

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

LARISA ALONSO, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 08-2241  
 )  
 BOARD OF MEDICINE, )  
 DIETITIAN/NUTRITION COUNCIL, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on October 17, 2008, in Tallahassee, Florida, before Patricia M. Hart, a duly-designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Rick K. Potter, Qualified Representative  
Post Office Box 1552  
Mesquite, Nevada 89024

For Respondent: Allison M. Dudley, Esquire  
Office of the Attorney General  
PL-01 The Capitol  
Tallahassee, Florida 33021

STATEMENT OF THE ISSUE

Whether the Petitioner's application for licensure by endorsement as a Dietitian/Nutritionist should be granted or denied for the reasons stated in the Notice of Intent to Deny dated April 15, 2008.

PRELIMINARY STATEMENT

In a Notice of Intent to Deny dated April 14, 2008, the Board of Medicine, Dietetics and Nutrition Council ("Council") notified Larisa Alonso that her application for a Dietitian/Nutritionist license by endorsement was denied. The Council stated that Ms. Alonso was licensed in Washington State as a certified nutritionist and had failed to prove that "the criteria for issuance of a Washington State nutritionist license is substantially equivalent to the criteria for Dietitian/Nutritionist license in the State of Florida, as required by Section 468.513, F.S." Ms. Alonso timely requested an administrative hearing to resolve disputed issues of material fact, and the Council forwarded the matter to the Division of Administrative Hearings for assignment of an administrative law judge. Pursuant to notice, the final hearing was held on October 17, 2008.

At the hearing, Ms. Alonso testified in her own behalf, and Petitioner's Exhibit 1 was offered and received into evidence. The Council presented the testimony of Ivy Shivers, and Respondent's Exhibit 1 was offered and received into evidence. The parties also offered Joint Exhibit 1, which was received into evidence. Finally, at the Petitioner's request, official recognition was taken of Exhibit's A through G, attached to the Petitioner's Motion for Official Recognition filed with the

Division of Administrative Hearings on October 10, 2008.

Exhibits A through G consisted of the Final Staff Analysis and Economic Impact Statement for House Bill 161; the Staff Analysis and Economic Impact Statement for Senate Bill 93; Final Bill Analysis and Economic Impact Statement for House Bill 819; Staff Analysis and Economic Impact Statement for Senate Bill 1062; Section 456.003, Florida Statutes (2008); Chapter 468, Florida Statutes (2008); and Chapter 18.138, Revised Code of Washington (2008).

The one-volume transcript of the proceedings was filed with the Division of Administrative Hearings on October 31, 2008, and the parties timely filed proposed findings of fact and conclusions of law, which have been considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

Based on the oral and documentary evidence presented at the final hearing and on the entire record of this proceeding, the following findings of fact are made:

1. The Council, which serves under the supervision of the Board of Medicine, is the entity responsible for certifying persons for licensure by endorsement as a dietitian/nutritionist. § 468.509, Fla. Stat. (2008)<sup>1</sup>; Fla. Admin. Code R. 64B8-40.003(1)(a).

2. On or about January 16, 2008, the Council received Ms. Alonso's application for licensure by endorsement as a dietitian/nutritionist pursuant to Section 468.513, Florida Statutes.

3. At the time of her application, Ms. Alonso was a certified nutritionist in the State of Washington, having been issued license number NU00001939 on April 11, 2007. Ms. Alonso is not licensed in the State of Washington as a certified dietitian, nor has she taken a state or national examination for licensure as a dietitian or as a nutritionist.

4. In 1994, Ms. Alonso earned a Bachelor's of Science degree from Cornell University in biochemistry, and, in 2000, she earned a Master's of Science degree from the University of Texas, School of Public Health, in nutrition and immunology.

5. Prior to moving to Florida in early 2008, Ms. Alonso worked as a nutritionist in Washington State. Prior to receiving her certification as a nutritionist in Washington State, she worked as a nutritionist in several clinics under the supervision of medical and naturopathic doctors for approximately four years. During this time, she performed nutritional assessments and developed nutritional programs for the clinics' patients and provided nutritional support for the doctors working in the clinics.

6. Ms. Alonso was licensed pursuant to Section 18.138.030, Revised Code of Washington, which sets forth the requirements for certification as a dietitian and as a nutritionist in the State of Washington. Section 18.138.030, Revised Code of Washington, provides in pertinent part:

(1) An applicant applying for certification as a certified dietitian or certified 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 as a "certified 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 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.

\* \* \*

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

(a) Possess the qualifications required to be a certified 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.

7. The State of Washington has two certifications, one for dietitians and one for nutritionists. Pursuant to Section 18.139.030(4), Revised Code of Washington, a person qualifies to be licensed as a "certified nutritionist" if the person either meets the requirements for certification as a dietitian or has received a master's degree in the enumerated areas of study.

8. Section 468.509, Florida Statutes, provides:

(1) Any person desiring to be licensed as a dietitian/nutritionist shall apply to the agency [for Health Care Administration] to take the licensure examination.

(2) The agency shall examine any applicant who the board certifies has completed the application form and remitted the application and examination fees specified in s. 468.508 and who:

(a)1. Possesses a baccalaureate or postbaccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or food management, or an equivalent major course of study, from a school or program accredited, at the time of the applicant's graduation, by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation and the United States Department of Education; and

2. Has completed a preprofessional experience component of not less than 900 hours or has education or experience determined to be equivalent by the board; or

(b)1. Has an academic degree, from a foreign country, . . .

\* \* \*

(3) The board shall waive the examination requirement for an applicant who presents evidence satisfactory to the board that the applicant is a registered dietitian.

(4) The agency shall license as a dietitian/nutritionist any applicant who has remitted the initial licensure fee and has passed the examination in accordance with this section.

9. In contrast to Washington State, Florida has only one certification for dietitians and nutritionists. Pursuant to Section 468.509, Florida Statutes, a person qualifies to be licensed as a "dietitian/nutritionist" if the person either meets the requirements for certification set forth in Section 468.509(2), Florida Statutes, or is a registered dietitian.

10. The requirements for licensure as a dietitian in Washington State are substantially equivalent to the requirements for certification as a dietitian/nutritionist in Florida. The requirements for certification as a nutritionist in Washington State are not, however, substantially equivalent to the requirements for licensure as a dietitian/nutritionist in Florida, because a person in Washington State can be certified as a nutritionist without meeting the requirements for certification as a dietitian if the person has an advanced academic degree.

#### CONCLUSIONS OF LAW

11. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and of the parties thereto pursuant to Sections 120.569 and 120.57(1), Florida Statutes.



12. Because this case involves a determination of Ms. Alonso's eligibility for certification for licensure by endorsement as a dietitian/nutritionist, she has the burden of proving by a preponderance of the evidence that she meets all of the requirements for necessary for such certification. See Department of Banking & Fin. v. Osborne Stern, 670 So. 2d 932, 934 (Fla. 1996)("[W]hile the burden of producing evidence may shift between the parties in an application dispute proceeding, the burden of persuasion remains upon the applicant to prove her entitlement to the license."); § 120.57(1)(j), Fla. Stat. ("Findings of fact shall be based upon a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute . . . .").

13. Section 468.513, Florida Statutes, sets out the requirements for licensure by endorsement as a dietitian/nutritionist and provides in pertinent part:

(1) The agency shall issue a license to practice dietetics and nutrition by endorsement to any applicant who the board certifies as qualified, upon receipt of a completed application and the fee specified in s. 468.508.

(2) The board shall certify as qualified for licensure by endorsement under this section any applicant who:

(a) Presents evidence satisfactory to the board that he or she is a registered dietitian; or

(b) Holds a valid license to practice dietetics or nutrition issued by another state, district, or territory of the United States, if the criteria for issuance of such license are determined by the board to be substantially equivalent to or more stringent than those of this state.

14. Based on the findings of fact herein, Ms. Alonso has failed to prove by a preponderance of the evidence that she is qualified for licensure by endorsement in Florida as a dietitian/nutritionist. She is not a certified dietitian in the State of Washington, and the requirements for certification as a nutritionist in the State of Washington are not substantially equivalent to the requirements for licensure as a dietitian/nutritionist in Florida.<sup>2</sup>

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Board of Nursing enter a final order finding that Larisa Alonso failed to satisfy the requirements of Section 468.513(2), Florida Statutes, and denying her application for licensure by endorsement as a dietitian/nutritionist.

DONE AND ENTERED this 19th day of December, 2008, in  
Tallahassee, Leon County, Florida.



---

PATRICIA M. HART  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675 SUNCOM 278-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us

Filed with the Clerk of the  
Division of Administrative Hearings  
this 19th day of December, 2008.

ENDNOTES

<sup>1/</sup> All references to the Florida Statutes herein shall be to the 2008 edition unless indicated otherwise.

<sup>2/</sup> This is not to say, however, that Ms. Alonso may not qualify for certification as a dietitian/nutritionist pursuant to Section 468.509(4), Florida Statutes, by submitting proof to the Board that she meets the requirements in Section 468.509(2)(a), Florida Statutes, and passing the licensure examination.

COPIES FURNISHED:

Diane L. Guillemette, Esquire  
Office of the Attorney General  
The Capitol, Plaza Level 01  
Tallahassee, Florida 32399-1050

Rick K. Potter  
Post Office Box 1552  
Mesquite, Nevada 89024

Allison M. Dudley, Esquire  
Office of the Attorney General  
PL-01 The Capitol  
Tallahassee, Florida 32399

Larisa Alonso  
900 Tallwood Avenue, No. 107  
Hollywood, Florida 33021

Larry McPherson, Executive Director  
4052 Bald Cypress Way  
Tallahassee, Florida 32399-1701

Dr. Ana M. Viamonte Ros, Secretary  
Department of Health  
4052 Bald Cypress Way, Bin A00  
Tallahassee, Florida 32399-1701

Josefina M. Tamayo, General Counsel  
Department of Health  
4052 Bald Cypress Way, Bin A02  
Tallahassee, Florida 32399-1701

Edward A. Tellechea, Esquire  
Office of the Attorney General  
The Capitol, Plaza Level 01  
Tallahassee, Florida 32399-1050

Rosanna Catalano, Esquire  
Office of the Attorney General  
The Capitol, Plaza Level 01  
Tallahassee, Florida 32399-1050

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.