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HOUSE BILL NO. 345

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 54.1-2731 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2956.12 through 54.1-2956.18, relating to licensure of dietitians.

Patrons—O'Bannon, Filler-Corn, Hugo, Kory and Landes

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2731 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-2956.12 through 54.1-2956.18 as follows:

CHAPTER 27.1.

~~DIETITIANS AND~~ NUTRITIONISTS.

§ 54.1-2731. Prohibited terms; penalty.

A. No person shall hold himself out to be or advertise or permit to be advertised that such person is a ~~dietitian or~~ nutritionist unless such person:

1. Has (i) received a baccalaureate or higher degree in nutritional sciences, community nutrition, public health nutrition, food and nutrition, dietetics or human nutrition from a regionally accredited college or university *in the United States* and (ii) satisfactorily completed a program of supervised clinical experience approved by the Commission on Dietetic Registration of the ~~American Dietetic Association~~*Academy of Nutrition and Dietetics, or a successor organization thereof*;

2. Has active registration through the Commission on Dietetic Registration of the American Dietetic Association;

3. Has an active certificate of the Certification Board for Nutrition Specialists by the Board of Nutrition Specialists;

4. Has an active accreditation by the Diplomats or Fellows of the American Board of Nutrition;

5. Has a current license or certificate as a ~~dietitian or~~ nutritionist issued by another state; or

6. Has the minimum requisite education, training and experience determined by the Board of Health Professions appropriate for such person to hold himself out to be, or advertise or allow himself to be advertised as, a ~~dietitian or~~ nutritionist.

The restrictions of this section apply to the use of the ~~terms "dietitian" and~~ *term* "nutritionist" as used alone or in any combination with the terms "licensed," "certified," or "registered," as those terms also imply a minimum level of education, training and competence.

B. Any person who willfully violates the provisions of this section shall be guilty of a Class 3 misdemeanor.

§ 54.1-2956.12. Dietitians; practice of dietetics; definitions.

"Dietetics" means the integration, application, and communication of principles derived from food, nutrition, social, business, and basic sciences to achieve and maintain optimal nutrition status of individuals through the development, provision, and management of effective food and nutrition services in a variety of settings.

"Dietitian" means an individual who has met the requirements of the Board for licensure to practice dietetics.

"General nonmedical nutrition information" means information on one or more of the following: (i) principles of good nutrition and food preparation; (ii) food to be included in the normal daily diet; (iii) the essential nutrients needed by the body; (iv) recommended amounts of the essential nutrients, based on established standards; (v) the actions of nutrients on the body; (vi) the effects of deficiencies or excesses of nutrients; or (vii) food and supplements that are good sources of essential nutrients.

"Medical nutrition therapy" means the use of specific nutrition services described in the nutrition care process for the purpose of disease management to treat or rehabilitate an illness, injury, or condition and includes (i) interpreting dietary data and determining nutrient needs relative to medically prescribed diets, including but not limited to tube feedings, specialized intravenous solutions, and specialized oral feedings; (ii) food and prescription drug interactions; and (iii) developing and managing food service operations whose chief function is nutrition care and provision of medically prescribed diets.

"Medically prescribed diet" means a diet prescribed when specific food or nutrient levels need to be monitored or altered, or both, as a component of a treatment program for an individual whose health status is impaired or at risk due to disease, injury, or surgery.

"Nutrition care process" means the systematic problem solving method used to critically think about and make decisions regarding the provision of medical nutrition therapy or to address nutrition-related problems. Nutrition care process includes: (i) the systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, and dietary data in order to determine nutrient needs and appropriate intake including enteral and parenteral nutrition; (ii) identifying and labeling nutrition problems that a dietitian is responsible for treating independently; (iii) 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; and (iv) identifying patient or client outcomes relevant to the nutrition diagnosis and intervention plans and goals, and comparing those outcomes with a previous status, intervention goals, or a reference standard to determine the progress made in achieving desired outcomes of nutrition care for the purpose of determining whether planned interventions should be continued or revised.

§ 54.1-2956.13. Powers of the Board.

The Board shall take such actions as may be necessary to ensure the competence and integrity of any person who claims to be a dietitian or who holds himself out to the public as a dietitian or who engages in the practice of dietetics, the nutrition care process, and medical nutrition therapy, and to that end it may license as dietitians any practitioner who has met the qualifications established in regulations by the Board.

§ 54.1-2956.14. Unlawful to practice dietetics without license; unlawful designation as dietitian.

It shall be unlawful for any person not holding a current and valid license from the Board (i) to practice as or hold himself out as a dietitian; (ii) to use in conjunction with his name the letters or words "dietitian," "L.D.," or "Licensed Dietitian"; or (iii) to otherwise by letters, words, representations, or insignias assert or imply that he is licensed to practice dietetics. It shall be unlawful for any person not holding a current and valid license as a dietitian to engage in the nutrition care process or medical nutrition therapy, except when otherwise permitted by this chapter.

A person registered with the Commission on Dietetic Registration, or a successor organization thereof, the credentialing body for the Academy of Nutrition and Dietetics, may use the letters or words "R.D." or "Registered Dietitian" in conjunction with his name. However, such persons are not exempt from the requirement for licensure and shall not engage in the practice of dietetics within the Commonwealth without a current and valid license issued by the Board.

§ 54.1-2956.15. Requirements for licensure as a dietitian; provisional license.

A. The Board shall promulgate regulations establishing requirements for licensure as a dietitian that shall include, but not be limited to, the following:

1. Receipt of at least a bachelor's degree in human nutrition, nutrition education, foods and nutrition, food systems management, dietetics, or public health nutrition or in a related field from a regionally accredited college or university in the United States that meets the requirements of the Commission on Dietetic Registration, or a successor organization thereof;

2. Successful completion of at least 1200 hours of supervised experience approved by the Commission on Dietetic Registration, or a successor organization thereof;

3. Passage of the examination for registration administered by and current registration with the Commission on Dietetic Registration, or a successor organization thereof; and

4. Documentation that the applicant for licensure has not had his license or certificate as a dietitian suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

B. The Board may issue a provisional license to practice under the supervision of a licensed dietitian for up to one year upon the filing of an application and submission of evidence of successful completion of the educational and pre-professional practice requirements to sit for the registration examination.

C. The Board may license any person who, prior to July 1, 2012, met the requirements to practice as a registered dietitian.

§ 54.1-2956.16. Exceptions to requirements for licensure as a dietitian.

The licensure requirements for dietitians established pursuant to this chapter shall not apply to and a license as a dietitian shall not be required for:

1. Any student performing activities related to an accredited educational program under the supervision of a licensed dietitian or any person completing the supervised practice required for licensure;

2. A registered dietetic technician working under the supervision and direction of a licensed dietitian;

3. A government employee or a person under contract to the government acting within the scope of such employment or contract;

4. Any health professional licensed or certified under this title engaged in the profession for which he is licensed;

5. A certified teacher employed by or under contract to any public or private elementary or secondary school or institution of higher learning;

6. Any person with management responsibility for food service department policies, procedures, or outcomes in any food service department in any program or facility licensed by the Commonwealth;

7. A dietitian who is serving in the armed forces or the public health service of the United States or is employed by the U.S. Department of Veterans Affairs and who engages in the practice of dietetics provided such practice is related to such service or employment;

8. Any person or retailer who does not hold himself out to be a dietitian who furnishes general, nonmedical nutrition information on food, food materials, or dietary supplements or on the marketing of food, food materials, or dietary supplements; and

9. A person providing weight control services through a program that has been reviewed and approved by and when consultation is available from a licensed dietitian, a dietician licensed in another state that has licensure requirements at least as stringent as the requirements for licensure pursuant to this chapter, a dietitian registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics, or a successor organization thereof, or a physician licensed in the Commonwealth. Program changes may not be initiated without prior approval of the program approver.

§ 54.1-2956.17. Requirements for medical nutritional therapy and medical laboratory tests.

The Board shall promulgate such regulations as may be necessary to allow a licensed dietitian to (i) provide medical nutritional therapy for individuals or groups of patients in licensed institutional facilities as authorized by referral, institutional privileges, or protocols or in private office settings; (ii) accept or transmit verbal orders or electronically transmitted orders from a referring prescriber; and (iii) order medical laboratory tests related to nutritional therapeutic treatments when authorized to do so by referral, institutional privileges, or protocols.

§ 54.1-2956.18. Advisory Board on Dietitians; membership; qualifications.

The Advisory Board on Dietitians (Advisory Board) shall assist the Board of Medicine in carrying out the provisions of this chapter regarding the qualifications, examination, licensure, and regulation of dietitians.

The Advisory Board shall consist of five members to be appointed by the Governor for four-year terms as follows: three members who shall be dietitians who have practiced their profession in the Commonwealth for not less than three years prior to their appointments; one member who shall be a physician; and one member who shall be a citizen member appointed from the Commonwealth at large. Vacancies occurring other than by expiration of terms shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

Nominations for the professional members of the Advisory Board may be chosen by the Governor from a list of at least three names for each vacancy submitted by the Virginia Dietetic Association. The Governor may notify the Virginia Dietetic Association of any professional vacancy other than by expiration of a term and nominations may be submitted by the Virginia Dietetic Association. The Governor shall not be bound to make any appointment from among such nominees.

Members of the Advisory Board shall receive compensation for their services and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

The Department of Health Professions shall provide staff support to the Advisory Board. All agencies of the Commonwealth shall provide assistance to the Advisory Board upon request.

2. That the provisions of this act shall become effective on July 1, 2013.

3. That the Board of Medicine shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

4. That the initial terms for the members appointed to the Advisory Board on Dietitians pursuant to § 54.1-2956.18 of this act shall be staggered as follows: two members shall be appointed for a one-year term, one member shall be appointed for a two-year term, one member shall be appointed for a three-year term, and one member shall be appointed for a four-year term.