

FIRST REGULAR SESSION

SENATE BILL NO. 384

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUSE.

Read 1st time January 29, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1541S.011

AN ACT

To repeal sections 324.203, 324.205, 324.212 and 324.217, RSMo 2000, relating to regulation of dietitians, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 324.203, 324.205, 324.212 and 324.217, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 324.203, 324.205, 324.212 and 324.217, to read as follows:

324.203. 1. There is hereby established the "State Committee of Dietitians" which shall guide, advise and make recommendations to the division and fulfill other responsibilities designated by sections 324.200 to 324.225. The committee shall approve the examination required by section 324.210 and shall assist the division in carrying out the provisions of sections 324.200 to 324.225.

2. The committee shall consist of six members including one public member, appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state, and, except as provided in this section and except for the first members appointed, shall be licensed as a dietitian by this state. Beginning with the first appointments made after August 28, 1998, two members shall be appointed for four years, two members shall be appointed for three years and two members shall be appointed for two years. Thereafter, all members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for a total of eight years. The membership of the committee shall reflect the differences in levels of education and

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

work experience with consideration being given to race, gender and ethnic origins. No more than three members shall be from the same political party. The membership shall be representative of the various geographic regions of the state.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. Each member of the committee shall receive as compensation an amount set by the division not to exceed fifty dollars, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director, in collaboration with the department of economic development, shall establish by rule, guidelines for payment. All staff for the committee shall be provided by the division.

5. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the committee shall consist of a majority of its members.

6. The governor may remove a committee member for misconduct, incompetency, neglect of the member's official duties, or for cause.

7. The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated by sections 324.200 to 324.225, or the spouse of such a person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 324.200 to 324.225, or an activity or organization directly related to any profession licensed or regulated by sections 324.200 to 324.225. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

8. Members of the committee shall not be personally liable either jointly or severally for any act or acts committed in the performance of their official duties as committee members.

324.205. 1. After July 1, 2000, no person may use the title licensed dietitian or L.D. in this state unless the person is licensed pursuant to the provisions of sections 324.200 to 324.225.

2. Any person who violates the provisions of subsection 1 of this section is guilty of [an infraction] **a class A misdemeanor and, upon conviction, shall be punished by law.**

324.212. 1. Applications for licensure as a dietitian shall be in writing, submitted to the committee on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other

information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for **[licensure] renewal**, or to pay the **[licensure] renewal** fee after such notice shall effect a noncurrent license. The license shall be **[restored] reinstated** if, within two years of the **[licensure] renewal** date, the applicant submits the required documentation and pays the applicable fees as approved by the committee.

3. A new **[certificate] license** to replace any **[certificate] license** lost, destroyed or mutilated may be issued subject to the rules of the committee upon payment of a fee.

4. The committee shall set by rule the appropriate amount of fees authorized herein. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of sections 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is hereby created.

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the dietitian fund for the preceding fiscal year.

324.217. 1. The committee may refuse to issue any license or renew any license required by the provisions of sections 324.200 to 324.225 for one or any combination of reasons stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against the holder of any license required by sections 324.200 to 324.225 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of fraud, deception, misrepresentation or bribery in securing a license issued pursuant to the provisions of sections 324.200 to 324.225 or in obtaining permission to take the examination required pursuant to sections 324.200 to 324.225;

(2) Impersonation of any person holding a license or allowing any person to use his or her license or diploma from any school;

(3) [Revocation or suspension of] **Disciplinary action against the holder of** a license or other right to practice medical nutrition therapy by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(4) [Obtaining] **Issuance of** a license based upon a material mistake of fact; [or]

(5) [Failure to display a valid license if so required by sections 324.200 to 324.225 or any rule promulgated pursuant thereto.] **The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of the profession regulated pursuant to sections 324.200 to 324.225, for any offense an essential element of which is fraud, dishonesty or act of violence, or for any offense involving moral turpitude, regardless of whether sentence is imposed;**

(6) **Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 324.200 to 324.225;**

(7) **Violation of, or assisting or enabling any person to violate, any provisions of sections 324.200 to 324.225, or any lawful rule or regulation adopted pursuant to such sections;**

(8) **The person has been finally adjudicated insane or incompetent by a court of competent jurisdiction;**

(9) **Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or to persons to whom the advertisement or solicitation is primarily directed;**

(10) **Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;**

(11) **Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 324.200 to 324.225;**

(12) **Violation of the drug laws or rules and regulations of this state, any state or of the United States; or**

(13) **Violation of any professional trust or confidence.**

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 324.200 to 324.225 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of a complaint pursuant to subsection 2 of this section, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed [three] **five** years, or **may suspend, for a period not to exceed three years, or** revoke the license of the person. **An individual whose license has been revoked may only apply for relicensure after one year from the date of revocation. Relicensure shall be at the discretion of the committee after compliance with all requirements of sections 324.200 to 324.225 relative to the licensing of an applicant for the first time.**

5. The committee shall maintain an information file containing each complaint filed with the committee relating to a holder of a license. [The committee, at least quarterly, shall notify the complainant and holder of a license of the complaint's status until final disposition.

6. The committee shall recommend for prosecution violations of sections 324.200 to 324.225 to an appropriate prosecuting or circuit attorney.]

Bill

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