Information Summary and Recommendations

Dietitians and Nutritionists Sunrise Review

September 1993

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The Sunrise Review Process

Legislative Intent

It is the Legislature's intent to permit all qualified individuals to enter a health care profession. If there is an overwhelming need for the state to protect the public, then entry may be restricted. Where such a need to restrict entry and protect the public is identified, the regulation adopted should be set at the least restrictive level.

The Sunrise Act, RCW 18.120.010, states that a health care profession should be regulated only when:

- Unregulated practice can clearly harm or endanger the health, safety or welfare of the public and the potential for harm is easily recognizable and not remote or dependent upon tenuous argument;
- The public can reasonably benefit from an assurance of initial and continuing professional ability; and
- The public cannot be protected by other more cost effective means.

There are three types of credentialing:

- *Registration*. A process by which the state maintains an official roster of names and addresses of the practitioners in a given profession. The roster contains the location, nature and operation of the health care activity practiced and, if required, a description of the service provided. A registrant could be subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.
- *Certification*. A voluntary process by which the state grants recognition to an individual who has met certain qualifications. Non-certified persons may perform the same tasks, but may not use "certified" in the title. A certified person is subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.
- *Licensure*. A method of regulation by which the state grants permission to engage in a health care profession only to persons who meet predetermined qualifications. Licensure protects the scope of practice and the title. A licensee is subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.

Overview of Proceedings

The Department of Health notified the applicant group, all professional associations and board and committee chairs and staff of the Sunrise Review. Meetings and discussions were held and documents circulated to all interested parties.

Regulatory agencies in all other states were requested to provide sunrise reviews, regulatory standards, or other information which would be useful in evaluating the proposal to increase the level of regulation for dietitians and nutritionists. A literature review was conducted. Staff have reviewed all submitted information and asked for feedback from interested parties.

A public hearing was conducted in Olympia. The hearing panel included department and State Board of Health staff. Persons were allowed to give time limited presentations. A general discussion and response period followed the hearing as well as an additional ten-day written comment period.

Following the public hearing and additional written comments, a recommendation was made based on all information received and in consultation with the public hearing panel. The applicant group and other interested parties were briefed on the draft recommendations. The proposed final draft will be reviewed and approved by the Licensing and Certification Assistant Secretary and Department Secretary. The final report was transmitted to the Legislature via the Office of Financial Management.

Executive Summary

The Washington State Dietetic Association introduced House Bill 1331 to the Legislature to increase the level of regulation of dietitians and nutritionists from certification to licensure and to change the advisory committee to a Board of Dietitians and Nutritionists. A Sunrise Review was conducted at the request of the Health Care Committee.

Input was provided by the Washington State Dietetic Association, the National Nutritional Foods Association, the American College of Nutrition, the Shaklee Corporation, the Washington State Medical Association, the Washington State Board of Pharmacy, the Advisory Committee on Dietitians and Nutritionists, Citizens for Health and many Washington citizens acting on their own behalf.

The following recommendations are proposed by the Department of Health: (1) the current level of regulation of dietitians and nutritionists should remain at certification; (2) advisory committee membership should be changed in current statute by the addition of two public members; (3) a subcommittee of the advisory committee should be appointed to determine qualifications and to define the work of nutritionists. However, if the Legislature decides not to accept the Department's recommendation, the Department recommends the following: (1) in New Section 11(4) line 24 the word "licensed" be amended to "credentialed"; (2) in New Section 11(4) line 27 the word "incidental" be amended to read "pursuant"; (3) composition of members on the board should be changed to reflect equal representation of dietitians and nutritionists.

Current Regulation

Washington State currently has a certification program for dietitians and nutritionists (Chapter 18.120 RCW). This program was established by the Legislature in response to a 1987 Sunrise recommendation by the State Health Coordinating Council.

There are approximately 597 state certified dietitians and nutritionists in Washington. According to the Washington State Dietetic Association there are 1,264 registered dietitians in the state. About 42 persons qualified to be registered dietitians graduate per year from Washington universities.

Proposal for Sunrise Review

Representative Dennis Dellwo, House Health Care Committee Chair, has requested the Department of Health to conduct a Sunrise Review on House Bill 1331 forwarded by the Washington State Dietetic Association to increase the level of regulation of dietitians and nutritionists from certification to licensure and to change the advisory committee to a Board of Dietitians and Nutritionists. The board membership would remain the same but the composition of members would change from two dietitians, two nutritionists and one public member to two dietitians, one nutritionists, one physician and one public member.

Summary of Information Collected/Submitted

Department staff reviewed the information received during the review process. Some was solicited from interested parties; other information was provided to the department without being solicited. This "Information Summary" section provides the department's paraphrasing of all such information. It does not reflect the department's findings, which are found in a later section of this report.

The heading in italics above the various paragraphs indicates the source of the information provided to the department.

The section is divided into three parts which correspond to the three main criteria given by the legislature to determine if a profession should be regulated by the state and if so, to what extent.

A. Harm to the Public:

Washington Dietetic Association

While the current certification program protects the titles "certified nutritionist" and "certified dietitian," it does not forbid other individuals from promoting themselves as nutrition experts.

When nutrition advice is incorrect or inaccurately given to consumers, their health can be temporarily or even permanently damaged leading to increased health care costs. Eight anecdotal examples of diets being manipulated by uncertified practitioners are cited in the sunrise application. The examples demonstrated treatment or advice that was contrary to current medical practice and patients experienced gastrointestinal symptoms or weight loss. Two were hospitalized.

National Nutritional Foods Association

Nutrition is one of the safest of all possible health modalities. While it is possible that people may receive harmful information about their diet, it is unlikely that this information would cause irreparable harm. No data on deaths attributable to poor nutrition advice exist. The potential for harm is much greater from limiting the sources of nutrition information which currently include: midwives, childbirth educators, medical doctors, nurses, naturopathic doctors, chiropractors, weight loss clinics, health food store personnel, allergists, dentists, Ph.D.s, pharmacists, educators, leaders of children's groups, parents, physical therapists, as well as dietitians and nutritionists.

American College of Nutrition

Under House Bill 1331 more practice rights are assigned to dietitians with a bachelor degree than to certified nutritionists who hold masters and doctoral degrees. This bill could actually discourage advanced education of providers.

Shaklee Corporation

The anecdotal situations described by the Washington State Dietetic Association (WSDA) in the application paper involve either a violation of consumer fraud laws or medical malpractice laws. These laws will protect the public.

Department of Health Literature Search

In many of the sunrise reports (see literature reviewed) it was stated that remedies are available from civil and criminal courts for misinformation or alleged physical or economic harm. Since 1990 the department's advisory committee has received only two complaints. Both were referred to the medical board for unlicensed practice.

Two articles listed in the literature review cite reasons for regulating dietitians:

1. Financial impairment if poor advice is received from an uncertified dietitian or nutritionist (Minnesota, 1990; Nebraska, 1986).

2. Unqualified practitioners can adversely affect the health and welfare of citizens poorly informed about diet and nutrition (Minnesota, 1990; SHCC Staff Analysis, 1986; Nebraska, 1986).

Articles supporting opponent's views concerning harm include points such as:

1. Persons now disseminating misinformation would be exempted by the bill (Michigan, 1986; SHCC Staff Analysis, 1986; Georgia, 1988).

2. Licensure of dietitians will harm the public by restricting entry of those who may provide dietary information. The public can be helped with more sources of education (Schauss, 1993; Colorado, 1990; Michigan, 1986; New York, 1983; SHCC Staff Analysis, 1986; Georgia, 1988; Nebraska, 1986; letters to department).

3. Persons with significant knowledge in nutrition such as authors of nutrition articles, publication editors, cooperative extension agents and others employed in nutrition education could be precluded from giving nutrition advice (Quillan, 1987; Nebraska, 1986).

4. Religious leaders such as Jewish, Mormon, Seventh Day Adventists, Muslim, etc., would not be able to counsel on nutrition (Hilton).

5. The state cannot regulate books and publications written by non-licensed persons (Quillin, 1987).

B. Benefit to the Public:

Washington Dietetic Association

Licensure of dietitians and nutritionists assures that consumers would be getting a competent practitioner, no matter what the practitioner calls him/herself. Dietitians and nutritionists need to be able to integrate a comprehensive knowledge and experience base, discern between valid research and "popular theories" and assist consumers in applying this information practically. Licensure provides the most effective mechanism for recourse if a practitioner is giving harmful advice.

Department of Health Advisory Committee on Dietitians/Nutritionists, Chair

> "Dietitians are committed to increasing counseling skills directed at changing behaviors, considering the whole person including socio-economic and ethnic constraints on change; total nutritional requirements as they are affected by medication, exercise, smoking, alcohol consumption and age; and the potential effects of dietary change on quality of life."

National Nutritional Foods Association

Rather than licensure providing beneficial advantages to the public, there is enormous potential for public harm. Licensure would require that anyone practicing dietetics or general nutrition services meets qualifications set forth by the American Dietetics

Association (ADA). These qualifications are restrictive and do not, in many cases, relate to nutrition practice. This would severely limit the availability and type of nutrition information available to the public. For example, the ADA has consistently and fervently denounced the use of supplemental nutrition (such as vitamins, herbs, etc.), even in the face of massive amounts of conflicting information.

American College of Nutrition

In House Bill 1331 the unjustified limitation on the major courses of study in college for a graduate degree does not benefit the public. Many qualified nutritionists with masters and doctoral degrees could not be licensed under this bill despite having a much higher level of competence than the dietitian with a bachelor's degree possesses.

Washington State Medical Association

Physicians routinely call upon other personnel in their practice who are not dietitians to convey dietary information to patients under the direction of the physician. House Bill 1331 would require these functions be performed by licensed dietitians or nutritionists. Instead of benefiting the public, this would serve as an economic barrier by causing delays in service and increasing costs.

Washington State Board of Pharmacy

In new Section 11(4), line 27, the word "incidental" should be changed to "pursuant" since many health care professionals licensed by the state *specialize* in nutrition and related problems (e.g., parenteral and enteral nutrition, weight control, etc.). It is not incidental to their practice.

Shaklee Corporation

House Bill 1331 is geared more toward economic protection of those seeking licensure than the protection of the public from unqualified nutrition advice such as public health officials, physiologists, biochemists and sports coaches give.

The bill grants immunity from the law to health food store owners and employees but does not extend this protection to other retailers and sellers of foods and nutritional products. Also, will nonprofit organizations who provide nutritional information to the public have the resources to seek authorization required in the bill?

Department of Health Literature Search

One of the reasons members of the American Dietetic Association support licensure of dietitians is because there is public confusion on uses of the terms dietitian, nutritionist, nutritionist counselor, certified nutritionist, certified dietitian and registered dietitian. Letters received by the department and testimony given at the hearing did not mention confusion of these terms.

The American Dietetic Association (ADA) was organized in 1917. After passing a test, graduates of baccalaureate programs in dietetics are registered with the Commission on Dietetics and use the title Registered Dietitian (R.D.). In health care the term R.D. is well known. In 1990-1991 the ADA President's annual report stated that ADA had forty-seven press releases, video news releases, editorial supplements in four national consumer magazines, several commentaries on television's "Nation's Business Today", and were featured repeatedly on national television and in major news, health and women's magazines. It is thought the ADA should promote the use of dietitians through their state organizations.

The term R.D. is the most widely recognized of all nutrition professionals. The public already receives a benefit because R.D.s work in public institutions such as hospitals, schools and prisons.

Licensure would reduce public access to alternative modes of nutritional advice from qualified practitioners. Testimony supported this. It is believed by many that the science of applied nutrition is so broad that no one individual or profession (such as R.D.) can be expected to be proficient in all areas.

Research shows a general belief that remote and isolated harm does not outweigh the benefits from occupational regulation of dietitians; that regulation is not in the public interest if it cuts short the current debates about nutrition; and that the benefits of regulation are few. Testimony supported this. Most of the thirteen opponents who testified want the freedom of choice--to choose the person they desire for nutritional advice, whether licensed, certified, or not.

Because there are about forty-two graduates from the dietetic programs each year, the potential to add very few licensed personnel would decrease information to the public. Licensure restricts entry into a profession and, in this case, would severely limit the numbers of qualified individuals to serve the public.

Forty-two letters about House Bill 1331 were received at the department. Except for one, all letters were opposed to the bill. One person's comments summed the beliefs very well:

> "We need to work on wellness vs. crisis medicine in this state . . . To do this, information and help has to be readily available to the public. Books need to be in bookstores. There need [sic] to be lectures by those who work in the field, know of the field . . . I discuss these matters with others of like interest in the same way people discuss athletic teams and sporting events."

C. Other Means of Regulation:

Washington Dietetic Association

There is no alternative that is adequate to protect the public interest.

1. Regulation of business employers or the program rather than practitioners would be impractical and ineffective because nutrition professionals work in many different employer-employee settings in the private and public sector as well as self employed in private practice.

2. Registration of all practitioners.

   Registration is the weakest mechanism for regulation and would require no minimum professional training. The public could be easily misled by the unqualified practitioner who could use the registration certificate to infer professional qualifications.

3. Certification of all practitioners.

   Certification allows anyone to call themselves a dietitian or nutritionist. Because it is voluntary certification does not protect the public.

National Nutritional Foods Association

There are a number of mechanisms already in place to accomplish what needs to be done in this area, most notably, certification through professional associations. Other alternatives might include informed consent procedures, such as public display or disclosure of credentials for each person disseminating nutritional information.

Department of Health Literature Search

Sunrise papers from Colorado, Minnesota, and Michigan indicate that the public is not willing to accept the uniformity of approach that licensure would bring to the work of dietitians and nutritionists. Testimony at the hearing supports this. Citizens believe there is no alternative to the voluntary certification now in place.

The WSDA standards for certified nutritionists are difficult for nutritionists to meet. If the applicant does not possess a graduate degree in one of four courses, all requirements of the dietitian must be met including the exam and preprofessional practice. The registered dietitian exam has seven domains including subjects irrelevant to human nutrition but important for dietitians who supervise food systems in institutions. More than 30% of this test does not apply to the scope of practice of a licensed nutritionist.

The 900 hour internship component (preprofessional practice) does not adequately meet the needs of nutritionists either, for the same reason as the test. Also, the internship could require a graduate student to be supervised by a person with a baccalaureate degree, not the usual education standard followed in universities.

This pre-professional practice (900 clinical hours) is available for persons wishing to become certified or licensed as a nutritionist; but, there are only eight slots at the University of Washington and the program is usually finished in fifteen to thirty months, time when the student very likely works part time instead of full time. The student must also take classes if their major is outside the four named areas listed in the bill. Situations like this could discourage migration of otherwise qualified persons to Washington. Testimony at the public hearing supports the fact that nutritionists come from numerous areas and fields of study and that this limitation would severely restrict entry.

Public Hearing

Thirty-five people attended the hearing and sixteen testified. While six in attendance were members of the applicant group, testimony was limited to three persons. Of the remaining persons, testimony was limited to thirteen.

Findings

1. The potential for actual physical harm is remote.

   There is a potential for economic harm, but, except for the two hospitalized cases mentioned in the applicant's anecdotal cases, the economic harm cannot be quantified.

   Applicant group members do not diagnose or treat; they assess nutrition status and recommend interventions. Their functions are performed using communication skills rather than activities or procedures which could have an immediate effect on the patient.

   Because many of the persons the applicant group alleges are now disseminating misinformation are exempted by House Bill 1331 (e.g., health food store employees, weight control clinics, school sport coaches, etc.), the bill would have little impact on reducing potential harm.

2. Licensure is not needed for reimbursement when health care reform takes place.

   The equivalency of the terms "licensed", "certified" and "registered" has been established in RCW 18.130.020(9) which states:

> "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "Certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020."

When exempting credentialed persons, the applicant group (WSDA) described this category as "other health care professionals *licensed* by the state" (New Section 11(4). WSDA is referring to persons licensed, certified or registered.

3. Licensed nutritionists are required to have more education than licensed dietitians, yet are given fewer practice rights.

   Licensed nutritionists must have either a graduate degree or meet the same qualifications of a licensed dietitian. To meet these same qualifications there are inappropriate restrictions on internship requirements and limitations on the major course of study. There are also limitations on the course of graduate study. House Bill 1331 could actually discourage persons from obtaining advanced education by providing maximum rights to those who complete the baccalaureate level and become a R.D.

4. The titles *dietitian* and *nutritionist* are not easily defined.

   If the state deprives unlicensed people such as team coaches, Shaklee distributors, public health officials, physiologists, biochemists, leaders of children's groups, etc., from giving dietary advice, their business will be seriously and unnecessarily impeded. This bill creates few anticipated benefits to the public and will reduce the supply of providers.

   Most dietitians offer their services to institutions, businesses, medical groups, etc., with a small number conducting an independent office practice with independent clients. Most nutritionists see independent clients in their practice, similar to a physician's practice.

5. This is a licensure law with exemptions for most persons that already give a variety of nutrition services.

   The exemptions include persons who, presumably, gave the wrong advice listed in the applicant's anecdotal examples of harm. A licensure law would normally exempt only students in the profession, those practicing for a specific limited amount of time (such as persons from out-of-state, retirees returning to practice for a specific period of time), family members, etc. The need to exempt so many individuals suggests that no one group truly has the unique ability to give nutrition information.

6. In New Section 11(4) line 27 the word "incidental" can be misleading.

This word should be changed to "pursuant" due to the amount of credentialed health care professionals who specialize in nutrition.

Recommendations

☞ The current level of regulation of dietitians and nutritionists should remain at certification.

Rationale:

1. An overwhelming need to protect the public has not been demonstrated.
2. The potential for harm is remote.
3. Certification will allow for reimbursement of care given.
4. Certification will not be restrictive and will allow access to information from non-certified persons by the public.

☞ Advisory committee membership should be changed in the current statute by the addition of two public members. The committee would then include two dietitians, two nutritionists and three public members.

Rationale:

1. The public is very vocal about their rights to nutritional information; the additional members would ensure these rights are clearly heard.
2. The generic terms *dietitian* and *nutritionist* belong to the public who should be represented in a ratio of more than 1:4.

☞ A subcommittee of the advisory committee should be appointed to determine the qualifications of certified nutritionists and to define their work.

Rationale:

1. The field-of-study requirements for nutritionists may be too limiting and, therefore, restricting otherwise qualified persons from becoming certified.
2. Using the dietitians test for becoming a nutritionist may not be the most fair way of certifying professionals. Merely using the graduate degree to supplant the examination requirement might be making it too difficult as well. Clearly delineating skills requirements and matching them to services delivered by the professionals needs to take place.
3. If a certified nutritionist has a graduate degree, are they qualified to provide more than the nutrition services as currently defined in statute? This question needs to be addressed.
4. If nutritionists use the clinical experience/examination route to become certified, they may be emphasizing requirements that do not directly relate to the kinds of services they will actually provide. However, this kind of qualification may have some value. The definition of pre-professional practice for nutritionists might be required.

If, however, the legislature feels compelled to amend the regulation from certification to licensure, the department recommends the following:

1. In New Section 11(4) line 24 the word *licensed* be amended to read *credentialed*. This will eliminate the confusion about the term licensed referring to all types of credentialing.
2. In New Section 11(4) line 27 the work *incidental* be amended to read *pursuant*. Many credentialed professionals specialize in nutrition.
3. The composition of members on the board be changed to reflect equality of dietitians and nutritionists; membership could be two dietitians, two nutritionists, one physician and two public members. This would add two members to the present number appointed to the advisory committee.

Regulation In Other States (As reported to Department of Health)

STATE	STATUS OF REGULATION	COMMENTS
AK, AZ, CT, HI, ID, IN, MA, MO, NJ, NH, NV, PA, SD, WI, WV	None	None
CO, MI, MN, SC, VA	None	Recent sunrise report recommended against licensure
*AL, FL, IL, *IA, LA, MD, TN,	License dietitian/nutritionist w/BA, exam, 900 hrs pre-professional practice	Nutrition counselor with less training in FL and IL
AR, KA, OH, *OK	License dietitian	AR exempts nutritionists
*CA	Title protection only; no registration	
DC, NC	License dietitian and nutritionist	
GA	Voluntary licensure dietitian/dietetic counselor	Two attempts to make mandatory have failed
*KY	Certify/register dietitian w/BA, pre-professional practice; certify nutritionist	Nutritionist must have graduate degree
ME	License dietitian/dietetic tech w/BA, 2 mo. work experience	
*MS	Register dietitian and nutritionists	Requirements are the same
*MT	License under Board of Medical Examiners	
ND	License dietitian; certify nutritionist	
*NE	Certify nutritionist w/BA, exam, 900 hrs pre-professional practice	Currently conducting sunrise
NM	Register dietitian w/valid registration with Commission; license nutritionist w/Masters, valid member of nutrition org/assn	
NY	Certify dietitian/nutritionist w/BA in nutrition, exam, pre-professional practice	Nutritionist with registration or membership in acceptable societies in lieu exam/practice
*OR, VT	Certify dietitian	
*RI	Register dietitian w/exam; license w/BA, 900 hrs pre-professional practice	
TX	Voluntary licensure of dietitian w/BA, exam, pre-professional practice	
*UT	Certify dietitian w/BA, exam, pre-professional practice	Current proposal to de-regulate next leg session

**title protection only*

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Participant List

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H-0417.2

HOUSE BILL 1331

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Flemming, Veloria, Dellwo, Thibaudeau, Leonard, Pruitt, Karahalios and L. Johnson

Read first time 01/25/93. Referred to Committee on Health Care.

1 AN ACT Relating to dietitians and nutritionists; amending RCW
2 18.138.010, 18.138.020, 18.138.030, 18.138.040, 18.138.050, 18.138.060,
3 18.138.070, 18.138.080, 18.138.090, and 18.138.110; and adding a new
4 section to chapter 18.138 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 18.138.010 and 1991 c 3 s 278 are each amended to read
7 as follows:
8 (1) "Dietetics" is the integration and application of scientific
9 principles of food, nutrition, biochemistry, physiology, management,
10 and behavioral and social sciences in counseling people to achieve and
11 maintain health. Unique functions of dietetics include, but are not
12 limited to:
13 (a) Assessing individual and community food practices and
14 nutritional status using anthropometric, biochemical, clinical,
15 dietary, and demographic data for clinical, research, and program
16 planning purposes;
17 (b) Establishing priorities, goals, and objectives that meet
18 nutritional needs and are consistent with available resources and
19 constraints;

(c) Providing nutrition counseling and education as components of preventive, curative, and restorative health care;

(d) Developing, implementing, managing, and evaluating nutrition care systems; ((~~and~~))

(e) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services; and

(f) Interpreting and recommending nutrient needs relative to prescribed diets in which food or nutrients need to be monitored or altered as ordered by or in consultation with health care professionals licensed to prescribe diets.

(2) "General nutrition services" means ((~~the counseling and/or educating of groups or individuals in the selection of food to meet normal nutritional needs for health maintenance, which~~)) providing nutrition information and education for health maintenance and disease prevention for individuals and groups. "General nutrition services" includes, but is not restricted to:

(a) Assessing the nutritional needs for health maintenance and disease prevention of individuals and groups by planning, organizing, coordinating, and evaluating the nutrition components of community health care services;

(b) Supervising, administering, or teaching ((~~normal~~)) in nutrition ((~~in~~)) programs for health maintenance and disease prevention for colleges, universities, clinics, group care homes, nursing homes, hospitals, private industry, and group meetings.

(3) "((~~Certified~~)) Licensed dietitian" means any person ((~~certified~~)) licensed to practice dietetics under this chapter.

(4) "((~~Certified~~)) Licensed nutritionist" means any person ((~~certified~~)) licensed to provide general nutrition services under this chapter.

(5) "Department" means the department of health.

(6) "Secretary" means the secretary of health or the secretary's designee.

Sec. 2. RCW 18.138.020 and 1991 c 3 s 279 are each amended to read as follows:

(1) No persons shall practice dietetics or represent themselves as ((~~certified~~)) licensed dietitians ((~~or certified nutritionists~~)) unless ((~~certified~~)) licensed as provided for in this chapter.

(2) No persons shall represent themselves as licensed nutritionists or practice general nutrition services unless licensed as provided for in this chapter.

(3) Persons represent themselves as ((~~certified~~)) licensed dietitians or ((~~certified~~)) licensed nutritionists when any title or any description of services is used which incorporates one or more of the following items or designations: "((~~Certified~~)) Licensed dietitian," "((~~certified~~)) licensed dietician," "((~~certified~~)) licensed nutritionist," "D.," "((~~C~~)) L.D.," or "((~~C~~)) L.N."

(3) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is ((~~certified~~)) licensed under this chapter.

Sec. 3. RCW 18.138.030 and 1991 c 3 s 280 are each amended to read as follows:

(1) An applicant applying for ((~~certification~~)) licensure as a ((~~certified~~)) licensed dietitian or ((~~certified~~)) licensed nutritionist shall file a written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require, and proof that the candidate has met qualifications set forth below in subsection (2) or (3) of this section.

(2) Any person seeking ((~~certification~~)) licensure as a "((~~certified~~)) licensed dietitian" shall meet the following qualifications:

(a) Be eighteen years of age or older;

(b) Has satisfactorily completed a major course of study in human nutrition, foods and nutrition, dietetics, or food systems management, and has received a baccalaureate or higher degree from a college or university accredited by the Western association of schools and colleges or a similar accreditation agency or colleges and universities approved by the secretary in rule;

(c) Demonstrates evidence of having successfully completed a planned continuous preprofessional experience in dietetic practice of not less than nine hundred hours under the supervision of a ((~~certified~~)) licensed dietitian or a registered dietitian or demonstrates completion of a coordinated undergraduate program in

dietetics, both of which meet the training criteria established by the secretary;

(d) Has satisfactorily completed an examination for dietitians administered by a public or private agency or institution recognized by the secretary as qualified to administer the examination; and

(e) Has satisfactorily completed courses of continuing education as currently established by the secretary.

(3) An individual may be ((~~certified~~)) licensed as a ((~~certified dietician~~)) licensed dietitian if he or she provides evidence of meeting criteria for registration ((~~on June 9, 1988,~~)) by the commission on dietetic registration or of certification as a dietitian by the state of Washington on or before the effective date of this act.

(4) Any person seeking ((~~certification~~)) licensure as a "((~~certified~~)) licensed nutritionist" shall meet the following qualifications:

(a) Possess the qualifications required to be a ((~~certified~~)) licensed dietitian; or

(b) Has received a master's degree or doctorate degree in one of the following subject areas: Human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by the Western association of schools and colleges or a similar accrediting agency or colleges and universities approved by the secretary in rule; or

(c) Presents current certification as a nutritionist by the state of Washington on or before the effective date of this act.

Sec. 4. RCW 18.138.040 and 1991 c 3 s 281 are each amended to read as follows:

(1) If the applicant meets the qualifications as outlined in RCW 18.138.030(2), the secretary shall confer on such candidates the title ((~~certified~~)) licensed dietitian.

(2) If the applicant meets the qualifications as outlined in RCW 18.138.030(4), the secretary shall confer on such candidates the title ((~~certified~~)) licensed nutritionist.

(3) The application fee in an amount determined by the secretary shall accompany the application for ((~~certification~~)) licensure as a ((~~certified~~)) licensed dietitian or ((~~certified~~)) licensed nutritionist.

Sec. 5. RCW 18.138.050 and 1991 c 3 s 282 are each amended to read as follows:

The secretary may ((~~certify~~)) license a person applying for the title "((~~certified~~)) licensed dietitian" without examination if such person is licensed ((~~or certified~~)) as a dietitian in another jurisdiction and if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

Sec. 6. RCW 18.138.060 and 1991 c 3 s 283 are each amended to read as follows:

(1) Every person ((~~certified~~)) licensed as a ((~~certified~~)) licensed dietitian or ((~~certified~~)) licensed nutritionist shall pay a renewal registration fee determined by the secretary as provided in RCW 43.70.250. The ((~~certificate~~)) license of the person shall be renewed for a period of one year or longer at the discretion of the secretary.

(2) Any failure to register and pay the annual renewal registration fee shall render the ((~~certificate~~)) license invalid. The ((~~certificate~~)) license shall be reinstated upon: (a) Written application to the secretary; (b) payment to the state of a penalty fee determined by the secretary; and (c) payment to the state of all delinquent annual ((~~certificate~~)) license renewal fees.

(3) Any person who fails to renew his or her ((~~certification~~)) license for a period of three years shall not be entitled to renew ((~~such certification~~)) the license under this section. Such person, in order to obtain a ((~~certification~~)) license as a ((~~certified~~)) licensed dietitian or ((~~certified~~)) licensed nutritionist in this state, shall file a new application under this chapter, along with the required fee, and shall meet all requirements as the secretary provides.

(4) All fees collected under this section shall be credited to the health professions account as required.

Sec. 7. RCW 18.138.070 and 1991 c 3 s 284 are each amended to read as follows:

In addition to any other authority provided by law, the secretary may:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) Establish forms necessary to administer this chapter;

(3) Issue a ((~~certificate~~)) license to an applicant who has met the requirements for ((~~certification~~)) licensing and deny a ((~~certificate~~)) license to an applicant who does not meet the minimum qualifications;

(4) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those ((~~certified~~)) licensed under this chapter, to serve as consultants as necessary to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and ((~~certificate~~)) license holders;

(6) Conduct a hearing, pursuant to chapter 34.05 RCW, on an appeal of a denial of ((~~certification~~)) licensure based on the applicant's failure to meet the minimum qualifications for ((~~certification~~)) licensing;

(7) Investigate alleged violations of this chapter and consumer complaints involving the practice of persons representing themselves as ((~~certified~~)) licensed dietitians or ((~~certified~~)) licensed nutritionists;

(8) Issue subpoenas, statements of charges, statements of intent to deny ((~~certifications~~)) licenses, and orders and delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements on intent to deny ((~~certifications~~)) licenses;

(9) Conduct disciplinary proceedings, impose sanctions, and assess fines for violations of this chapter or any rules adopted under it in accordance with chapter 34.05 RCW;

(10) Set all ((~~certification~~)) licensing, renewal, and late renewal fees in accordance with RCW 43.70.250; and

(11) Set ((~~certification~~)) license expiration dates and renewal periods for all ((~~certifications~~)) licenses under this chapter.

Sec. 8. RCW 18.138.080 and 1991 c 3 s 285 are each amended to read as follows:

(1) There is created a ((~~state advisory committee~~)) dietetic nutrition board consisting of five members appointed by the ((~~secretary~~)) governor who shall advise the secretary concerning the administration of this chapter. Two members of the ((~~committee~~)) board shall be ((~~certified~~)) licensed dietitians who have been engaged in the practice of dietetics for at least five years immediately preceding their appointments. ((~~Two~~)) One member((~~s~~)) of the ((~~committee~~)) board shall be ((~~certified~~)) licensed nutritionist((~~s~~)) who ((~~have~~)) has been

engaged in the provision of general nutrition services for at least five years preceding ((~~their~~)) his or her appointment((~~s~~)). One member shall be a physician licensed under chapter 18.71 RCW. These ((~~committee~~)) board members shall at all times be ((~~certified~~)) licensed under this chapter, except for the initial members of the ((~~committee~~)) board, who shall fulfill the requirements for ((~~certification~~)) licensing under this chapter, and the physician, who shall at all times be licensed under chapter 18.71 RCW. The remaining member of the ((~~committee~~)) board shall be a member of the public with an interest in the rights of consumers of health services, but who does not have any financial interest in the rendering of health services.

(2) The term of office for ((~~committee~~)) board members is four years. The terms of the first ((~~committee~~)) board members however, shall be staggered to ensure an orderly succession of new ((~~committee~~)) board members thereafter. Terms of office shall expire on December 31. Any ((~~committee~~)) board member may be removed for just cause. The ((~~secretary~~)) governor may appoint a new member to fill any vacancy on the ((~~committee~~)) board for the remainder of the unexpired term. No ((~~committee~~)) board member may serve more than two consecutive terms whether full or partial.

(3) ((~~Committee~~)) Board members shall be entitled to be compensated in accordance with RCW 43.03.240 and to be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(4) The ((~~committee~~)) board shall have the authority to annually elect a chairperson and vice-chairperson to direct the meetings of the ((~~committee~~)) board. The ((~~committee~~)) board shall meet at least once each year, and may hold additional meetings as called by the secretary or the chairperson. Three members of the ((~~committee~~)) board shall constitute a quorum of the ((~~committee~~)) board.

Sec. 9. RCW 18.138.090 and 1991 c 3 s 286 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of ((~~certificates~~)) licenses, unauthorized practices, and the disciplining of ((~~certificate~~)) license holders under this chapter. The secretary shall be the disciplining authority under this chapter.

Sec. 10. RCW 18.138.110 and 1988 c 277 s 11 are each amended to read as follows:

Nothing in this chapter shall be construed to apply to owners, operators or employees of health food stores provided the owners, operators or employees do not represent themselves to be ((~~certified~~)) licensed dietitians or ((~~certified~~)) licensed nutritionists.

NEW SECTION. Sec. 11. A new section is added to chapter 18.138 RCW to read as follows:

This chapter does not prohibit or restrict:

(1) A dietetic technician or dietetic technician student engaged in dietetic practice under the supervision of a licensed dietitian. A dietetic technician is an individual who has an associate or higher degree from a United States regionally accredited college or university with a major course of study in dietetic technology, nutrition care, food service systems management, human nutrition, nutrition education, foods and nutrition, or dietetics and has completed a documented supervised experience component in dietetic practice of not less than four hundred fifty hours under the supervision of a licensed dietitian;

(2) A dietetic student enrolled in an approved academic program in dietetics who is under the supervision of a licensed dietitian;

(3) A nutrition student enrolled in an advanced degree program as outlined in RCW 18.138.030 who is under the supervision of a licensed dietitian or nutritionist;

(4) Other health care professionals licensed by the state of Washington as of the effective date of this act from engaging in the practice of dietetics or provision of general nutrition services when incidental to the practice of his or her profession;

(5) A dietitian or nutritionist who is serving in the armed forces or the public health service of the United States or who is employed by the veterans administration whose practice is related to such service or employment;

(6) Any person who provides weight control services, provided the program has been reviewed by, consultation is available from, and no program change can be initiated without prior approval by a licensed dietitian, a dietitian credentialed in another state that has licensure requirements at least as stringent as the requirements for licensure under this chapter; or

1 (7) An educator who is in the employ of a nonprofit organization
2 and authorized by the department; a federal, state, county, or
3 municipal agency or other political subdivision; an elementary or
4 secondary school; or a regionally accredited institution of higher
5 education, insofar as the activities and services of the educator are
6 part of his or her employment.

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