

**REPORT OF THE
JOINT COMMISSION ON HEALTH CARE**

**HB 455 (2005)
Licensing of Dietitians**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



REPORT DOCUMENT NO. 97

**COMMONWEALTH OF VIRGINIA
RICHMOND
2006**

JOINT COMMISSION ON HEALTH CARE: 2005

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The Honorable Kenneth R. Melvin
The Honorable John M. O'Bannon
The Honorable John J. Welch, III

Secretary of Health and Human Resources

The Honorable Jane H. Woods

Executive Director

Kim Snead



PREFACE

During the 2004 Session of the General Assembly, House Bill 455 (HB 455) was introduced by Delegate McQuigg and carried over to the 2005 Session. HB 455 would have required dietitians to be licensed by the Board of Medicine. During the 2005 Session, HB 455 passed the House with an amendment but was passed by in the Senate Education and Health Committee with a letter. The letter was sent to the Joint Commission to review the issue.

A number of previous studies have addressed the issue of licensure for dietitians. For instance, House Joint Resolution 150 of the 1986 Session requested a study on the need to regulate dietitians and nutritionists. The study was conducted by the Council on Health Regulatory Boards. The conclusion of this study was that dietitians and nutritionists did not require regulation at that time due to safeguards that were available including enforcement of: laws against the unlicensed practice of medicine, the Virginia Consumer Protection Act, and the statutes and regulations governing the various health occupations and professions. Additionally, House Bill 312 of the 1994 General Assembly Session would have established licensure for dietitians and nutritionists. The Bill was vetoed by the Governor when his amendment to reenact the bill in the 1995 Session was not accepted. The Governor directed the Department of Health Professions (DHP) to examine the issue. The Department found that there were "existing mechanisms in place to afford consumer protection and redress without state regulation of dietitians and nutritionists."

Provisions in HB 455 would have defined the practice of dietetics and provided licensure requirements which would have included giving the Board of Medicine the authority to establish the criteria for licensure. The public discussion concerning HB 455 during this study was one that was debated by a number of parties on both sides of the licensure issue. Arguments for licensure included concerns such as the unregulated practice of providing nutritional advice being a threat to public safety and anecdotal evidence of harm to consumers. Arguments against licensure included limitations on the freedom of speech and the ability to engage in a profession, the creation of a monopoly, and undue financial burden.

In November 2005, JCHC voted to take no action in regards to this issue.

On behalf of the Joint Commission on Health Care and its staff, I would like to thank the numerous individuals who represented advocacy groups, health professionals, associations, State agencies, and various businesses for their participation and assistance with this study.

Kim Snead
Executive Director

June 2006

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LICENSING OF DIETITIANS

EXECUTIVE SUMMARY

Authority for Study

House Bill 455 (HB 455) was introduced by Delegate McQuigg during the 2004 General Assembly Session. The bill was carried over to the 2005 Session. During the 2005 Session, HB 455 passed the House with an amendment but was passed by in the Senate Education and Health Committee with a letter. The letter was sent to the Joint Commission to review the issue. HB 455 would have required dietitians to be licensed by the Board of Medicine.

Background

A number of previous studies have addressed the issue of licensure for dietitians. House Joint Resolution 150 of the 1986 Session requested a study on the need to regulate dietitians and nutritionists. The study was conducted by the Council on Health Regulatory Boards. The Council had the responsibility to consider and evaluate health care professions and occupations to consider whether they should be regulated and the degree of regulation necessary. The Council had six formal criteria for evaluating whether a profession should be regulated. The main criterion was: "The unregulated practice of an occupation will harm or endanger the health, safety, and welfare of the public. The potential for harm is recognizable and not remote or dependent on tenuous argument." The conclusion of this study was that dietitians and nutritionists did not require regulation at that time. The Council indicated that safeguards were available including enforcement of: laws against the unlicensed practice of medicine, the Virginia Consumer Protection Act, and the statutes and regulations governing the various health occupations and professions.

House Bill 312 of the 1994 General Assembly Session would have established licensure for dietitians and nutritionists. The Bill was vetoed by the Governor when his amendment to reenact the bill in the 1995 Session was not accepted. The Governor directed the Department of Health Professions (DHP) to examine the issue. The Department had seven criteria to evaluate whether a profession should be regulated. These criteria concern risk for harm to the consumer, specialized skills and training, autonomous practice, scope of practice, economic impact, alternatives to regulation, and least restrictive regulation. The first criterion is the most fundamental test according to DHP. This criterion "pertains to the risk of harm to the public's health, safety, or welfare resulting

from the unregulated practice of the profession.” There must not be other less restrictive means of redress. The Department found that the first criterion had not been met and that there were “existing mechanisms in place to afford consumer protection and redress without state regulation of dietitians and nutritionists.”

Current Status in Virginia

HB 2191 of the 1995 Session set out *the minimum educational and training requirements for a person to hold himself out to be a “dietitian” or “nutritionist.”*

Section 54.1-2731 of the *Code of Virginia* implements these provisions.

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;*
- 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 “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.

The *Code of Virginia* also states that:

Nothing in this chapter shall preclude or affect in any fashion the ability of any person to provide any assessment, evaluation, advice, counseling, information or services of any nature that are otherwise allowed by law, whether or not such services are provided in connection with the marketing and sale of products.

Title 18, 75-30-10 of the *Virginia Administrative Code* also gives the following requirements:

- Requirements for use of title of dietitian or nutritionist.
- In addition to the criteria established in §54.1-2731 of the *Code of Virginia*, a person may hold himself out to be a dietitian or nutritionist who has met the following requirements:

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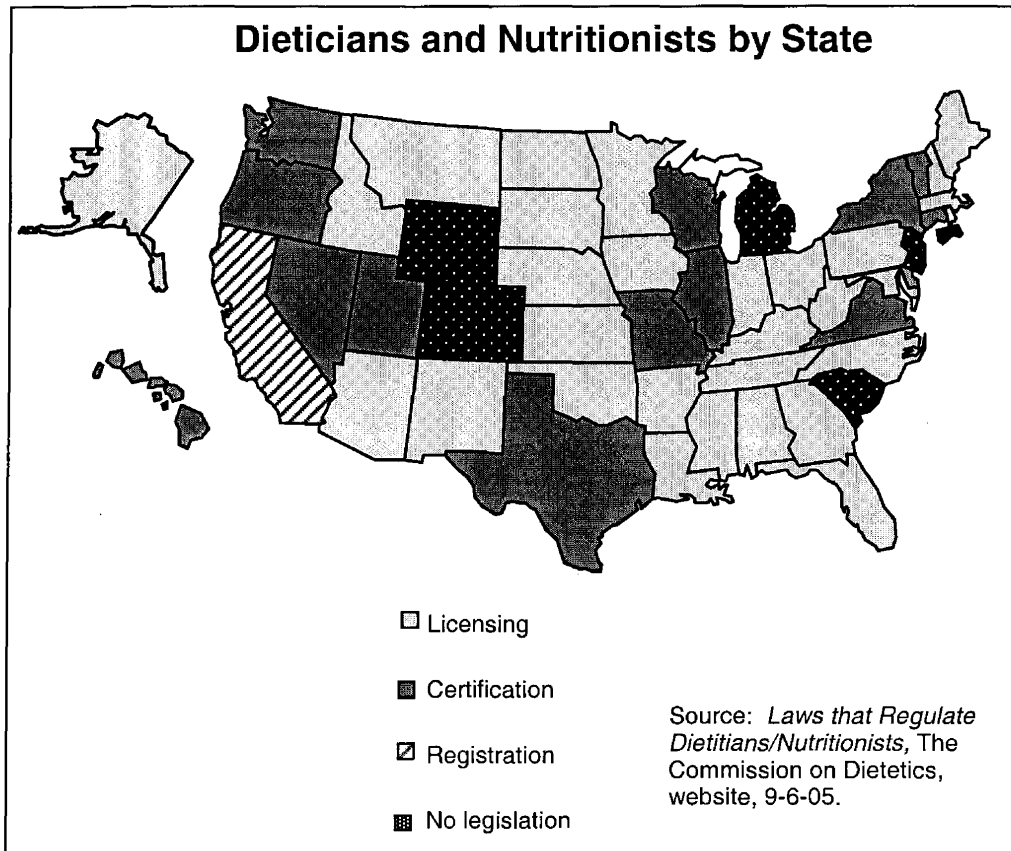
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- Requirements for use of title of dietitian or nutritionist.
- In addition to the criteria established in §54.1-2731 of the *Code of Virginia*, a person may hold himself out to be a dietitian or nutritionist who has met the following requirements:
 1. *Has a baccalaureate degree with a major in foods and nutrition or dietetics or has equivalent hours of food and nutrition course work;*
 2. *Has two years of work experience in nutrition or dietetics concurrent with or subsequent to such degree; and*
 3. *Is employed by or under contract to a governmental agency.*

Overview of Regulation of Dietitians and Nutritionist in Other States

The following figure summarizes dietitian/nutritionist licensing by state.

- 29 states, the District of Columbia, and Puerto Rico license dietitians and/or nutritionists.
 - 20 mention both dietitians and nutritionists.
- 14 states require certification of dietitians and/or nutritionists.
- California requires registration of dietitians.



The following three definitions explain the different forms of regulation in the various states.

Licensing - statutes include an explicitly defined scope of practice, and performance of the profession is illegal without first obtaining a license from the state.

Statutory certification — limits use of particular titles to persons meeting predetermined requirements, while persons not certified can still practice the occupation or profession.

Registration — is the least restrictive form of state regulation. As with certification, unregistered persons are permitted to practice the profession. Typically, exams are not given and enforcement of the registration requirement is minimal.

Fifteen states license both dietitians and nutritionists. Nebraska licenses medical nutrition therapists. Colorado has twice reviewed the proposal to regulate dietitians and the Department of Regulatory Agencies (DORA) recommended against licensing or regulating dietitians. DORA's review of other states found very few complaints regarding dietitians and related fields.

Provisions of HB 455

HB 455 defined the practice of dietetics as follows:

The "practice of dietetics" is defined as the integration and application of principles derived from the sciences of nutrition, biochemistry, food, physiology, management and behavioral and social sciences to achieve and maintain health through the provision of nutrition care services...."

Licensure requirements in HB 455 included giving the Board of Medicine the authority to establish the criteria for licensure. The bill listed the following criteria:

- (a) 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;*
- (b) at least 900 hours of supervised experience approved by the Commission on Dietetic Registration;*
- (c) passage of the examination for registration administered by the Commission on Dietetic Registration or current registration with the Commission on Dietetic Registration; and*
- (d) 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.*

To limit the impact to certain businesses exemptions were included in HB 455. The list of exemptions includes the following:

- (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 information on food, food products, or dietary supplements or explains to customers about food, food products, or dietary supplements 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.*

Arguments Made by Interested Parties

The public discussion concerning HB 455 was one that was debated by a number of parties on both sides of the licensure issue. Some proponents of the legislation include:

- American Dietetic Association
- Virginia Dietetic Association (proposing legislation that only requires licensure of dietitians who provide medical nutrition therapy.)
- Virginia Nutritionists Association (proposing legislation that would also license nutritionists.)
- Other Nutritionist Group-Herondorf (proposing legislation that would also license nutritionists).

Examples of their arguments for licensure include concerns such as the unregulated practice of providing nutritional advice is a threat to public safety and anecdotal evidence of harm to consumers.

Some opponents of the legislation include:

- Health Food Stores
- Weight Loss Clinics
- Other regulated health professionals
- Native American healers
- Certified Natural Health Professionals
- National Association of Nutrition Professionals.

Examples of their arguments against licensure include limitations on the freedom of speech and the ability to engage in a profession, the creation of a monopoly, and undue financial burden.

OPTIONS AND PUBLIC COMMENTS

The following options were proposed and public comments received regarding the options. JCHC voted to approve Option I to take no action.

Option I: Take no action.

Option II: Introduce legislation that would license dietitians.

Option III: Introduce legislation that would license dietitians & nutritionists.

Option IV: Introduce legislation that would require licensure for dietitians who provide medical nutrition therapy.

Option V: Introduce legislation that would require licensure for dietitians and nutritionists who provide medical nutrition therapy.

Option VI: Request that the Department of Health Professions conduct another thorough review of the issue.

The following table summarizes the public comments that were received on each Policy Option. Option I (to take no action) was supported by the largest number of commenters (374). Option IV (to require licensure for dietitians who provide medical nutrition therapy) was supported by 304 commenters. Option V (to require licensure for dietitians and nutritionists who provide medical nutrition therapy) was supported by 225 commenters. (Note that 221 of these commenters actually commented in support of both Options IV and V.) One commenter proposed an additional policy option that included specific language for a proposed bill.

Policy Option	Number of Comments in Support
I	374*
II	2
III	2
IV	304
V	225
VI	0
*Comments that stated opposition to HB 455 or the licensing of dietitians were interpreted as Option I (Take No Action). Only one individual explicitly supported Option I.	

Some other issues that may be considered as part of any legislation on the issue:

- How to define dietitian, nutritionist, or any other provider that would be included in the legislation.
- Education and practice requirements.
- Other credentials or registration that may be required.
- Grandfathering.
- Appropriate exemptions.
- Reciprocity with other states.

JCHC Staff for this Report

April Kees

Principal Health Policy Analyst

Licensing of Dietitians (HB 455, 2005)

*Presentation to:
The Joint Commission on Health Care*

April Kees



September 13, 2005
Richmond, Virginia

Authority for the Study

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- House Bill 455 (HB 455) was introduced by Delegate McQuigg during the 2004 General Assembly Session. The bill was carried over to the 2005 Session.
- During the 2005 Session, HB 455 passed the House with an amendment but was passed by in the Senate Education and Health Committee with a letter.
- The letter was sent to the Joint Commission to review the issue.
- HB 455 would have required dietitians to be licensed by the Board of Medicine.



Dietetics as Defined in HB 455

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

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Licensure Requirements in HB 455

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- The Board of Medicine is given the authority to establish criteria for licensure that include:
 - (a) 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;
 - (b) at least 900 hours of supervised experience approved by the Commission on Dietetic Registration;
 - (c) passage of the examination for registration administered by the Commission on Dietetic Registration or current registration with the Commission on Dietetic Registration; and
 - (d) 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.

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Exemptions in HB 455

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- *Exceptions to the licensure requirement are provided 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 information on food, food products, or dietary supplements or explains to customers about food, food products, or dietary supplements 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.*

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Presentation Outline

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- ***Background Information***
- Overview of Proponents/Opponents**
- Review of Other States**
- Policy Options**

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Example Definitions

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- **Dietitian** – Applies the principles of nutrition and management in administering institutional food service programs; plans special diets at physician's request and instructs individuals and groups in the application of nutrition principles in the selection of food. May function as administrative, clinical, community, educator, or research dietitian.
- **Nutritionist** – A general title for health professionals concerned with food science and human nutrition. Adapts and applies food and nutrient information to the solution of food problems, the control of disease, and the promotion of health. Performs nutrition research, instructs groups and individuals about nutritional requirements, and assists individuals in developing dietary patterns to meet their nutritional needs.
- **Registered Dietitian** - The Commission on Dietetic Registration defines the Registered Dietitian (RD) as an individual who: (1) has completed the minimum of a Baccalaureate degree granted by a U.S. regionally accredited college or university, or equivalent; (2) has met current minimum academic requirements (Didactic Program in Dietetics) as approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association; (3) has completed pre-professional experience accredited/approved by the Commission on Accreditation/Approval for Dietetics Education of the American Dietetic Association; (4) has successfully completed the Registration Examination for Dietitians; (5) has the annual registration maintenance fee; and (6) has accrued 75 hours of approved continuing professional education within a specific five-year reporting period.
- According to the American Dietetics Association's website:
 - What is the difference between a registered dietitian or dietetic technician, registered, and a nutritionist? Registered dietitian or RD and dietetic technician, registered or DTR can only be used by dietetics practitioners who are currently authorized to use the credential by the Commission on Dietetic Registration of the American Dietetic Association.
 - Some RDs or DTRs call themselves nutritionists. However, the definition and requirements for the term "nutritionist" vary. Some states have licensure laws that define the scope of practice for someone using the designation nutritionist.

Source: Commission on Dietetic Registration website and *The Need for the regulation of Dietitians and Nutritionists*, Council of health regulatory Boards, Virginia. Joint Commission on Health Care



Previous Virginia Studies

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- House Joint Resolution 150 of the 1986 Session requested a study on the need to regulate dietitians and nutritionists.
 - The study was conducted by the Council on Health Regulatory Boards.
 - The Council had the responsibility to:
 - Evaluate each health care profession and occupation in the Commonwealth, including those regulated and not regulated by other provision of this Title to consider whether each such profession or occupation should be regulated and the degree of regulation to be imposed.
 - The Council had six formal criteria for evaluating whether a profession should be regulated.
 - The main criterion was: *The unregulated practice of an occupation will harm or endanger the health, safety, and welfare of the public. The potential for harm is recognizable and not remote or dependent on tenuous argument.*
 - The conclusion of this study was that dietitians and nutritionists did not require regulation at that time.
 - The Council found other appropriate mechanisms at that time.
 - Enforcement of laws against the unlicensed practice of medicine.
 - Enforcement of the Virginia Consumer Protection Act.
 - Enforcement of the statutes and regulations governing the various health occupations and professions.

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Previous Virginia Studies (continued)

9

- House Bill 312 of the 1994 General Assembly Session would have established licensure for dietitians and nutritionists.
- The Bill was vetoed by the Governor when his amendment to reenact the bill in the 1995 Session was not accepted.
- The Governor directed the Department of Health Professions (DHP) to examine the issue.
- The Department had seven criteria to evaluate whether a profession should be regulated.
 - These criteria concern risk for harm to the consumer, specialized skills and training, autonomous practice, scope of practice, economic impact, alternatives to regulation, and least restrictive regulation.
 - The first criterion is the most fundamental test according to DHP.
 - This criterion "pertains to the risk of harm to the public's health, safety, or welfare resulting from the unregulated practice of the profession."
 - There must not be other less restrictive means of redress.
 - The Department found that the first criterion had not been met and that there were "existing mechanisms in place to afford consumer protection and redress without state regulation of dietitians and nutritionists."

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Current Status in Virginia

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 5. Has a current license or certificate as a dietitian or nutritionist issued by another state; or
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 - B. Any person who willfully violates the provisions of this section shall be guilty of a Class 3 misdemeanor.

Joint Commission on Health Care



Current Status in Virginia (continued)

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- The *Code of Virginia* also states that:
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 2. Has two years of work experience in nutrition or dietetics concurrent with or subsequent to such degree; and
 3. Is employed by or under contract to a governmental agency.

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Examples of Other Regulations or Standards

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- Joint Commission on Accreditation of Healthcare Organizations (*JCAHO*) sets standards for health care organizations.
 - *The JCAHO accrediting standards include requirements for health care organizations as a whole and each of their key service departments, including dietitians.*
 - *JCAHO does not require hospitals to use registered dietitians.*
 - *Rather, the requirements state that dietitians be "qualified" and leaves each institution with a wide range of discretion in defining that term. However, hospitals and large organizations typically use individuals who have the CDR private certification.*
- Medicare has a medical nutrition therapy policy that allows dietitians and nutritionists to be directly reimbursed for services if they meet certain qualifications.
 - Bachelor's degree or higher in nutrition or dietetics program that is accredited by an appropriate national organization.
 - Supervised dietetics practice experience of 900 hours.
 - Licensed or certified by the State where the service is performed (or if no State licensing then a requirement to be a registered dietitian by the Commission on Dietetic Registration).
 - Medical nutrition therapy is defined by an "assessment of nutritional status followed by nutritional therapy. The nutrition assessment includes review and analysis of 1) medical, nutrition and medication histories, 2) physical examination, 3) anthropometric measurements, and 4) laboratory test values."
- There are other requirements related to long-term care facilities, home health care, etc.

Dietitians: 2001 Sunrise Review. Colorado DORA, 2001, Medicare provisions and AMA codebook.

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Presentation Outline

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- Background Information
- Overview of Proponents/Opponents*
- Review of Other States
- Policy Options

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Proponents of Licensure or HB 455

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- American Dietetic Association
- Virginia Dietetic Association
 - Proposing legislation that only requires licensure of dietitians who provide medical nutrition therapy.
- Virginia Nutritionists Association
 - Proposing legislation that would also license nutritionists.
- Other Nutritionist Group (Herondorf)
 - Proposing legislation that would also license nutritionists.
- Primary arguments for licensure include:
 - The unregulated practice of providing nutritional advice is a threat to public safety.
 - Anecdotal evidence of harm to consumers.

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Opponents of Licensure or HB 455

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- Health Food Stores
- Weight Loss Clinics
- Other regulated health professionals
- Native American healers
- Certified Natural Health Professionals
- National Association of Nutrition Professionals
- Primary arguments against licensure include:
 - Limitations on the freedom of speech and the ability to engage in a profession.
 - Creation of a monopoly.
 - Undue financial burden.

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Presentation Outline

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- Background Information
- Overview of Proponents/Opponents
- Review of Other States*
- Policy Options

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Overview of Regulation of Dietitians and Nutritionists in Other States

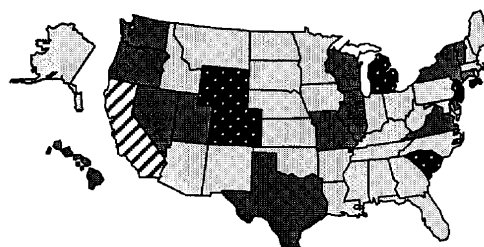
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- The figure to the right summarizes dietitian/ nutritionist licensing by state.

- 29 states, the District of Columbia, and Puerto Rico license dietitians and/or nutritionists.
 - 20 mention both dietitians and nutritionists.
- 14 states require certification of dietitians and/or nutritionists.
- California requires registration of dietitians.

- **Licensing** - statutes include an explicitly defined scope of practice, and performance of the profession is illegal without first obtaining a license from the state.
- **Statutory certification** — limits use of particular titles to persons meeting predetermined requirements, while persons not certified can still practice the occupation or profession.
- **Registration** — is the least restrictive form of state regulation. As with certification, unregistered persons are permitted to practice the profession. Typically, exams are not given and enforcement of the registration requirement is minimal.

Regulation of Dietitians and Nutritionists by State



- Licensing
- Certification
- ▨ Registration
- No legislation

Source: Laws that Regulate Dietitians/Nutritionists, The Commission on Dietetics, website, 9-6-05

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Policies in Other States

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- Nebraska's legislation licenses medical nutrition therapists.
- Some states provide a license under one title and title protection under the other.
- 15 states license both dietitians and nutritionists.
- Colorado has twice reviewed the proposal to regulate dietitians.
 - The Department of Regulatory Agencies (DORA) recommended against licensing or regulating dietitians.
 - DORA's review of other states found very few complaints regarding dietitians and the related field.

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Presentation Outline

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- Background Information
- Overview of Proponents/Opponents
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Policy Options

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- Option I: Take no action.
- Option II: Introduce legislation that would license dietitians.
- Option III: Introduce legislation that would license dietitians and nutritionists.
- Option IV: Introduce legislation that would require licensure for dietitians who provide medical nutrition therapy.
- Option V: Introduce legislation that would require licensure for dietitians and nutritionists who provide medical nutrition therapy.
- Option VI: Introduce a resolution or send a letter requesting the Department of Health Professions to conduct another review of the issue.

Joint Commission on Health Care



Policy Options (continued)

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- Some other issues that may be considered as part of any legislation on the issue:
 - The definition of dietitian, nutritionist, or any other provider that would be included in the legislation.
 - Education and practice requirements.
 - Other credentials or registration that may be required.
 - Grandfathering of currently practicing dietitians and/or nutritionists.
 - Appropriate exemptions.
 - Reciprocity with other states.

APPENDIX A

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HOUSE BILL NO. 455

House Amendments in [] - January 14, 2005

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.

Patron Prior to Engrossment—Delegate McQuigg

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;

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.

§ 54.1-2900. 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 program for patients eligible for federal, state or local public funds by an employee of the program who

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59 is trained and approved by the National Acupuncture Detoxification Association or an equivalent
60 certifying body.

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

69 "Practice of chiropractic" means the adjustment of the ~~twenty-four~~ 24 movable vertebrae of the spinal
70 column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does
71 not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs,
72 medicines, serums or vaccines.

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

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

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

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

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

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

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

119 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,
120 podiatry, or chiropractic, or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.) of this title,

121 who (i) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope
122 of diagnostic radiologic procedures employing equipment which emits ionizing radiation and (ii) is
123 delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of
124 patient and staff from unnecessary radiation, the appropriate exposure of radiographs or other procedures
125 which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is
126 exposed.

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

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

136 § 54.1-2956.12. Powers of the Board concerning dietitians.

137 *The Board shall be empowered to take such actions as may be necessary to ensure the competence
138 and integrity of any person who claims to be a dietitian or who holds himself out to the public as a
139 dietitian or who engages in the practice of dietetics, and to that end it may license practitioners as
140 dietitians.*

141 § 54.1-2956.13. Licensure of dietitians.

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

144 § 54.1-2956.14. Exceptions to requirements for licensure as a dietitian.

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

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

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

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

152 4. Any health professional licensed or certified under this title when engaging in the profession for
153 which he is licensed or any person working under the supervision of such a professional;

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

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

158 7. Any person who does not hold himself out to be a dietitian who furnishes general nutrition [~~on~~
159 ~~food, food materials, or dietary supplements or explains to customers about foods or food products~~
160 ~~information on food, food products, or dietary supplements or explains to customers about food, food~~
161 ~~products, or dietary supplements~~] in connection with marketing and distribution of food or food
162 products; or

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

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

169 § 54.1-2956.15. Requirements for licensure as a dietitian.

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

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

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

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

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

181 § 54.1-2956.16. Advisory Board on Dietitians; membership; qualifications.

182 *The Advisory Board on Dietitians, hereinafter referred to as the "Advisory Board," shall assist the*
183 *Board of Medicine in carrying out the provisions of this chapter regarding the qualifications,*
184 *examination, licensure, and regulation of dietitians.*

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

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

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

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

JOINT COMMISSION ON HEALTH CARE

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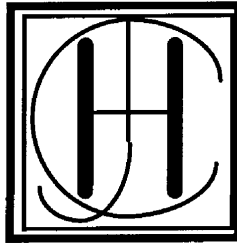
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