

Dietitians
Occupations Code
Title 3. Health Professions
Chapter 701
Administered by the Texas Department of Licensing and Regulation
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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 701.001. Short Title.

This chapter may be cited as the Licensed Dietitian Act.

Sec. 701.002. Definitions.

In this chapter:

- (1) "Advisory board" means the Dietitians Advisory Board.
- (1-a) "Commission" means the Texas Commission of Licensing and Regulation.
- (2) "Department" means the Texas Department of Licensing and Regulation.
- (3) "Dietetics" means the professional discipline of applying and integrating scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences under different health, social, cultural, physical, psychological, and economic conditions for the proper nourishment, care, and education of an individual or group throughout the life cycle to achieve and maintain human health. The term includes the development, management, and provision of nutrition services.
- (4) "Executive director" means the executive director of the department.
- (5) "Licensed dietitian" means a person licensed under this chapter.
- (6) "Nutrition assessment" means evaluating the nutritional needs of an individual or group based on appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and recommend appropriate nutritional intake, including enteral and parenteral nutrition.
- (7) "Nutrition counseling" means advising and assisting an individual or group on appropriate nutritional intake by integrating information from a nutrition assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status.
- (8) "Nutrition services" means:
 - (A) assessing the nutritional needs of an individual or group and determining constraints and resources in the practice;
 - (B) establishing priorities and goals that meet nutritional needs and are consistent with constraints and available resources;
 - (C) providing nutrition counseling in health and disease;
 - (D) developing, implementing, and managing nutritional care systems; or
 - (E) evaluating, changing, and maintaining appropriate quality standards in food and nutritional care services.

- (9) "Provisional licensed dietitian" means a person provisionally licensed under this chapter.

SUBCHAPTER B. DIETITIANS ADVISORY BOARD

Sec. 701.051. Dietitians Advisory Board Membership.

- (a) The advisory board consists of nine members appointed by the presiding officer of the commission with the approval of the commission as follows:
- (1) six licensed dietitian members, each of whom has been licensed under this chapter for not less than three years before the member's date of appointment; and
 - (2) three members who represent the public.
- (b) In appointing dietitian members to the advisory board, the presiding officer of the commission shall attempt to maintain balanced representation among the following primary areas of expertise included in the professional discipline of dietetics:
- (1) clinical;
 - (2) educational;
 - (3) management;
 - (4) consultation; and
 - (5) community.
- (c) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 701.0511. Duties of Advisory Board.

The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

Sec. 701.054. Terms; Vacancies.

- (a) Members of the advisory board serve staggered six-year terms. The terms of three members begin on September 1 of each odd-numbered year.
- (b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

Sec. 701.057. Presiding Officer.

The presiding officer of the commission shall designate a member of the advisory board as the presiding officer of the advisory board to serve for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 701.058. Meetings.

The advisory board shall meet at the call of the presiding officer of the commission or the executive director.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 701.151. General Powers and Duties.

- (a) The executive director shall administer and enforce this chapter.
- (b) The department shall:
 - (1) adopt an official seal;
 - (2) adopt and publish a code of ethics;
 - (3) establish the qualifications and fitness of applicants for licenses, including renewed and reciprocal licenses;
 - (4) revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter, a rule adopted under this chapter, or the code of ethics; and
 - (5) request and receive any necessary assistance from state educational institutions or other state agencies.

Sec. 701.1511. Registry.

The department shall prepare a registry of licensed dietitians and provisional licensed dietitians and make the registry available to the public, license holders, and appropriate state agencies.

Sec. 701.154. Amount of Fees.

The commission may not set a fee that existed on September 1, 1993, in an amount that is less than the amount of that fee on that date.

Sec. 701.155. Seal.

- (a) The commission by rule may require a license holder to:
 - (1) obtain a seal authorized by the department bearing the license holder's name and the legend "Licensed Dietitian"; and
 - (2) affix the seal to formal documentation of nutrition services provided by the license holder, as determined necessary and appropriate by the department.
- (b) If the commission adopts rules under Subsection (a), the rules must authorize a license holder to comply with Subsection (a)(2) by maintaining a facsimile of the license holder's seal on file at the location where services are provided if:
 - (1) the services are provided:
 - (A) in a facility licensed under the Health and Safety Code;

- (B) on behalf of a local, state, or federal government agency; or
 - (C) under other circumstances determined reasonable and necessary by the department; and
- (2) the facsimile is maintained on file at all times during which the services are provided.

SUBCHAPTER E. COMPLAINT PROCEDURES

Sec. 701.2041. Confidentiality of Complaint and Disciplinary Information.

- (h) All information and materials subpoenaed or compiled by the department in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:
- (1) persons involved with the department in a disciplinary action against the holder of a license;
 - (2) professional dietitian licensing or disciplinary boards in other jurisdictions;
 - (3) peer assistance programs approved by the commission under Chapter 467, Health and Safety Code;
 - (4) law enforcement agencies; and
 - (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.
- (i) The filing of formal charges by the department against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director, and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SUBCHAPTER F. LICENSE REQUIREMENTS

Sec. 701.251. License Required; Commission Registration.

- (a) In this section, "Commission on Dietetic Registration" means the commission that is a member of the National Commission on Health Certifying Agencies.
- (b) Unless the person holds an appropriate license issued under this chapter, a person may not:
- (1) use the title or represent or imply that the person has the title "licensed dietitian" or "provisional licensed dietitian" or use the letters "LD" or "PLD"; or
 - (2) use a facsimile of those titles to indicate or imply that the person is a licensed dietitian or provisional licensed dietitian.
- (c) Unless the person is a dietitian registered by the Commission on Dietetic Registration, a person may not:
- (1) use the title or represent or imply that the person has the title "registered dietitian" or use the letters "RD"; or
 - (2) use a facsimile of that title to indicate or imply that the person is a dietitian registered by the Commission on Dietetic Registration.

Sec. 701.252. License Application.

- (a) Each applicant for a dietitian license must submit an application in the manner and on a form prescribed by the executive director accompanied by the application fee.
- (b) The commission by rule shall determine the information and documentation required to be submitted as part of an application.

Sec. 701.253. License Examination.

- (a) In this section, "Commission on Dietetic Registration" has the meaning assigned by Section 701.251(a).
- (b) Except as provided by Subsection (f), an applicant must pass a license examination to qualify for a license under this chapter.
- (c) The department shall prepare or approve an examination. An examination prescribed by the department may be or may include an examination given by the Commission on Dietetic Registration or by a national or state testing service instead of an examination prepared by the department or the department's designee.
- (d) Any written portion of the examination must be validated by an independent testing professional.
- (e) The department shall administer an examination to qualified applicants at least twice each calendar year.
- (f) The department shall waive the examination requirement for an applicant who, at the time of application, is a dietitian registered by the Commission on Dietetic Registration.

Sec. 701.254. Qualifications for Examination.

To qualify for the licensing examination under this chapter, an applicant must:

- (1) possess a baccalaureate or postbaccalaureate degree, conferred by a college or university regionally accredited at the time of conferral, with:
 - (A) a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management; or
 - (B) an equivalent major course of study approved by the department; and
- (2) have completed an internship or preplanned, documented, professional experience program in dietetics practice of not less than 900 hours under the supervision of a licensed dietitian or a registered dietitian approved by the department.

Sec. 701.255. Investigation.

- (a) Not later than the 45th day after the date a properly submitted and timely application is received and not later than the 30th day before the next examination date, the department shall notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to applicant qualifications established by commission rule.
- (b) The notice shall state whether the applicant has qualified for examination based on the application and other submitted evidence. If the applicant has not qualified, the notice shall state the reasons for the applicant's failure to qualify.

Sec. 701.257. Reexamination for Licensing Examination.

An applicant who fails the licensing examination three times must provide evidence to the dietitians board that the applicant has successfully completed credit hours in the applicant's areas of weakness before the applicant may apply for reexamination.

Sec. 701.2575. Jurisprudence Examination.

- (a) The department shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, commission rules under this chapter, and any other applicable laws of this state affecting the applicant's dietetics practice.
- (b) In addition to the license examination required by Section 701.253, an applicant must pass a jurisprudence examination to qualify for a license under this chapter.
- (c) The commission shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

Sec. 701.258. Qualified Person Entitled to License.

The department shall issue a license as a licensed dietitian to a person qualified for a license under this chapter.

Sec. 701.259. Provisional License.

- (a) The department may issue a license to use the title "provisional licensed dietitian" to an applicant who files an application, pays an application fee, and submits evidence of successful completion of the education requirement under Section 701.254.
- (b) A provisional licensed dietitian must practice under the supervision and direction of a licensed dietitian. The supervising licensed dietitian must be designated in the applicant's initial application for a provisional license.
- (c) The department shall issue a license as a provisional licensed dietitian to a person qualified for a provisional license under this chapter.
- (d) A provisional license expires on the first anniversary of the date of issuance and may be renewed annually not more than twice.
- (e) A provisional licensed dietitian shall comply with Sections 701.351 and 701.352.

Sec. 701.260. Temporary License.

- (a) On receipt of an application and payment of an application fee, the department may grant a temporary license to an applicant who:
 - (1) is licensed in good standing as a dietitian in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;
 - (2) has passed a national or other examination that is recognized by the department and relates to dietetics; and

- (3) is sponsored by a person licensed by the department under this chapter with whom the temporary license holder may practice.
- (b) The department may waive the requirement of Subsection (a)(3) if the department determines that compliance with that provision is a hardship to an applicant.
- (c) A temporary license is valid until the date the department approves or denies the temporary license holder's application for a license. The department shall issue a license under this chapter to the holder of a temporary license if:
 - (1) the temporary license holder passes the competency examination required by Section 701.253;
 - (2) the department verifies that the temporary license holder meets the academic and experience requirements for a license under this chapter; and
 - (3) the temporary license holder satisfies any other license requirements under this chapter.
- (d) The department must complete the processing of a temporary license holder's application for a license not later than the 180th day after the date the department issues the temporary license. The department may extend this deadline to receive pending examination results.

SUBCHAPTER G. LICENSE RENEWAL

Sec. 701.301. License Renewal.

- (a) A license is valid for two years after the date of issuance and may be renewed biennially.

Sec. 701.303. Continuing Education.

- (a) The commission by rule shall establish a minimum number of hours of continuing education required for license renewal under this chapter.
- (b) The commission or department may assess the continuing education needs of license holders and may require license holders to attend continuing education courses specified by the commission or department. The department shall develop a process to evaluate and approve continuing education courses.
- (c) The commission or department shall identify key factors for a license holder's competent performance of professional duties. The department shall adopt a procedure to assess the license holder's participation in continuing education programs.

Sec. 701.304. Grounds for Refusing Renewal.

The commission or department may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SUBCHAPTER H. PRACTICE BY LICENSE HOLDER

Sec. 701.351. Display of License.

- (a) A license holder shall display the person's license in an appropriate and public manner as prescribed by commission rule.

- (b) A license issued by the department is the property of the department and shall be surrendered on demand.

Sec. 701.352. License Holder Information.

A license holder shall keep the department informed of the license holder's current address as provided by commission rule.

Sec. 701.353. Prohibited Use of Seal.

- (a) A person may not use a seal authorized by the department unless the person holds a license issued under this chapter.
- (b) A person may not affix a seal to a document if the license of the license holder named on the seal is expired, suspended, or revoked.

SUBCHAPTER I. DISCIPLINARY PROCEDURES

Sec. 701.401. Grounds for Disciplinary Action.

The commission or executive director shall refuse to renew a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter, a rule or code of ethics adopted under this chapter, or an order of the commission or executive director.

Sec. 701.403. Sanctions.

The State Office of Administrative Hearings shall use the schedule of sanctions adopted by the commission by rule for a sanction imposed as the result of a hearing conducted by the office.

SUBCHAPTER J. PENALTIES AND OTHER ENFORCEMENT PROVISIONS

Sec. 701.451. Criminal Penalty.

- (a) A person commits an offense if the person knowingly violates Section 701.251.
- (b) A person commits an offense if the person violates Section 701.353(a).
- (c) An offense under this section is a Class B misdemeanor.

SUBCHAPTER K. ADMINISTRATIVE PENALTY

Sec. 701.502. Amount of Administrative Penalty.

- (a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.
- (b) The amount shall be based on:
 - (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
 - (2) the economic harm caused by the violation;
 - (3) the history of previous violations;

- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

Sec. 701.512. Refund.

- (a) Subject to Subsection (b), the commission or executive director may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.
- (b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The commission or executive director may not require payment of other damages or estimate harm in a refund order.