this chapter. Any balance of
4 fees shall not lapse, but shall be carried forward as
5 a continuing account to be expended for the same pur-
6 poses in the following fiscal years.

7 §9915. Reciprocity

8 The board may, in its discretion, grant a license
9 under this chapter to an individual licensed in an-
10 other state if it determines that the requirements or
11 standards for licensure in that state are equivalent
12 to, or greater than, those for this chapter.

13 STATEMENT OF FACT

14 This new draft provides for licensing for
15 dietitians and dietetic technicians working in a va-
16 riety of settings. No person may practice or hold
17 himself out as a dietitian or dietetic technician un-
18 less he meets the educational, training and examina-
19 tion requirements set by the Board of Dietetic Prac-
20 tice. Residents of the State would know that, when
21 they consult a person using those titles, they are
22 receiving sound nutritional and dietary advice and
23 counseling.

24 This new draft makes several substantive and
25 technical changes to the original draft, including
26 the following.

27 1. The definition of dietetics is changed, the
28 term "nutritionist" is eliminated and the categories
29 of exempted persons are revised. These changes are
30 intended to more clearly differentiate between
31 dietitians and those persons who give general
32 nutrition-related guidance and information or market
33 food products and dietary supplements, but do not en-
34 gage in the practice of dietetics. For example, a
35 health educator working for a physician or in an em-
36 ployee health promotion program may advise an over-
37 weight persons with high blood pressure to lose
38 weight and decrease his salt consumption and also
39 give general guidance on weight reduction practices
40 and ways to reduce salt intake. The health educator

1 would not be allowed to prescribe a specific diet
2 plan for that individual. For this purpose, the in-
3 dividual would be referred to a dietitian.

4 2. To avoid any implication that only those per-
5 sons registered by the American Dietetic Association
6 may obtain licensure, this new draft revises the lan-
7 guage in the sections on academic requirements for
8 new applicants and waiver of licensing requirements
9 for those possessing certain qualifications as of the
10 effective date of this Act.

11 3. This new draft makes several technical
12 changes in the sections governing the Board of
13 Dietetic Practice to conform the board's composition
14 and operation to that of other boards.

15 4. This new draft changes the licenses from bi-
16 ennial to annual licenses and amends the fees and re-
17 newal procedures accordingly.

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