

TENNESSEE BOARD OF DIETITIANS/NUTRITIONISTS

MINUTES

Date: September 8, 2022

Time: 9:00 a.m., CST

Location: Health Related Boards
Poplar Room
665 Mainstream Dr
Nashville, TN 37243

Members Present: Patrick Parham, Citizen Member
Jamie L. Bailey, Dietitian/Nutritionist, Chair
Loveday E. Nwobilor, Dietitian/Nutritionist, Member
Jennifer Earnest, Dietitian/Nutritionist, Member

Members Absent: Morgan Anderson, Dietitian/Nutritionist
James Burkard, Dietitian/Nutritionist

Staff Present: Kimberly Wallace, Executive Director
Shara Woodard, Board Administrator
Kristen Moon, Board Attorney

Call to Order

Jamie Bailey called the meeting to order at 9:03 AM CST. A roll call of the Board Members and Board staff present was initiated by Kimberly Wallace, Executive Director.

Public Comments

The public will have the opportunity to make comment regarding items on today's agenda. No public comment was made at this time.

Review Minutes from March 3, 2022, Board Meeting

Ms. Ernest made a motion to approve the Minutes from the March 3, 2022, Board meeting as written, with a second by Mr. Nwobilor. There was no discussion on the motion. The motion passed unanimously.

Investigations/Disciplinary Reports

Ms. Roger Knowlton gave the currently monitored practitioners and investigative reports:

CURRENTLY MONITORED PRACTITIONERS AS OF 09/08/2022

Total # Currently Monitored Practitioners	0
Reprimand	0
Probation	0
Suspended	0
Revocation	0
Surrendered	0

Period: 2022 Calendar Year

COMPLAINTS

New Complaints	
Malpractice/Negligence	0
Unprofessional Conduct	0
Total # New Complaints	5
Closed Complaints	
Letter of Warning	
Total # Closed Complaints	2
Open Complaints	2
Total # Currently Open Complaints	2

Financial Report

Ms. Keyona Love was present to provide the Board with the Year End financial report, with highlights as follows:

- Total Expenditures \$61,143.97
- Board Fee Revenue \$107,300.00
- Current Year Net \$46,156.03
- Cumulative Carryover \$350,355.58

Ms. Bailey inquired about the fee reduction that the Board had voted on at a previous meeting. Ms. Wallace went over the Rule Making process and that an update will be on the OCG report that is to follow.

Discuss legislation and take action if needed

Ms. Olivia Spears was present to give a legislative update to the Board from the 2022 session.

Non-Health Related Legislative Activity of Note

- The legislature addressed legislative and Congressional redistricting.
- The “Truth in Sentencing” Act made mandatory sentences for certain criminal offenses.
- The “Tennessee Investment in Student Achievement (TISA) Act” reformed the school funding approach.

Highlights and Noteworthy Health-Related Legislation

- The Department had two successful legislative initiatives that became law relating to local county health departments and the Controlled Substance Monitoring Database, respectively.
- Healthcare Facilities will move to the Health Services and Development Agency (HSDA)/Health Facility Commission on July 1, 2022.
- Healthcare providers can continue to utilize telehealth and receive reimbursement for telehealth services.
- The Board of Pharmacy and the Board of Nursing will now hire and fire the Executive Director of the Board.
- A registry within the Tennessee Commission on Aging and Disability was created to combat the operation of unlicensed facilities.

Pertinent Public Chapters

- Public Chapter 602—SB1696/HB1777—Roberts/Ragan

Re: Board of Dietitian/Nutritionist Examiners Sunset. This public chapter extends the Board of Dietitian/Nutritionist Examiners to June 30, 2028.

- Public Chapter 644—SB1823/HB1867—Johnson/Zachary

Re: Covid-19 Vaccine Exemptions. This public chapter requires that an employer grant certain exemptions to requirements of proof/receipt of vaccinations if the request for exemption is either (1) supported by signed/date statement by a licensed physician that the staff member has a condition recognized under generally accepted medical standards as a basis for the medical exemption or (2) the staff member attests in writing (including electronic means) that the staff member has a sincerely held religious believe that prevents the staff member from complying the requirement in accordance with guidance from Medicare and Medicaid services. This public chapter creates a civil penalty of \$10,000 for violation of this statute. Effective as of March 11, 2022.

- Public Chapter 680—SB1909/HB1904—Johnson/Faison

Re Autoclave Requirements. This public chapter exempts autoclaves from the clearance requirements of the Board of Boilers Rules if the autoclave sterilizes reusable medical or dental equipment used by an individual licensed under title 68 or 63, is installed in accordance with the manufacturer's recommendations, contains a boiler, and is regulated by the FDA. Effective as of March 28, 2022. The Governor did not sign this public chapter.

- Public Chapter 756—SB1789/HB2858—Briggs/Kumar

Re Conditions of Participation. This public chapter removes the requirement that a healthcare provider enrolled in Medicare or Medicaid be subject to conditions of participation to be exempt from the definition of "private business" or "governmental entity" for purposes of the Title 14/Covid-19 state laws. Effective as of March 31, 2022.

- Public Chapter 766—SB2453/HB2655—Yager/Hawk

Re Telehealth. This public chapter extends the ability for healthcare providers to receive reimbursement for healthcare services provided during a telehealth encounter. This public chapter also clarifies that a healthcare provider acting within the scope of a valid license is not prohibited from delivering services through telehealth. Lastly, this public chapter adds that the requirement of an in-person encounter between the healthcare services provider, the

provider's practice group, or the healthcare system and patient within sixteen months prior to the interactive visit is tolled for the duration of a state of emergency declared by the Governor provided that healthcare services provider or patient, or both, are located in the geographical area covered by the state of emergency. Effective as of April 1, 2022 and applies to insurance policies or contracts issued, entered into, renewed, or amended on or after that date.

- Public Chapter 810—SB2035/HB2058—Southerland/Gant

Re Smokeless Nicotine Products. This public chapter makes it unlawful for the sale or distribution of smokeless nicotine products to individuals under 21 years old and unlawful for individuals under 21 years old to purchase or possesses smokeless nicotine products. For the purposes of this public chapter, smokeless nicotine product means nicotine that is in the form of a solid, gel, gum, or paste that is intended for human consumption or placement in the oral cavity for absorption into the human body by any means other than inhalation. Smokeless nicotine does not include tobacco or tobacco products or nicotine replacement therapy products. Effective as of April 8, 2022.

- Public Chapter 833—HB1997/SB1936—Cochran/Jackson

Re UAPA. Clarifies that the ALJ shall decide a procedural questions of law. Allows the director of the administrative procedures division of the secretary of state's office to issue subpoenas. Allows electronic participation in hearings, by agreement of the parties. The hearing officer may allow electronic testimony if the absence of the witness would otherwise cause of delay of the hearing. Requires that a final orders be issued within 90 days. Allows that a petition for reconsideration be filed within 15 days of the entry of the final order or initial order. Effective as of April 19, 2022.

- Public Chapter 862—SB693/HB813—Niceley/Lafferty

Re Food. "Tennessee Food Freedom Act." Exempts homemade food from licensing, inspection, permitting, packaging and labelling laws, except when the Department of Health is investigating a reported foodborne illness. Provides that specific information will be provided for homemade food(s). Permits the Department of Health to investigate foodborne illnesses. Effective on July 1, 2022.

- Public Chapter 883—SB2285/HB1749—Bell/Ragan

Re UAPA and Judicial Review Standards. Requires that a judge over a contested case not defer to an agency's interpretation of the statute or rule and shall interpret it de novo. Remaining ambiguity shall be resolved against the agency. Effective as of April 14, 2022.

- Public Chapter 911—HB2309/SB2464—Freeman/Reeves

Re Professional License Requirements. Mandates that a person seeking a professional license have US citizenship or be authorized under federal law to work in the US as verified by the SAVE Program (allows DACA children who are now adults to obtain professional licensure if not otherwise prevented by the license). Effective July 1, 2022.

- Public Chapter 930—HB1871/SB1982—Hulsey/Hensley

Re Covid Vaccinations and Acquired Immunity. Amends Title 14 to mandate that acquired immunity from a previous Covid-19 infection be treated the same as a Covid-19 vaccination by a governmental entity, school, or local education authority. Mandates that private businesses who require vaccinations also include recognition for acquired immunity for Covid-19. Effective as of April 11, 2022—This was not signed by Governor.

- Public Chapter 1073—HB2665/SB2449—Sexton, McNally

Re Covid Visitation Policies and Limitations on Covid Treatment Exemptions. Clarifies that a prescriber can be disciplined for prescribing controlled substances and/or narcotics for treatment of Covid, if appropriate. In addition, creates a patient advocate process that hospitals must follow during times of covid concern. Allows that person to enter a facility if they agree to follow procedures but provides certain exceptions to access to locations within the hospital. Effective as of May 25, 2022.

- Public Chapter 1094—SB1891/HB1905—Hulsey/Doggett

Re Mandatory Reporting of Fatal Drug Overdoses. Requires that a fatal overdose be reported to law enforcement, including by doctors and nurses. Effective July 1, 2022.

- Public Chapter 1110—SB2219/HB2705—Briggs/Carringer

Re Local/County Smoking Prohibitions. Permits local or county governments to pass legislation to prohibit smoking and/or vaping in age-restricted venues. Excludes cigar bars and retail tobacco stores from the local prohibitions. Effective on July 1, 2022.

- Public Chapter 1117—SB2448/HB2671—White/Farmer

Re: Extended Liability Protection Against Covid Claims. Extends the liability protection against claims based on Covid exposure until July 1, 2023. Effective as of June 1, 2022.

- Public Chapter 1123—SB2574/HB2535—Crowe/Alexander

Re: End-of-Life Visitation at Nursing Homes and Assisted Living Facilities. Requires that nursing homes and assisted living facilities allow for visitation during a disaster, emergency, or public health emergency for Covid-19. Provides an exemption if the visitation would violate federal or state law. Effective July 1, 2022.

Administrator's Report

Ms. Shara Woodard gave the administrative report to the Board:

PERIOD: As of 09/01/2022

Total # Currently Licensed	2,200
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LICENSE STATISTICS

PERIOD: February 23, 2022 to September 1, 2022

New Licenses Issued	87
Temporary Licenses Issued	3
Reinstatements	7
Renewals - Total	485
<i>Number of Paper Renewals</i>	100
<i>Number of Online Electronic Renewals</i>	385
Retired Licenses	6
Failed to Renew/Expired Licenses	82
Closed/Withdrawn	4

UPCOMING BOARD MEETING DATES

*Tennessee Board of Dietitian and Nutritionist Examiners
Minutes, September 2, 2022*

- March 2, 2023
- September 7, 2023

Ms. Wallace then shared where to go online to renew your license and to let licensees know that they need to keep their email and mailing address up to date to receive notifications from our office.

Receive Report and Requests from the Office of General Counsel

Board Attorney, Kristen Moon, went over the Conflict of Interest statement with the Board Members:

If you have a personal or financial interest in the outcome of any issue or matter before this board which may suggest a bias on your part, you are asked to state that interest on the record so that a determination can be made as to whether there exists a need for recusal. You are reminded that it is the duty of this board to protect the health, safety, and welfare of the citizens of Tennessee and that the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.

Ms. Moon also reviewed the Open Meetings Act, which states:

Committee business may only be discussed by the committee members during the meeting. Members should not discuss the committee's business at any time other than during the open Committee meeting. The prohibition applies to phone calls, emails, and text messages. Committee members should also ensure that all comments during the meeting are stated for all to hear: private conversations between or among members during the meeting are inappropriate.

Ms. Moon reviewed the OGC report with the Board, in that there is currently no disciplinary activity, and the fee reduction is currently in the internal review process.

Ms. Bailey asked how long the fee reduction will be in place. Ms. Moon and Ms. Wallace stated that once the Board finance's have reached the threshold that they are no longer well over the cumulative carry over maximum numbers, the Board will hold another rule making hearing to increase the fees again.

Applicant Interviews/File Reviews

There were no applicant interviews or file reviews for the Board to review at the meeting.

Ratification List-Newly licensed, Reinstated Licenses, Closed/Withdrawn Files

Newly Licensed

4269 Adamson Melissa	4313 Connolly Chantal E RDN	4262 Jackson Earnestine Mrs
3890 Alston Ligaya Kimyara	4291 Copher Madison	4256 Jarrett Zhenya
4310 Armstrong Ashton Ms.	4281 Craven Paige	4303 Kellner Nicholas
4314 Barroso Julia Elizabeth	4231 Crook Evan	4265 Kirian Rebecca
4267 Boesch John	4278 Donegan Casey	4248 Koenig Liat RDN
4241 Bristow Paige	4286 Ducharme Lindsay	4261 Lechman Jessica
4266 Brown Jazlyn Clarita	4299 Eberlin Valerie Elise	4206 Lee Grace Hwang Ms
4272 Burkholder Caroline	4306 Frazier Jamarcus B	4289 Louisignau Julia Messinger
4260 Bush Jessica Pitzer	3484 Gregg Brittany Nicole	4264 Mendel Ronit
4295 Caldwell Kecia Emuity	4330 Grimm Madison	4238 Miller Gabrielle Zoldan
4296 Carroll Katherine Elizabeth	4273 Hamburger Eliza	4215 Muhammad Ellen
4329 Caudill Caroline MS	4275 Hawkins Samantha	4199 Munir Shireen
4315 Ceglarz Amanda Ms.	4220 Hazenstab Ashley	4234 Myers Whitney
4246 Christopher Cassandra	4217 Herin Margaret	4227 Norris Laura B
4247 Church Michael	4257 Hoskins Olivia Lauren	4347 Nunan Amanda Joan
4233 Clark Kendall Ms.	4235 Hull Grayson Mrs.	4259 Odom Kimberly
4242 Conder Morgan	4253 Ineman Stephanie Ineman	4298 Park Rosalia
	4226 Ingold Elizabeth Mrs.	4237 Partipilo Michael John

4285 Patrick Leah Elizabeth Mrs.	4282 Simon Stacey Elizabeth	4292 Walker Sydney Lila Lynn
4300 Phillips Kathryn N	4211 Smith Summer Lynne	4232 Wehring Renee
4301 Piecukonis Sara	4288 Snyder Alia Morgan	4283 Wengryniuk Kaitlyn Marie
4274 Porter Monica	4250 Sterling Meredith Noel	4307 Wilberscheid Teresa Mary
4251 Reagan Olivia	4225 Sweeden Sara B	4202 Wilcox Madelyn
4239 Riggins Mary Elizabeth Mrs	4284 Taylor Kendra Wilder	4294 Williams Natalie Louise
4254 Romanach-Santiago Diana Ms.	4287 Terlizzi Terina	4255 Winsemius Katrina
4243	4219 Thurstenson Jacqueline Hope Mrs.	4249 Woodruff Janalya Malone
Rosario Aaliyah Paige	4216 Tibodeau Abby	4230 Workman Madeline
4290 Rubin Margolit	4258 Tylisz Hailey Nicole	4270 Youngblood Genesis Marie
4224 Rumsey Kimberlie Anne	4279 Upton Tanya Renee	4293 Zomerlei Meredith Lynne
4236 Scalf Heather	4263 Wagner Whitney	

Reinstated

1647 Cooper Andrea Kay
1511 Kozomara Abbie Derrick
1947 Martin Sarah Vaughn
3338 Powell Katherine Dabney
2980 Scruggs Margaret Louise
3516 Wells Katherine

1111 Wright Jill L.

Closed

4055 Morrison Sarah
4144 Noval Jerl Jean
Sofronijoska Biljana
Zarider Emery Aaron

Mr. Parham made a motion to approve the Ratification List for new licenses, reinstated licenses, and closed/withdrawn files, as written, with a second made by Mr. Nwobilor. There was no discussion on the motion. The motion passed unanimously.

Taskforce/Committee Reports

There were no taskforce or committee reports to present to the Board.

Discuss and take action as necessary regarding rulemaking, rulemaking hearings, rule amendments, and policies

There were no rule related items to present to the Board.

Correspondence Review

- a. Ms. Wallace gave an overview of the correspondence from Rebecca Beavers on behalf of the Dietetic Commission. CDR is wanting to offer a Spanish version of the CDR Exam and is gathering information from all licensing boards and submitted a questionnaire to the Board.

Ms. Wallace referred back to the Rules in the Examination section, showing that an applicant only has to produce a notarized CDR and that all fees and registration is dealt directly with the agency that issues the exam. The Dietitian/Nutritionist Board does not receive the direct exam results to our office.

The Board inquired if there needed to be a notification to our office about an applicant taking the exam in a different language other than English, and there does not seem to be a need for this. After discussion, the Board decided that they have no issue with the CDR Exam being issued in Spanish, there is no conflict with Statutes and Rules, and for the CDR card to continue to be produced in English when submitted to our office.

- b. Tennessee Academy of Nutrition and Dietetics (TAND) submitted correspondence to the Board to inform them that TAND has been participating in an Obesity Taskforce with the legislators.

Ms. Bailey inquired what is being done with the information collected. Ms. Marylin Holmes was present to speak to the Board on this topic. She informed the Board of all the information that they have been collecting across the state on obesity and sharing it with the legislature and advocating for Dietitians to the legislature.

- c. Tennessee Academy of Nutrition and Dietetics (TAND) submitted a request to the Board for interpretation of the TCA 63-25-104(a) Use of titles and followed up with a request for clarification of when practicing can begin.

Ms. Wallace requested the Board to turn their attention to their rule 0470-01-.03 Necessity of Licensure.

“It is unlawful for any person who is not licensed in the manner prescribed in T.C.A. §§ 63-25-101, et seq., to represent himself as a dietitian or a nutritionist or to hold himself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments of professional identification or to use such titles as “dietitian/nutritionist”, “licensed dietitian”, “licensed nutritionist” or such letters as “L.D.N.”, L.D.” or “L.N.”.”

Ms. Wallace and Ms. Moon reminded the Board that the Board is not able to provide legal guidance to the public and that the Board’s attorney is unable to provide legal guidance to anyone other than the Board themselves.

Ms. Wallace did state that she referenced the exemption section to the rules (0470-01-.03(3)) that state who are exempt from needing a license in the State of Tennessee to practice. Ms. Wallace also went on to state the average licensing time period and all the documentation necessary for licensure. She also went over that the Board does issue temporary licensure and went over who qualifies for the temporary licensure.

Mr. Parham inquired if there was even a need for any response since it states plainly written in the statutes and rules who does and does not need to be licensed.

Ms. Holmes was present to represent TAND to speak on the correspondence. Ms. Holmes inquired if someone states they were just a Dietitian and not a licensed Dietitian if that was acceptable. Ms. Moon, reference the rule 0470-01.03 and did not speak any further on the matter.

After discussion, The Board’s response to the inquiry on the use of titles is to quote the statute and rule as they are very clear on who can and cannot use the Dietitian/Nutritionist title.

After discussion, The Board’s response to when practice can begin, they went over the option of a temporary license, but that practice cannot begin until a license has been issued when necessary. They also reference back to rule 0470-01-.03 as well since title’s were inquired on this correspondence as well.

Conference/Event Report

FNCE October 8-11, 2022

Board member Jennifer Ernest expressed interest in attending.

Board Member Officer Elections

Ms. Earnest made a motion for continuance for Ms. Bailey's president roll.

Mr. Nwobilor made a 2nd on that motion. The motion passed and Ms. Bailey accepted the president's roll.

Ms. Bailey made a motion for Ms. Earnest for the secretary roll.

Mr. Parham made a 2nd on that motion. The motion passed and Ms. Earnest accepted the secretary roll.

Discuss Old and New Board Business

There was no old or new business brought before the Board.

Public comment

There was no request for public comment to be heard. Ms. Wallace made a reminder to the public that all comments may be submitted to our office either via mail or email.

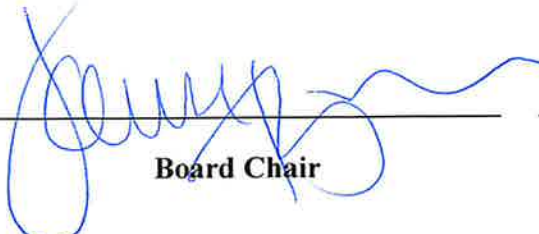
Ms. Bailey thanked Ms. Holmes for comments and commitment to the profession.

Adjournment


Mr. Parham made a motion for adjournment at 10:41 am CST with a second made by Mr. Nwobilor. There was no discussion on this motion. The motion passed unanimously.

The board meeting adjourned at 10:41 am CST.

These Minutes were ratified by the Board on 03/02/2023.



Board Chair



Date