

268 CMR: BOARD OF REGISTRATION OF DIETITIANS/NUTRITIONISTS

268 CMR 6.00: DISCIPLINE

Section

- 6.01: Investigation of Complaints
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6.01: Investigation of Complaints

- (1) The Board, or its agent, shall investigate any and all complaints which allege that a licensed dietitian/nutritionist certified by the Board has violated any provision of M.G.L. c. 112, §§ 201 through 210, any rule or regulation of the Board, or any other state or federal law or regulation pertaining to the professional conduct or activities of the licensee; or has otherwise engaged in improper, unethical or illegal conduct.
- (2) No person who files a complaint, reports or provides information to the Board in connection with the investigation of a complaint, or otherwise assists the Board in discharging its duties and functions, shall be held liable in any cause of action arising out of these activities, as long as the person making the complaint or providing such information or assistance does so in good faith and without malice.
- (3) All complaints, reports, records, documents or other information received or kept by the Board in connection with any investigation conducted by the Board, or its agent, pursuant to 268 CMR 6.01(1) shall remain confidential until such time as the Board has disposed of the matter by dismissing the complaint, issuing an Order to Show Cause, or taking other final action on said complaint.

6.02: Grounds for Disciplinary Action

The Board may, by majority vote after a hearing conducted in accordance with M.G.L. c. 30A and 801 CMR 1.00 *et seq.*, take disciplinary action against any licensed dietitian/nutritionist certified by the Board pursuant to M.G. L. c. 112, §§ 201 through 210 and 268 CMR 6.00. Grounds for such disciplinary action shall include, but not be limited to:

- (1) Engaging in, authorizing, or aiding or abetting fraud, deceit, misrepresentation of material facts, the provision of false or forged evidence, or bribery in connection with any application for a certificate of licensure issued by the Board;
- (2) Violating any provisions of the laws of the Commonwealth relating to the authorized practice as a licensed dietitian/nutritionist or any rule or regulation promulgated by the Board thereunder;
- (3) Engaging in gross misconduct in the practice of his or her profession as a licensed dietitian/nutritionist;
- (4) Engaging in practice which is fraudulent or beyond the authorized scope of practice for a licensed dietitian/nutritionist;
- (5) Practicing with gross incompetence or gross negligence on a particular occasion, or with negligence on repeated occasions;
- (6) Practicing while his or her ability to practice is impaired by alcohol, drugs, physical disability or mental illness;
- (7) Being habitually intoxicated by, or engaging in the current, unlawful use of, alcohol, narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects;
- (8) Knowingly permitting, or aiding or abetting, an unlicensed person to perform activities which require a license for purposes of fraud, deception or personal gain, excluding activities which are permissible under any provision of the laws of the Commonwealth relating to the training of dietitian/nutritionist in authorized health care institutions and facilities;

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6.02: continued

- (9) Having been convicted, or having submitted to the facts, of any criminal offense which reasonably calls into question his or her moral character, fitness or ability to practice as a licensed dietitian/nutritionist; or
- (10) Violating any provision of M.G.L. c. 112, §§ 210 through 210 or any rule or regulation promulgated by the Board thereunder.

6.03: Summary Suspension

- (1) Pursuant to M.G.L. c. 112, § 202(9), the Board may summarily suspend the license of licensees who pose an immediate danger to the public provided a hearing is afforded to the licensee, pursuant to M.G.L. c. 30A, within seven days of the Board's action to determine whether such summary action was warranted.

6.04: Discipline

The Board, pursuant to M.G.L. c. 112, § 205, may take disciplinary action against any applicant or licensee which may include any or all of the following actions:

- (1) denial, suspension, revocation or cancellation of, or refusal to renew such license;
- (2) placement of such a license on probation;
- (3) reprimanding or censuring the holder of such license;
- (4) assessing upon the licensee a fine not to exceed \$ 5,000 for each violation;
- (5) requiring the licensee to perform, for each violation, up to 100 hours of community service in a manner and time to be determined by the Board;
- (6) requiring the licensee to complete additional education and training as a condition of retention or reinstatement of such license, or requiring an applicant for such license to complete additional education and training as a condition for future consideration of such application;
- (7) requiring the licensee to practice under appropriate supervision for a period of time as determined by the Board as a condition of retention or reinstatement of such license, or requiring an applicant for such license to practice under appropriate supervision for a period of time as determined by the Board as a condition for future consideration of that application;
- (8) requiring the licensee to participate in an alcohol or drug rehabilitation program or undergo drug testing, or both, as a condition of retention or reinstatement of such license, or requiring an applicant for such license to participate in an alcohol or drug rehabilitation program or undergo drug testing, or both, as a condition for future consideration of such application; and
- (9) requiring the licensee to make restitution of not more than \$50,000, where appropriate.

Nothing in 268 CMR 6.04 shall be deemed a limitation on the Board's authority to impose such sanctions by consent agreement as are deemed reasonable and appropriate by the Board in the exercise of its duties and responsibilities.

REGULATORY AUTHORITY

268 CMR 6.00: M.G.L. c. 13, § 11D, c. 112, §§ 201 through 210.