

FIRST REGULAR SESSION

# SENATE BILL NO. 363

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BENTLEY.

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SI290.011

TERRY L. SPIELER, Secretary.

## AN ACT

To amend chapter 324, RSMo, by adding thereto ten new sections relating to clinical nutritionists.

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

Section A. Chapter 324, RSMo, is amended by adding thereto ten new sections, to be known as sections 324.560, 324.563, 324.566, 324.569, 324.572, 324.575, 324.578, 324.581, 324.584 and 324.587, to read as follows:

**324.560. 1. Sections 324.560 to 324.587 shall be known and may be cited as the "Clinical Nutritionist Practice Act".**

**2. As used in sections 324.560 to 324.587, the following terms shall mean:**

**(1) "Clinical nutritionist", a health care professional engaged in the practice of clinical nutrition therapy;**

**(2) "Committee", the state committee of clinical nutritionists;**

**(3) "Director", the director of the division of professional registration in the department of economic development;**

**(4) "Division", the division of professional registration of the department of economic development;**

**(5) "Certified clinical nutritionist", a person who is certified pursuant to the provisions of sections 324.560 to 324.587 to engage in the practice of clinical nutrition therapy;**

**(6) "Clinical nutrition therapy", specific clinical nutrition therapies and treatment modalities based on clinical scientific research and practice that are used to treat illness, conditions and injuries and are referred by a person licensed in this state to prescribe clinical nutrition therapies and modalities. Clinical nutrition therapy includes clinical nutrition assessment, diet modification and intensive intervention and administration of specialized nutrition therapies.**

**324.563. 1. There is hereby established the "State Committee of Clinical Nutritionists" which shall guide, advise and make recommendations to the division and fulfill other responsibilities designated by sections 324.560 to 324.587. The committee shall approve the examination required by section 324.572 and shall assist the division in carrying out the provisions of sections 324.560 to 324.587.**

**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, shall be certified as a clinical nutritionist by this state. Beginning with the first appointments made after August 28, 1999, 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 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 committee not to exceed fifty dollars for each day the committee meets, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. 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 board 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 324.560 to 324.587, 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 324.560 to 324.587, or an activity or organization directly related to any profession licensed or regulated by**

sections 324.560 to 324.587. 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.

**324.566. 1.** After July 1, 2000, no person may use the title certified clinical nutritionist or C.C.N. in this state unless the person is certified pursuant to the provisions of sections 324.560 to 324.587.

**2.** Any person who violates the provisions of subsection 1 of this section is guilty of an infraction.

**324.569.** Nothing in sections 324.560 to 324.587 shall be construed to authorize any person certified pursuant to sections 324.560 to 324.587 as a certified clinical nutritionist to engage in any manner the practice of medicine as defined by the laws of this state.

**324.572. 1.** An applicant for certification as a clinical nutritionist shall be at least twenty-one years of age.

**2.** Each applicant shall furnish evidence to the division that:

**(1)** The applicant has completed a program in clinical nutrition which is approved or accredited by the clinical nutrition certification board and a minimum of a baccalaureate degree from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education. Applicants who have obtained their education outside of the United States and its territories must have their academic degrees validated as equivalent to the baccalaureate or master's degree conferred by a regionally accredited college or university in the United States. Validation of a foreign degree does not eliminate the need for a verification statement of completion of a program in clinical nutrition;

**(2)** The applicant has completed a supervised practice requirement from an institution that is certified by a nationally recognized professional organization as having a clinical nutrition specialty or who meets criteria for clinical nutrition education established by the committee. The division may specify those professional organization certifications which are to be recognized and may set standards for education, training and experience required for those without such specialty certification to become clinical nutritionists.

**3.** The applicant shall successfully pass an examination as determined by the committee. The committee may waive the examination requirement and grant certification to an applicant for certification as a clinical nutritionist who presents satisfactory evidence to the committee of current registration as a dietitian with the clinical nutritionist certification board.

**4. Prior to July 1, 2000, a person may apply for licensure without examination and shall be exempt from the academic requirements of this section if the committee is satisfied that the applicant has a bachelor's degree in a program approved by the division and has work experience approved by the division.**

**5. The division may determine the type of documentation needed to verify that an applicant meets the qualifications provided in subsection 3 of this section.**

**324.575. 1. Applications for certification as a clinical nutritionist shall be in writing, submitted to the division 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 division 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 division.**

**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 division with the information required for licensure, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant submits a written application and pays the licensure fee and a delinquency fee.**

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

**4. The division 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 324.560 to 324.587. All fees provided for in sections 324.560 to 324.587 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 "Clinical Nutritionist 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 two times the amount of the appropriation from the clinical nutritionist 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 clinical nutritionist fund for the preceding fiscal year.**

**324.578. 1. The division shall issue a certificate to each candidate who files an**

application and pays the fee as required by the provisions of sections 324.560 to 324.587 and who furnishes evidence satisfactory to the committee that the candidate has complied with the provisions of section 324.572 or with the provisions of subsection 2 of this section.

2. The division shall issue a certificate to any clinical nutritionist who has a valid current certificate to practice clinical nutrition therapy in any jurisdiction, provided that such person is certified in a jurisdiction whose requirements for certification are substantially equal to, or greater than, the requirements for certification of clinical nutritionists in Missouri at the time the applicant applies for certification.

3. The division shall not allow any person to sit for the examination for certification as a clinical nutritionist in this state who has failed the examination as approved by the committee three times, until the applicant submits evidence of satisfactory completion of additional course work or experience and has been approved by the committee for re-examination.

**324.581. 1.** The division may refuse to issue any certificate or renew any certificate required by the provisions of sections 324.560 to 324.587 for one or any combination of reasons stated in subsection 2 of this section. The division 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 through the procedures outlined in chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against the holder of any certificate required by sections 324.560 to 324.587 or any person who has failed to renew or has surrendered the person's certificate for any one or any combination of the following causes:

(1) Use of fraud, deception, misrepresentation or bribery in securing a certificate issued pursuant to the provisions of sections 324.560 to 324.587 or in obtaining permission to take the examination required pursuant to sections 324.560 to 324.587;

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

(3) Revocation or suspension of a certificate or other right to practice clinical nutrition therapy by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(4) Obtaining a certificate based upon a material mistake of fact; or

(5) Failure to display a valid certificate if so required by sections 324.560 to 324.587 or any rule promulgated pursuant thereto.

3. Any person, organization, association or corporation who reports or provides

**information to the division pursuant to the provisions of sections 324.560 to 324.587 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 administrative hearing procedures outlined in 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 division may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed three years, or revoke the certificate of the person.**

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

**324.584. The division shall:**

**(1) Recommend for prosecution violations of sections 324.560 to 324.587 to the attorney general;**

**(2) Employ, within the funds appropriated, such employees as are necessary to carry out the provisions of sections 324.560 to 324.587; and**

**(3) Exercise all budgeting, purchasing, reporting and other related management functions.**

**324.587. 1. No provision of sections 324.560 to 324.587 shall be construed to mandate benefits or third-party reimbursement for services of clinical nutritionists in the policies or contract of any insurance company, health services corporation or other third-party payer.**

**2. No provision of sections 324.560 to 324.587 shall be construed to affect procedures for filing for clinical nutritionist services provided by agencies, corporations or organizations that employ certified clinical nutritionists.**

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