

ASSEMBLY BILL

No. 1444

Introduced by Assembly Member Maddox

February 23, 2001

An act to amend Sections 2068 and 2586 of the Business and Professions Code, relating to nutritional advice.

LEGISLATIVE COUNSEL'S DIGEST

AB 1444, as introduced, Maddox. Nutritional advice.

Existing law does not prohibit a person from providing nutritional advice. Existing law allows a registered dietician with a referral by an appropriate health care provider to provide nutritional and dietary counseling, assessments, and treatment.

This bill would provide that developing nutritional and dietary treatments, therapeutic diets, or developing or providing medical nutrition therapy without an express grant of statutory authority is a violation of law punishable by imprisonment. The bill would authorize a registered dietician to accept or transmit verbal or electronically transmitted orders or protocols from a health care provider in order to implement therapeutic treatments. The bill would term the services described above that a registered dietician is authorized to perform "medical nutrition therapy."

Because developing nutritional and dietary treatments, therapeutic diets, or developing or providing medical nutrition therapy without a grant of statutory authority would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2068 of the Business and Professions
2 Code is amended to read:

3 2068. This chapter shall not be construed to prohibit any
4 person from providing nutritional advice or giving advice
5 concerning proper nutrition. However, this section confers no
6 authority to practice medicine or surgery or to undertake the
7 prevention, treatment, or cure of disease, pain, injury, deformity,
8 or physical or mental conditions or to state that any product might
9 cure any disease, disorder, or condition in violation of any
10 provision of law. *Absent an express grant of authority in this*
11 *division, developing nutritional and dietary treatments,*
12 *therapeutic diets, or developing or providing medical nutrition*
13 *therapy, constitutes a violation of Section 2053.*

14 For purposes of this section, the terms “providing nutritional
15 advice or giving advice concerning proper nutrition” ~~means~~ *mean*
16 the giving of information as to the use and role of food and food
17 ingredients, including dietary supplements.

18 Any person in commercial practice providing nutritional advice
19 or giving advice concerning proper nutrition shall post in an easily
20 visible and prominent place ~~the following statement~~ in his or her
21 place of business *the following statement:*

22
23 “NOTICE”
24

25 “State law allows any person to provide nutritional advice or
26 give advice concerning proper nutrition—which is the giving of
27 advice as to the role of food and food ingredients, including dietary
28 supplements. This state law does NOT confer authority to practice
29 medicine or to undertake the diagnosis, prevention, treatment, or
30 cure of any disease, pain, deformity, injury, or physical or mental
31 condition and specifically does not authorize any person other than



1 one who is a licensed health practitioner to state that any product
2 might cure any disease, disorder, or condition.”

3
4 The notice required by this section shall not be smaller than 8¹/₂
5 inches by 11 inches and shall be legibly printed with lettering no
6 smaller than ¹/₂ inch in length, except the lettering of the word
7 “NOTICE” shall not be smaller than 1 inch in length.

8 SEC. 2. Section 2586 of the Business and Professions Code
9 is amended to read:

10 2586. (a) Notwithstanding any other provision of law, a
11 registered dietitian meeting the qualifications set forth in Section
12 2585 may, upon referral by a health care provider authorized to
13 prescribe dietary treatments, provide nutritional and dietary
14 counseling, conduct nutritional and dietary assessments, ~~and~~
15 develop nutritional and dietary treatments, including therapeutic
16 diets, *and accept or transmit verbal or electronically transmitted*
17 *orders or standards of protocol from the health care provider to*
18 *implement therapeutic treatments*, for individuals or groups of
19 patients in licensed institutional facilities or in private office
20 settings. The referral shall be accompanied by a written
21 prescription signed by the health care provider detailing the
22 patient’s diagnosis and including a statement of the desired
23 objective of dietary treatment. *The services described in this*
24 *subdivision may be termed “medical nutrition therapy.”*

25 (b) It is a misdemeanor for a registered dietitian to practice in
26 a manner inconsistent with the requirements set forth in this
27 section.

28 (c) Nothing in this section shall preclude a registered dietitian
29 from providing information as permitted by Section 2068.

30 (d) For purposes of this section, “health care provider” means
31 any person licensed or certified pursuant to this division, or
32 licensed pursuant to the Osteopathic Initiative Act.

33 (e) The requirement of a written prescription shall be deemed
34 to be satisfied by an entry in the patient records of a patient who
35 is undergoing treatment at a licensed health care facility if the
36 contents of the patient records reflect the information required by
37 this section.

38 SEC. 3. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school



1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

O

