

ACT 392 1989

AS ENGROSSED 2/15/89

1 State of Arkansas  
2 77th General Assembly  
3 Regular Session, 1989

A Bill

HOUSE BILL 1473

4 By: Representatives Flanagan, Landers, Arrington, Rice,  
5 Mitchell, and Calhoun

6  
7  
8 For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR THE DEFINITION, EXAMINATION, AND  
10 LICENSING OF DIETITIANS; TO DEFINE THE DUTIES AND POWERS OF A  
11 STATE BOARD OF DIETETICS; TO PROVIDE PENALTY FOR THE  
12 VIOLATION OF THIS ACT; AND FOR OTHER PURPOSES."

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14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. This act shall be known and may be cited as the "Dietetics  
17 Practice Act".

18  
19 SECTION 2. PURPOSE. It is the purpose of this act to protect the  
20 health, safety and welfare of the public by providing for the licensing and  
21 regulation of persons engaged in the practice of dietetics. Nothing in this  
22 act shall prevent the furnishing of general nutritional information on food,  
23 food materials, or dietary supplements, or the explanation to customers about  
24 foods or food products in connection with the sale, marketing and distribution  
25 of those products.

26  
27 SECTION 3. DEFINITIONS. (a) "Board" shall mean the Dietetics Licensing  
28 Board.

29 (b) "Association" means The American Dietetic Association (ADA).

30 (c) "National Commission for Health Certifying Agencies" means the  
31 national organization that establishes national standards for certifying  
32 bodies that attest to the competence of individuals who participate in the  
33 health care delivery system, grants recognition to certifying bodies that  
34 voluntarily apply and meet the established standards, and monitors the  
35 adherence to those standards by the certifying bodies that it has recognized.

36 (d) "Commission on Dietetic Registration" (CDR) means Commission on

1 Dietetic Registration that is a national certifying agency for voluntary pro-  
2 fessional credentialing in dietetics. A member of the National Commission for  
3 Health Certifying Agencies.

4 (e) "Degree" means a degree received from a U.S. college of university  
5 that was regionally accredited at the time the degree was conferred.

6 (f) "Registered Dietitian" means a person registered by the Commission  
7 on Dietetic Registration.

8 (g) "Licensed Dietitian" means a person licensed under this act.

9 (h) "Provisionally Licensed Dietitian" means a person provisionally  
10 licensed under this act.

11 (i) "Dietetics Practice" means the integration and application of the  
12 principles derived from the sciences of nutrition, biochemistry, food, phy-  
13 siology, management and behavioral and social sciences to achieve and maintain  
14 peoples' health through the provision of nutrition care services.

15 (j) "Nutrition Care Services" means:

- 16 1. Assessing the nutritional needs of individuals and groups of
- 17 humans, and determining resources and constraints in the practice setting.
- 18 2. Establishing priorities, goals, and objectives that meet
- 19 nutritional needs of humans and are consistent with available resources and
- 20 constraints.
- 21 3. Providing nutrition counseling to humans in health and disease.
- 22 4. Developing, implementing, and managing nutrition care of and
- 23 food service systems for humans.
- 24 5. Evaluating, making changes in, and maintaining appropriate
- 25 standards of quality in food and nutrition care services for humans.

26 (k) "Nutritional Assessment" means the evaluation of the nutritional  
27 needs of individuals and groups based upon appropriate biochemical,  
28 anthropometric, physical and dietary data to determine nutrient needs and  
29 recommend appropriate nutritional intervention including enteral and  
30 parenteral nutrition.

31 (l) "Nutrition Counseling" means advising and assisting individuals or  
32 groups concerning appropriate nutritional intake by integrating information  
33 from the nutritional assessment with information on food and other sources  
34 nutrients and meal preparation consistent with cultural background and  
35 socioeconomic status.

36 (m) "Dietitian" means one engaged in dietetics practice.

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1 (n) "Dietetic Technician" means one who has completed a Dietetic  
2 Technician Program, and has received a two-year associate degree from a  
3 regionally accredited college or university.

4  
5 SECTION 4. EXEMPTIONS. This article shall not be construed to affect or  
6 prevent:

7 (a) dietetics students who engage in clinical practice under the  
8 supervision of a dietitian as part of a dietetic education program approved or  
9 accredited by the American Dietetic Association and approved by the Board;

10 (b) a dietitian who is serving in the armed forces or the public health  
11 service of the United States or is employed by the Veterans Administration  
12 from engaging in the practice of dietetics provided such practice is related  
13 to such service or employment;

14 (c) a cooperative extension home economist from performing nutrition  
15 tasks incidental to the practice of his/her profession, providing that such  
16 persons do not hold themselves out under the title dietitian or licensed  
17 dietitian;

18 (d) a duly licensed physician, pharmacist or nurse from engaging in the  
19 practice of dietetics when incidental to the practice of his/her profession,  
20 providing that such persons do not hold themselves out under the title  
21 dietitian or licensed dietitian;

22 (e) any person employed by, supervised by, under the guidance of, or in  
23 consultation with a licensed dietitian such as a dietetic technician, home  
24 economist, dietary manager or food service supervisor from performing  
25 nutrition tasks in the practice of his/her profession, providing that said  
26 persons do not hold themselves out under the title dietitian or licensed  
27 dietitian;

28 (f) any person who has received a Doctorate Degree from a regionally  
29 accredited U.S. college or university in/with a concentration in human  
30 nutrition, food and nutrition, dietetics, public health nutrition or food  
31 systems management;

32 (g) a non-resident dietitian practicing dietetics in this state, if the  
33 dietetics are performed for no more than one-hundred-eighty (180) consecutive  
34 working days, and if:

35 (1) the dietitian is licensed under the laws of another state which  
36 has licensure requirements at least as stringent as the requirements of this

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1 chapter, as determined by the Board; or

2 (2) the dietitian has met qualifications as specified in this act  
3 for the practice of dietetics;

4 (h) any person who offers weight control programs prepared under the  
5 supervision of or approved by a Registered Dietitian or a licensed dietitian  
6 who is licensed under the laws of this state or another state which has  
7 licensure requirements at least as stringent as the requirements of this  
8 chapter, as determined by the Board, providing that such persons do not  
9 hold themselves out under the title dietitian or licensed dietitian;

10 (i) any person employed by a hospital or long term care facility  
11 licensed by the State Department of Health or the Department of Human  
12 Services and operating under the rules and regulations of said agencies  
13 shall be exempt from this act; provided that person's practice of dietetics  
14 is related to such employment;

15 (j) any person employed by a facility which is conducted by and for  
16 those who rely exclusively upon treatment by prayer alone for healing in  
17 accordance with the tenets or practices of any recognized religious  
18 denomination; provided that person's practice of dietetics is related to  
19 such employment;

20 (k) any person who has received a Doctorate Degree from a  
21 regionally accredited U.S. college or university in/with a concentration in  
22 animal nutrition and his practice is related to said degree;

23 (l) any health care professional or nutritionist from engaging in  
24 dietetics practice without a license under this Act;

25 (m) the sale of vitamins, over the counter health care products or food  
26 supplements by persons who are not licensed under this Act, nor shall this Act  
27 prevent nutritionists from advising customers in regard to such products.

28  
29 SECTION 5. QUALIFICATIONS FOR LICENSES. The Board may issue a  
30 license as Licensed Dietitian to an applicant who qualifies as follows:

31 (1) files an application;

32 (2) has received a baccalaureate or post-baccalaureate degree from a  
33 regionally accredited U.S. college or university with a program in human  
34 nutrition, food and nutrition, dietetics or food systems management.

35 Applicants who have obtained their education outside of the United States  
36 and its territories must have their academic degree(s) validated as

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1 equivalent to the baccalaureate or post-baccalaureate degree conferred by a  
2 regionally accredited college or university in the United States;

3 (3) has completed a planned continuous pre-professional experience  
4 component in dietetic practice of not less than nine hundred (900) hours  
5 under the supervision of a Registered Dietitian or Licensed Dietitian; and

6 (4) has passed an examination as defined by the Board; or

7 (5) files an application and provides evidence of current registration  
8 as a Registered Dietitian by the Commission on Dietetic Registration (CDR).

9

10 SECTION 6. PROHIBITIONS. Beginning one (1) year after the effective  
11 date of this act, no individual shall practice or offer to practice  
12 dietetics within the meaning of this act unless he is duly licensed or is a  
13 student under the provisions of this Act, or otherwise entitled under  
14 Sections 4 or 7.

15

16 SECTION 7. WAIVERS FOR LICENSING. For one (1) year beginning on the  
17 effective date of this act, the Board shall waive the examination  
18 requirement and grant a license to any person who:

19 (a) has received a baccalaureate or post-baccalaureate degree from a  
20 regionally accredited U.S. college or university with a program in human  
21 nutrition, food and nutrition, dietetics or food systems management.  
22 Applicants who have obtained their education outside of the United States  
23 and its territories must have their academic degree(s) validated as  
24 equivalent to the baccalaureate or post-baccalaureate degree conferred by a  
25 regionally accredited college or university in the United States;

26 (b) has completed a planned continuous pre-professional experience  
27 component in dietetic practice of not less than nine hundred (900) hours  
28 under the supervision of a Registered Dietitian or Licensed Dietitian; and

29 (c) has been employed in the practice of dietetics for at least three  
30 (3) of the last ten (10) years preceding the act; or

31 (d) is registered with CDR.

32

33 SECTION 8. APPOINTMENT OF BOARD MEMBERS; QUALIFICATION, TERMS, REMOVAL.

34 (a) There is hereby created the Arkansas Dietetics Licensing Board to  
35 commence operations on January 1, 1990.

36 (b) The Board shall consist of seven (7) persons, all of whom are

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1 Arkansas residents, with the following qualifications:

2 four (4) Board members who are Licensed Dietitians;

3 three (3) Board members who are representatives of the public at large.

4 (c) The members of the Board shall be appointed by the Governor, with  
5 the consent of the Senate and, except for the initial Board, shall serve  
6 staggered terms of five (5) years each beginning January 15 of odd-numbered  
7 years.

8 (d) In making the initial appointments to the Board, the Governor shall  
9 designate the terms of the initial appointees as follows:

10 (1) three (3) members, including two (2) dietitians and one (1)  
11 member who represents the public at large for terms of five (5) years;

12 (2) two (2) members, including one (1) dietitian, and one (1)  
13 member who represents the public at large for terms of four (4) years;

14 (3) two (2) members, including one (1) dietitian, and one (1)  
15 member who represents the public at large, for terms of two (2) years;

16 (4) appointments shall be made within ninety (90) days after the  
17 effective date of this act.

18 (e) The four (4) Board members, who are representative of the dietetics  
19 profession, shall be selected from a list of ten (10) names submitted to the  
20 Governor by the Board of Directors of the Arkansas Dietetic Association.

21 Each of these Board members shall have been practicing dietitians for at  
22 least five (5) years preceding their appointment.

23 (f) Members of the Board may be removed from office by the Governor for  
24 cause. In case of death, resignation, or removal, the vacancy of the  
25 unexpired terms shall be filled by the Governor in the same manner as other  
26 appointments. A person chosen to fill a vacancy shall be appointed only for  
27 the unexpired terms of the Board member replaced. No members shall serve  
28 more than two (2) consecutive terms.  
29

30 SECTION 9. FUNCTIONS OF THE BOARD.

31 (a) Organization and Meetings.

32 (1) The Board shall hold a meeting within thirty (30) days after  
33 its members are first appointed for the purpose of organization.

34 (2) At least two (2) regular meetings of the Board shall be held  
35 each calendar year, and at the first regular meeting every two (2) years.

36 the Board shall elect a chairperson and vice-chairperson. Other regular

1 meetings may be held at such time as the rules of the Board may provide.

2 (3) Special called meetings may be held at the discretion of the  
3 chairperson or at the written request of any three (3) members of the Board.

4 (4) Reasonable notice of all meetings shall be given in the manner  
5 prescribed by the laws of this state.

6 (5) A quorum of the Board shall consist of four (4) members.

7 (6) A secretary of the Board shall be elected by the Board and  
8 shall hold office at the pleasure of the Board. Said Board shall adopt a  
9 seal, which must be affixed to all certificates issued by the Board.

10 (b) Funds. The secretary of the Board shall receive and account for  
11 all money derived under the provisions of this act, and shall deposit the  
12 same weekly into financial institutions other than the State Treasury.  
13 These monies shall be known as the Dietetics Practice Licensing Fund. There  
14 shall be such audits of this Fund as required by law. The secretary of the  
15 Board shall give a surety bond for the faithful performance of his duties to  
16 the Governor in the sum of Ten Thousand Dollars (\$10,000.00) or an amount  
17 recommended by the State Auditor. The premium for this bond shall be paid  
18 out of the Dietetics Practice Licensing Fund. The Board may make  
19 expenditures from this Fund for any purpose which is reasonable and  
20 necessary to carry out the provisions of this act.

21 (c) Fees. The Board shall establish, charge, and collect for:

- 22 (1) the filing of an application for a license under this act;
- 23 (2) the original issuance of a license under this act;
- 24 (3) a renewal of a license issued in accordance with this act;
- 25 (4) replacement of a license or renewal lost or destroyed.

26 (d) Continuing Education. The Board shall establish Continuing  
27 Education Requirements and shall notify the applicants for licensing of the  
28 requirements.

29 (e) Duties of the Board. In addition to the duties set forth elsewhere  
30 in this act, the Board shall:

- 31 (1) establish an examination procedure, utilizing the examination  
32 approved by the Board;
- 33 (2) establish a licensure reciprocity agreement with other states;
- 34 (3) annually compile a list of the names, addresses (residential  
35 and business) and dates and license numbers of all persons licensed under  
36 this act to be available upon request and cost;

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1 (4) establish mechanisms for appeal and decisions regarding  
2 applications and granting of licenses, such mechanisms to include provisions  
3 for judicial review in accordance with the Arkansas Administrative Procedure  
4 Act;

5 (5) make such rules and regulations not inconsistent with law as  
6 may be necessary to regulate its proceedings;

7 (6) promulgate rules and regulations necessary to implement the  
8 act;

9 (7) compile an annual report;

10 (8) establish rules defining unprofessional conduct and set forth  
11 and publish Standards of Professional Responsibility and publish standards for  
12 practice within twelve (12) months after the first Board meeting;

13 (9) receive and process complaints;

14 (10) impose penalties;

15 (11) establish fees and publish financial records;

16 (12) require at the time of license renewal each applicant to  
17 present satisfactory evidence that in the period since the license was issued  
18 he/she has completed the continuing education requirements in a manner  
19 specified by the Board.

20

21 SECTION 10. PER DIEM AND EXPENSE.

22 (a) Each member of the Board shall receive all necessary expenses  
23 incident to holding meetings, provided, however, that expenses shall in no  
24 case exceed the fees collected by said Board and shall not exceed the per  
25 diem and reimbursement limits set for state employees. All reimbursements  
26 for expenses authorized by this act shall be paid from the Dietetics  
27 Practice License Fund.

28 (b) The Board shall employ necessary personnel for the performance of  
29 its functions and fix the compensation thereof within the limits of funds  
30 available to the Board.

31

32 SECTION 11. PROVISIONAL LICENSES.

33 (a) Provisional license to practice as a dietitian may be issued by the  
34 Board upon the filing of an application and submission of evidence of  
35 successful completion of the education requirements.

36 (b) A provisional license shall expire eighteen (18) months from the

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1 date of issuance. Provisional licenses may be renewed once upon submission  
2 to the Board of a satisfactory explanation for the applicant's failure to  
3 become licensed within the original eighteen (18) month period.

4 (c) A provisional license shall permit the holder to practice only  
5 under the supervision of a dietitian licensed in this state.

6  
7 SECTION 12. RECIPROcity. Reciprocity shall be provided for licensed  
8 dietitians from other states provided that the standards for licensing in  
9 that state are not less than those provided for in this act as determined  
10 by the Board.

11  
12 SECTION 13. RENEWAL OF LICENSES.

13 (a) All licenses shall be effective when issued by the Board.

14 (b) The license of Licensed Dietitian shall be ruled valid for one (1)  
15 year after the date of issuance.

16 (c) A license may be renewed by the payment of a renewal fee as set by  
17 the Board. The Board shall mail an application for renewal of a license to  
18 each person sixty (60) days prior to renewal date. This shall be mailed to  
19 the most recent address of said person as it appears on the record of the  
20 Board. Such person shall complete the renewal application and return it to  
21 the Board accompanied by the required renewal fee within not more than sixty  
22 (60) days after the renewal application was mailed by the Board. Upon  
23 receipt of application and fee, the Board shall verify the accuracy of such  
24 application and issue to the applicant a notice of license renewal for the  
25 next year. If a person fails to renew his or her license within the sixty  
26 (60) day period, such license shall lapse the last day of the month of the  
27 calendar year that is exactly one (1) year from the calendar year and month  
28 in which the license was issued. If the renewal license has been expired  
29 for not more than ninety (90) days the person may renew the license by  
30 paying to the Board the required renewal fee and a penalty in an amount  
31 equal to one-half of the renewal fee. If the license has been expired for  
32 more than ninety (90) days but less than one (1) year the person may renew  
33 the license by paying to the Board the unpaid renewal fee and a penalty in  
34 an amount equal to the renewal fee. If a license has been expired one (1)  
35 year or more the license shall not be renewed, but a new license may be  
36 obtained by applying to the Board as a new licensee.

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1 (d) At the time of license renewal, each applicant shall present  
2 satisfactory evidence that in the period since the license was issued, he  
3 has compelled the continuing education requirements as required by the  
4 Board.

5

6 SECTION 14. BRIBERY, FRAUD, MISREPRESENTATION, AND FALSE STATEMENTS.

7 The following acts shall constitute violations of this act.

8 (1) Representing oneself to be a Dietitian, Licensed Dietitian or  
9 the word "dietitian" alone or in combination, Provisional Licensed Dietitian  
10 or use the letters L.D., or P.L.D., or any facsimile thereof, unless he or  
11 she is duly licensed as such under this act; or under such title or  
12 descriptions offering to give or giving services to individuals, groups,  
13 agencies or corporations without a license.

14 (2) Attempting to engage in dietetics practice, as herein defined,  
15 without having first been licensed or otherwise permitted under the  
16 provisions of this act to do so.

17 (3) Obtaining or attempting to obtain a license or renewal thereof by  
18 bribery or fraudulent representation.

19 (4) Knowingly making a false statement on any form promulgated by the  
20 Board in accordance with this act or the rules and regulations promulgated  
21 thereunder.

22

23 SECTION 15. GROUNDS FOR DISCIPLINARY PROCEEDINGS. The Board may  
24 refuse to issue or renew a license, or may revoke or suspend a license  
25 issued under this act for any of the following but is not limited to:

- 26 (1) violation of a provision of this act;
- 27 (2) engaging in unprofessional conduct or gross incompetence as  
28 defined by the rules of the Board, or violating the Standards of  
29 Professional Responsibility adopted and published by the Board;
- 30 (3) conviction in this or any other state of any crime that is a  
31 felony in this state;
- 32 (4) has been convicted of a felony in a federal court.

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34 SECTION 16. DISCIPLINARY PROCEEDING. Hearings shall be conducted by  
35 the Board. Decisions will be determined by a majority vote of the Board.  
36 All proceedings will be conducted in accordance with the Arkansas

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1 Administrative Procedure Act.

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3 SECTION 17. VIOLATIONS, PENALTIES AND ENFORCEMENT. Violations of this  
4 act shall constitute Class A misdemeanors. The Board shall assist the  
5 prosecuting attorney in the enforcement of this act; and any member of the  
6 Board may present evidence of a violation to the appropriate prosecuting  
7 attorney.

8

9 SECTION 18. All provisions of this Act of a general and permanent  
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the  
11 Arkansas Code Revision Commission shall incorporate the same in the Code.

12

13 SECTION 19. All laws and parts of laws in conflict with this Act are  
14 hereby repealed.

15

16 SECTION 20. SEVERABILITY. If any provision of this act or the  
17 application thereof to any persons or circumstance is held invalid, such  
18 invalidity shall not affect other provisions or applications of the act which  
19 can be given effect without the invalid provision or application, and to this  
20 end the provisions of this act are declared to be severable.

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/s/ P. Flanagan et al.

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APPROVED BY P. Flanagan  
GOVERNOR  
3-7-89

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