

[Second Reprint]
ASSEMBLY, No. 2826

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Assemblymen MORAN, IMPREVEDUTO and Azzolina

1 AN ACT providing for the licensing of nutritionists ¹[, amending
2 P.L.1971, c.60, P.L.1974, c.46 and P.L.1978, c.73,]¹ and
3 supplementing ¹chapter 9 of¹ Title 45 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. ¹[(New section)]¹ This act shall be known and may be cited as
9 the "Nutritionist Licensing Act."

10
11 2. ¹[(New section)]¹ The Legislature finds and declares that the
12 public interest requires the regulation of the practice of nutrition and
13 the establishment of clear licensure standards for nutritionists and
14 dietitians; and that the health and welfare of the residents of the State
15 will be protected by identifying to the public those individuals who are
16 qualified and legally authorized to practice nutrition.

17
18 3. ¹[(New section)]¹ As used in this act:
19 "Board" means the State Board of ¹[Nutritionists established
20 pursuant to section 4 of this act] Medical Examiners¹.

21 "Licensed nutritionist" or "licensed dietitian" means a person who
22 is licensed pursuant to the provisions of this act.

23 ¹"Committee" means the Nutritionists Examining Committee
24 established pursuant to section 4 of this act.¹

25 "Director" means the Director of the Division of Consumer Affairs
26 in the Department of Law and Public Safety.

27 "Nutrition" means the integration and application of principles
28 derived from the science of nutrition, biochemistry, physiology, food,
29 food management and from behavioral and social sciences to achieve
30 and maintain a healthy ¹human¹ status. It includes the provision of
31 nutrition care as follows: assessing the nutritional needs of individuals

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACP committee amendments adopted May 12, 1997.

² Assembly floor amendments adopted June 19, 1997.

1 and groups, and determining resources and constraints; establishing
2 priorities, goals and objectives that meet nutritional needs and are
3 consistent with available resources and constraints; providing nutrition
4 counseling in health and disease; developing, implementing and
5 managing nutrition care systems; evaluating, making changes in and
6 maintaining appropriate standards of quality in food and nutrition
7 services; and establishing appropriate care plans for normal and
8 therapeutic nutrition services.

9
10 4. ¹[(New section)]¹ There is created within the Division of
11 Consumer Affairs in the Department of Law and Public Safety ¹,
12 under¹ the State Board of [Licensed] Medical Examiners, a ¹
13 Nutritionists ¹Examining Committee¹. The ¹[board] committee¹ shall
14 consist of ¹[nine] six¹ members who are residents of the State ¹[, two
15 of whom shall be public members and one of whom shall be a State
16 executive department member appointed pursuant to the provisions of
17 P.L.1971, c.60 (C.45:1-2.1 et seq.). Of the remaining six members,
18 five] . Five of the members¹ shall be, except for the members first
19 appointed, licensed nutritionists under the provisions of this act and
20 shall have been actively engaged in the practice of nutrition in the
21 State for at least five years immediately preceding their appointment,
22 as follows: one shall be a nutritionist whose primary practice is clinical
23 nutrition; one shall be a nutritionist whose primary practice is
24 community or public health nutrition; one shall be a nutritionist whose
25 primary practice is consulting in nutrition; one shall be a nutritionist
26 whose primary practice is in management of nutritional services; and
27 one shall be a nutritionist teaching in an accredited four-year
28 post-secondary institution; and the remaining member shall be a
29 physician licensed to practice medicine and surgery pursuant to
30 chapter 9 of Title 45 of the Revised Statutes.

31 The Governor shall appoint the ¹[two public members and the State
32 executive department member and shall appoint the remaining six]¹
33 members with the advice and consent of the Senate. Each member¹[,
34 other than the State executive department member,]¹ shall be
35 appointed for a term of three years, except that of the nutritionist
36 members first appointed, two shall serve for a term of three years, two
37 shall serve for terms of two years and one shall serve for a term of one
38 year. Any vacancy in the membership of the ¹[board] committee¹ shall
39 be filled for the unexpired term in the manner provided by the original
40 appointment. No member of the ¹[board] committee¹ may serve more
41 than two successive terms in addition to any unexpired term to which
42 he has been appointed.

43
44 5. ¹[(New section)]¹ Members of the ¹[board] committee¹ shall be
45 compensated and reimbursed for expenses and provided with office
46 and meeting facilities ¹[pursuant to section 2 of P.L.1977, c.285

1 (C.45:1-2.5)] and personnel required for the proper conduct of the
2 business of the committee¹.

3
4 6. ¹[(New section)] ¹ The ~~board~~ committee shall organize
5 within 30 days after the appointment of its members and shall annually
6 elect from among its members a chairperson and vice-chairperson, and
7 a secretary who need not be a member of the ¹[~~board~~] committee¹.
8 The ¹[~~board~~] committee shall meet twice a year and may hold
9 additional meetings as necessary to discharge its duties. A majority of
10 the ¹[~~board~~] committee¹ membership shall constitute a quorum.

11
12 7. ¹[(New section)]¹ The ¹[~~board shall~~] committee may have the
13 following powers and duties, as delegated by the board¹:

14 a. Review the qualifications of applicants for licensure;

15 b. Adopt a code of ethics;

16 c. Insure the proper conduct and standards of examinations;

17 d. Issue and renew biennial licenses for nutritionists pursuant to
18 this act;

19 e. Refuse to admit a person to an examination or refuse to issue or
20 suspend, revoke or fail to renew the license of a nutritionist pursuant
21 to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

22 f. Maintain a record of every nutritionist licensed in this State, their
23 places of business, place of residence and the date and number of their
24 license;

25 g. Prescribe or change the charges for examinations, licenses,
26 renewals and other services it performs pursuant to P.L.1974, c.46
27 (C.45:1-3.1 et seq.), and set the passing score on any examination it
28 adopts as a licensure examination; ¹and¹

29 h. ¹[Adopt and promulgate rules and regulations pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
31 necessary to effectuate the purposes of this act; and

32 i. Establish rules and regulations with respect to] Adopt standards
33 for and approve¹ continuing education requirements.

34
35 ¹[8. (New section) There shall be an Executive Director of the
36 board appointed by the director who shall serve at the director's
37 pleasure. The salary of the Executive Director shall be determined by
38 the director within the limits of available funds. The director shall be
39 empowered within the limits of available funds to hire any assistants
40 as are necessary to administer this act.]¹

41
42 ¹[9. (New section)] 8.¹ No person shall practice nutrition, whether
43 or not compensation is received or expected, unless the person holds
44 a valid license to practice in this State, except nothing in this act shall
45 be construed to:

46 a. Prohibit any person licensed to practice or certified to teach in

1 this State under any other law from engaging in the practice or
2 teaching for which he is licensed, regulated or certified;

3 b. Prohibit any student enrolled in a school or post-graduate course
4 of nutrition recognized by the board, from performing that which is
5 necessary to the student's course of study;

6 c. Prohibit any person from practicing nutrition within the scope of
7 his official duties when employed by an agency, bureau or division of
8 the federal government, serving in the Armed Forces or the Public
9 Health Service of the United States, or employed by the Veterans
10 Administration;

11 d. Prohibit any person who does not hold himself out to be a
12 nutritionist from furnishing ²[general]² nutritional information as to
13 the use of food ²[or] ² food materials ²or dietary supplements² or
14 from engaging in the explanation to persons as to the use of food or
15 food products including dietary supplements; or

16 e. Prohibit any person working in a licensed hospital, licensed long-
17 term health care facility, or State institution or facility from performing
18 those duties that are required in the course of that person's
19 employment.

20

21 ¹[10. (New section)] 9.¹ To be eligible to be licensed as a
22 nutritionist, dietitian, or both, an applicant shall fulfill the following
23 requirements:

24 a. Be at least 18 years of age;

25 b. ²Be of good moral character;

26 c.² Have received a baccalaureate or higher academic degree from
27 a college or university accredited by an agency recognized by the
28 United States Department of Education with a minimum of 15 credit
29 hours or a major in human nutrition, foods and nutrition, food systems
30 management, nutritional science, nutrition education or related courses
31 approved by the board; and have successfully completed a minimum
32 of 900 hours, within a two-year period, in one of the following: (1)
33 a nutrition practice under the supervision of a nutritionist licensed in
34 this State or licensed, registered or certified by a governmental agency
35 in any other state having requirements for licensure, registration or
36 certification substantially similar to licensure requirements in this
37 State; (2) under the supervision of a physician with expertise in human
38 nutrition as demonstrated by academic, clinical or professional
39 credentials; or (3) in a practice program recognized by an accrediting
40 agency recognized by the United States Department of Education or
41 the Commission on Recognition of Post-Secondary Accreditation; and

42 ²[c.] d.² Pass an examination administered or approved by the
43 board ¹, which examination shall have been approved by or
44 administered by the board after consultation with the committee.¹ to
45 determine the applicant's competence to practice nutrition. Two
46 examinations shall be offered by the board; one examination shall

1 qualify the applicant as both a licensed nutritionist and licensed
2 dietitian and one examination shall qualify the applicant as a licensed
3 nutritionist. The examinations shall be identical, with the exception
4 that the examination to qualify an applicant as a licensed nutritionist
5 shall not test knowledge of food management.

6
7 ¹[11. (New section)] 10.¹ To be eligible to be licensed as a
8 nutritionist, dietitian, or both, an applicant who is a graduate of a
9 foreign school of nutrition shall:

10 a. Be at least 18 years of age;

11 b. ²Be of good moral character;

12 c.² Furnish evidence satisfactory to the board that he has
13 completed requirements which are substantially similar to those
14 described in subsection ²[b.] c.² of section ¹[10] 9¹ of this act; and

15 ²[c.] d.² Pass an examination as provided for in subsection ²[c.] d.²
16 of section ¹[10] 9¹ of this act.

17
18 ¹[12. (New section)] 11.¹ The examinations required by
19 subsection ²[c.] d.² of section ¹[10] 9¹ and subsection ²[c.] d.² of
20 section ¹[11] 10¹ of this act shall test the applicant's knowledge of
21 basic and clinical sciences as they relate to nutrition theory and
22 procedures and any other subjects the board ¹, after consultation with
23 the committee,¹ may deem useful to test the applicant's fitness to
24 practice nutrition. Examinations shall be held within the State at least
25 twice a year at a time and place to be determined by the board ¹, in
26 consultation with the committee¹. The board shall give adequate
27 written notice of the examination to applicants for licensure and
28 examination.

29 If an applicant fails an examination twice, the applicant may take a
30 third examination not less than one year nor more than three years
31 from the date of the applicant's initial examination. Additional
32 examinations may be permitted in accordance with standards set by the
33 board ¹, after consultation with the committee¹.

34
35 ¹[13. (New section)] 12.¹ The board ¹, in consultation with the
36 committee,¹ shall issue a license to any applicant who, in the opinion
37 of the board, has satisfactorily met all the requirements of this act.

38 Except in the case of a temporary license issued pursuant to section
39 ¹[18] 17¹ of this act, all licenses shall be issued for a two-year period
40 upon the payment of the licensure fee prescribed by the board, ¹, after
41 consultation with the committee,¹ and shall be renewed upon filing of
42 a renewal application, the payment of a licensure fee and presentation
43 of satisfactory evidence that the renewal applicant has successfully
44 completed the continuing education requirements prescribed by the
45 board by regulation.

1 ¹[14. (New section)] 13.¹ In addition to the provisions of section
2 8 of P.L.1978, c.73 (C.45:1-21), the board ¹, after consultation with
3 the committee.¹ may refuse to grant or may suspend or revoke a
4 license upon proof to the satisfaction of the board that the holder
5 thereof has been found guilty of advertising the practice of nutrition
6 in a manner which disseminates false, deceptive or misleading
7 information, whether as an individual, through a professional service
8 corporation or through a third party.

9
10 ¹[15. (New section)] 14.¹ Upon payment to the board of a fee and
11 the submission of a written application on forms provided by it, the
12 board ¹, after consultation with the committee.¹ shall license without
13 examination a nutritionist or dietitian who is licensed, registered or
14 certified by another state or possession of the United States or the
15 District of Columbia which has standards substantially equivalent to
16 those of this State.

17
18 ¹[16. (New section)] 15.¹ For a period of one year after the
19 effective date of this act, any person who is practicing or residing in
20 this State on the effective date of this act may qualify as a licensed
21 dietitian, a licensed nutritionist, or both, upon application for licensure
22 and payment of the appropriate fee, providing the applicant furnishes
23 evidence satisfactory to the board that he meets the requirements of
24 subsections a. ²[and] ,² b. ²and c.² of section ¹[10] 9¹ of this act; and
25 has been employed in the field of nutrition for three of the last 10 years
26 immediately preceding the effective date of this act.

27
28 ¹[17. (New section)] 16.¹ No person, business entity or its
29 employees, agents or representatives shall use the titles, "nutritionist,"
30 "dietitian," "nutrition counselor," "nutrition consultant," "nutrition
31 specialist," or any other title, designation, words, letters, abbreviations
32 or insignia indicating the practice of nutrition unless licensed to
33 practice nutrition under the provisions of this act.

34
35 ¹[18. (New section)] 17.¹ a. Upon payment to the board of a fee
36 and the submission of a written application on forms provided by it,
37 the board shall issue a temporary license to a person who has applied
38 for licensure pursuant to this act and who, in the judgment of the
39 board, ¹, after consultation with the committee.¹ is eligible for
40 examination. A temporary license shall be available to an applicant
41 with his initial application for examination and he may practice only
42 under the direct supervision of a licensed nutritionist or licensed
43 dietitian. A temporary license shall expire automatically upon failure
44 of the licensure examination but may be renewed until the date of the
45 next examination at which time it shall automatically expire and be
46 surrendered to the board.

1 b. Upon payment to the board of a fee and the submission of a
2 written application on forms provided by it, the board ¹, after
3 consultation with the committee,¹ may issue without examination a
4 temporary license to practice nutrition in this State to a person who
5 provides evidence that he is in the State on a temporary basis to assist
6 in a medical emergency or engage in a special project or teaching
7 assignment relating to nutrition. A temporary license shall expire one
8 year from its date of issuance, but it may be renewed by the board for
9 an additional one year period. This temporary license shall be
10 surrendered to the board upon its expiration.

11

12 ¹[19. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read
13 as follows:

14 1. The provisions of this act shall apply to the following boards and
15 commissions: the New Jersey State Board of Accountancy, the New
16 Jersey State Board of Architects, the New Jersey State Board of
17 Cosmetology and Hairstyling, the Board of Examiners of Electrical
18 Contractors, the New Jersey State Board of Dentistry, the State Board
19 of Mortuary Science of New Jersey, the State Board of Professional
20 Engineers and Land Surveyors, the State Board of Marriage and
21 Family Therapy Examiners, the State Board of Medical Examiners,
22 the New Jersey Board of Nursing, the New Jersey State Board of
23 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
24 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
25 of Professional Planners, the State Board of Psychological Examiners,
26 the State Board of Examiners of Master Plumbers, the New Jersey
27 Real Estate Commission, the State Board of Shorthand Reporting, the
28 State Board of Veterinary Medical Examiners, the Radiologic
29 Technology Board of Examiners, the Acupuncture Examining Board,
30 the State Board of Chiropractic Examiners, the State Board of
31 Respiratory Care, the State Real Estate Appraiser Board, the State
32 Board of Social Work Examiners, [and] the State Board of Public
33 Movers and Warehousemen, and the State Board of Nutritionists.
34 (cf: P.L.1995, c.366, s.20)]¹

35

36 ¹[20. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read
37 as follows:

38 1. The provisions of this act shall apply to the following boards and
39 commissions: the New Jersey State Board of Accountancy, the New
40 Jersey Board of Architects, the New Jersey State Board of
41 Cosmetology and Hairstyling, the Board of Examiners of Electrical
42 Contractors, the New Jersey State Board of Dentistry, the State Board
43 of Mortuary Science of New Jersey, the State Board of Professional
44 Engineers and Land Surveyors, the State Board of Marriage and
45 Family Therapy Examiners, the State Board of Medical Examiners, the
46 New Jersey Board of Nursing, the New Jersey State Board of

1 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
2 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
3 of Professional Planners, the State Board of Psychological Examiners,
4 the State Board of Examiners of Master Plumbers, the State Board of
5 Shorthand Reporting, the State Board of Veterinary Medical
6 Examiners, the Radiologic Technology Board of Examiners, the
7 Acupuncture Examining Board, the State Board of Chiropractic
8 Examiners, the State Board of Respiratory Care, the State Real Estate
9 Appraiser Board, [and] the State Board of Social Work Examiners,
10 and the State Board of Nutritionists.
11 (cf: P.L.1995, c.366, s.22)]¹

12
13 ¹[21. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read
14 as follows:

15 2. The provisions of this act shall apply to the following boards and
16 all professions or occupations regulated by or through such boards:
17 the New Jersey State Board of Accountancy, the New Jersey State
18 Board of Architects, the New Jersey State Board of Cosmetology and
19 Hairstyling, the Board of Examiners of Electrical Contractors, the
20 New Jersey State Board of Dentistry, the State Board of Mortuary
21 Science of New Jersey, the State Board of Professional Engineers and
22 Land Surveyors, the State Board of Marriage and Family Therapy
23 Examiners, the State Board of Medical Examiners, the New Jersey
24 Board of Nursing, the New Jersey State Board of Optometrists, the
25 State Board of Examiners of Ophthalmic Dispensers and Ophthalmic
26 Technicians, the Board of Pharmacy, the State Board of Professional
27 Planners, the State Board of Psychological Examiners, the State Board
28 of Examiners of Master Plumbers, the State Board of Shorthand
29 Reporting, the State Board of Veterinary Medical Examiners, the
30 Acupuncture Examining Board, the State Board of Chiropractic
31 Examiners, the State Board of Respiratory Care, the State Real Estate
32 Appraiser Board, [and] the State Board of Social Work Examiners,
33 and the State Board of Nutritionists.
34 (cf: P.L.1995, c.366, s.23)]¹

35
36 ¹18. The provisions of the uniform enforcement law, P.L.1978,
37 c.73 (C.45:1-14 et seq.) shall apply to this act. The authority of the
38 board may be delegated to the committee at the discretion of the
39 board.¹

40
41 ¹19. The board, after consultation with the committee, shall adopt
42 rules and regulations pursuant to the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the
44 purposes of this act.¹

45
46 ¹[22.] 20.¹ This act shall take effect immediately, except that

1 sections ¹[9] 8¹ and ¹[17] 16¹ of this act shall take effect on the 360th
2 day following the effective date.

3

4

5

6

7 "Nutritionist Licensing Act."