

043404412

HOUSE BILL NO. 455

Offered January 14, 2004

Prefiled January 13, 2004

A BILL to amend and reenact §§ 54.1-2731 and 54.1-2900 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2956.12 through 54.1-2956.16, relating to licensure of dietitians.

Patrons—McQuigg and Hugo

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2731 and 54.1-2900 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 54.1-2956.12 through 54.1-2956.16 as follows:

§ 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 and (ii) satisfactorily completed a program of supervised clinical experience approved by the Commission on Dietetic Registration of the American Dietetic Association;

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;

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

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

64. 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.

§ 54.1-2900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Acupuncturist" means individuals approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Board" means the Board of Medicine.

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

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Physician assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment

INTRODUCED

HB455

59 program for patients eligible for federal, state or local public funds by an employee of the program who
60 is trained and approved by the National Acupuncture Detoxification Association or an equivalent
61 certifying body.

62 "Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries
63 or conditions related to athletic or recreational activity that requires physical skill and utilizes strength,
64 power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or
65 condition resulting from occupational activity immediately upon the onset of such injury or condition;
66 and subsequent treatment and rehabilitation of such injuries or conditions under the direction of a
67 licensed physical therapist and the patient's physician or under the direction of any doctor of medicine,
68 osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise
69 or mechanical or other devices.

70 "Practice of chiropractic" means the adjustment of the twenty-four movable vertebrae of the spinal
71 column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does
72 not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
73 medicines, serums or vaccines.

74 "Practice of dietetics" or "dietetics" means the integration and application of principles derived from
75 the sciences of nutrition, biochemistry, food, physiology, management and behavioral and social sciences
76 to achieve and maintain health through the provision of nutrition care services that shall include (i)
77 assessing the nutrition needs of individuals and groups based upon appropriate biochemical,
78 anthropomorphic, physical, and dietary data to determine nutrient needs and recommend appropriate
79 intake including enteral and parenteral nutrition; (ii) establishing priorities, goals, and objectives that
80 meet nutrition needs and are consistent with available resources; (iii) providing dietetic nutrition
81 counseling by advising and assisting individuals or groups on appropriate nutrition intake by integrating
82 information from the nutrition assessment with information on food and other sources of nutrients and
83 meal preparation consistent with cultural background and socioeconomic status; (iv) developing,
84 implementing, and managing nutrition care delivery systems; and (v) evaluating, making changes in, and
85 maintaining standards of quality in food and nutrition care services. The practice of dietetics shall
86 include medical nutrition therapy.

87 "Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of
88 human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

89 "Practice of occupational therapy" means the evaluation, analysis, assessment, and delivery of
90 education and training in activities of daily living (ADL); the design, fabrication, and application of
91 orthoses (splints); guidance in the selection and use of adaptive equipment; therapeutic activities to
92 enhance functional performance; prevocational evaluation and training; and consultation concerning the
93 adaptation of physical environments for individuals who have disabilities.

94 "Practice of podiatry" means the medical, mechanical and surgical treatment of the ailments of the
95 human foot and ankle, but does not include amputation proximal to the metatarsal-phalangeal joints. The
96 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within
97 the scope of practice of podiatry.

98 "Practice of radiologic technology" means the application of x-rays to human beings for diagnostic or
99 therapeutic purposes.

100 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and
101 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease
102 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or
103 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a
104 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)
105 observation and monitoring of signs and symptoms, general behavior, general physical response to
106 respiratory care treatment and diagnostic testing, including determination of whether such signs,
107 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)
108 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,
109 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a
110 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,
111 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care
112 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed
113 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or
114 osteopathic medicine, and shall be performed under qualified medical direction.

115 "Qualified medical direction" means, in the context of the practice of respiratory care, having readily
116 accessible to the respiratory care practitioner a licensed practitioner of medicine or osteopathic medicine
117 who has specialty training or experience in the management of acute and chronic respiratory disorders
118 and who is responsible for the quality, safety, and appropriateness of the respiratory services provided
119 by the respiratory care practitioner.

120 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,

podiatry, or chiropractic, or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.) of this title, who (i) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope of diagnostic radiologic procedures employing equipment which emits ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs or other procedures which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist or person who is otherwise authorized by the Board of Dentistry under Chapter 27 of this title and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment which emits ionizing radiation which is limited to specific areas of the human body.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

§ 54.1-2956.12. Powers of the Board concerning dietitians.

The Board shall be empowered to 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, and to that end it may license practitioners as dietitians.

§ 54.1-2956.13. Licensure of dietitians.

It shall be unlawful for a person to practice or to hold himself out as practicing as a dietitian unless he holds a license as such issued by the Board.

§ 54.1-2956.14. Exceptions to requirements for licensure as a dietitian.

A. A license as a dietitian shall not be required for:

1. Any student performing activities related to an 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 when engaging in the profession for which he is licensed or any person working under the supervision of such a professional;

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

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. Any person who does not hold himself out to be a dietitian who furnishes general nutrition on food, food materials, or dietary supplements or explains to customers about foods or food products in connection with marketing and distribution of food or food products; or

8. Any person who provides weight control, wellness, or exercise services involving nutrition provided the program has been reviewed by a licensed dietitian, no change is initiated without prior approval of the dietitian, and consultation is available from a licensed dietitian.

B. Notwithstanding the provisions of § 54.1-2956.12, any person who, prior to June 30, 2004, is practicing in Virginia as a dietitian shall not be required to obtain a license from the Board to continue to practice until July 1, 2006.

§ 54.1-2956.15. Requirements for licensure as a dietitian.

The Board shall adopt regulations establishing requirements for licensure as a dietitian that shall include, but not be limited to:

1. At least a bachelors degree in human nutrition, nutrition education, foods and nutrition, food systems management, dietetics, or public health nutrition or a related field from an accredited college that meets the requirements of the Commission on Dietetic Registration;

2. At least 900 hours of supervised experience approved by the Commission on Dietetic Registration;

3. Passage of the examination for registration administered by the Commission on Dietetic Registration or current registration with the Commission on Dietetic Registration; and

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

§ 54.1-2956.16. Advisory Board on Dietitians; membership; qualifications.

The Advisory Board on Dietitians, hereinafter referred to as the "Advisory Board," shall assist the

182 *Board of Medicine in carrying out the provisions of this chapter regarding the qualifications,*
183 *examination, licensure, and regulation of dietitians.*

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

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

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

195 *The provisions of this section shall expire on July 1, 2007.*