

AMENDED IN ASSEMBLY MAY 2, 2001

AMENDED IN ASSEMBLY APRIL 4, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1444

Introduced by Assembly Member Maddox

February 23, 2001

An act to amend Sections ~~2068, 2585~~, 2585 and 2586 of the Business and Professions Code, and to amend Section 10176.25 of the Insurance Code, relating to nutritional advice.

LEGISLATIVE COUNSEL'S DIGEST

AB 1444, as amended, Maddox. Nutritional advice.

Existing law does not prohibit a person from providing nutritional ~~advise~~ *advice*. Existing law *contains provisions governing the practice of registered dietitians and allows a registered dietitian 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~~

This bill would subject other nutritional professionals to specified provisions governing registered dietitians. The bill would also authorize a registered dietitian dietitians and other nutritional professionals to order medical laboratory tests related to nutritional therapeutic treatments and 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~~ designate the services described above that a registered ~~dietician is~~ dietitians and other nutritional professionals are authorized to perform as “medical nutrition therapy.” The bill would authorize a dietetic technician, registered, meeting certain qualifications, to assist a registered dietitian with certain services. The bill would make conforming changes to the Insurance Code.

~~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.~~

Existing law provides that it is a misdemeanor for a registered dietitian to practice in violation of certain provisions.

Because this bill would extend this provision to other nutritional professionals, 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.

The bill would become operative July 1, 2003.

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.~~



1 For purposes of this section, the terms “providing nutritional
2 advice or giving advice concerning proper nutrition” mean the
3 giving of information as to the use and role of food and food
4 ingredients, including dietary supplements.

5 Any person in commercial practice providing nutritional advice
6 or giving advice concerning proper nutrition shall post in an easily
7 visible and prominent place in his or her place of business the
8 following statement:

9
10 “NOTICE”

11
12 “State law allows any person to provide nutritional advice or
13 give advice concerning proper nutrition—which is the giving of
14 advice as to the role of food and food ingredients, including dietary
15 supplements. This state law does NOT confer authority to practice
16 medicine or to undertake the diagnosis, prevention, treatment, or
17 cure of any disease, pain, deformity, injury, or physical or mental
18 condition and specifically does not authorize any person other than
19 one who is a licensed health practitioner to state that any product
20 might cure any disease, disorder, or condition.”

21
22 The notice required by this section shall not be smaller than 8½
23 inches by 11 inches and shall be legibly printed with lettering no
24 smaller than ½ inch in length, except the lettering of the word
25 “NOTICE” shall not be smaller than 1 inch in length.

26 ~~SEC. 2.~~

27 *SECTION 1.* Section 2585 of the Business and Professions
28 Code is amended to read:

29 2585. (a) Any person representing himself or herself as a
30 registered dietitian shall meet one of the following qualifications:

31 (1) Been granted, prior to January 1, 1981, the right to use the
32 term “registered dietitian” by a public or private agency or
33 institution recognized by the State Department of Health Services
34 as qualified to grant the title, provided that person continues to
35 meet all requirements and qualifications periodically prescribed
36 by the agency or institution for the maintenance of that title.

37 (2) Possess all of the following qualifications:

38 (A) Be 18 years of age or older.

39 (B) Satisfactory completion of appropriate academic
40 requirements for the field of dietetics and related disciplines and



1 receipt of a baccalaureate or higher degree from a college or
2 university accredited by the Western Association of Schools and
3 Colleges or other regional accreditation agency.

4 (C) Satisfactory completion of a program of supervised clinical
5 experience of not less than six months in length that is designed to
6 prepare entry level practitioners through instruction and
7 assignments in a clinical setting. Supervisors of the program shall
8 meet minimum qualifications established by public or private
9 agencies or institutions recognized by the State Department of
10 Health Services to establish those qualifications.

11 (D) Satisfactory completion of an examination administered
12 by a public or private agency or institution recognized by the State
13 Department of Health Services as qualified to administer the
14 examinations.

15 (E) Satisfactory completion of continuing education
16 requirements established by a public or private agency or
17 institution recognized by the State Department of Health Services
18 to establish the requirements.

19 (b) Any person representing himself or herself as a dietetic
20 technician, registered shall possess all of the following
21 qualifications:

22 (1) Be 18 years of age or older.

23 (2) Satisfactory completion of appropriate academic
24 requirements and receipt of an associate's degree or higher from
25 a college or university accredited by the Western Association of
26 Schools and Colleges or other regional accreditation agency.

27 (3) Satisfactory completion of the dietetic technician program
28 requirements by an accredited public or private agency or
29 institution recognized by the State Department of Health Services
30 including not less than 450 hours of supervised clinical
31 experience.

32 (4) Satisfactory completion of an examination administered by
33 a public or private agency or institution recognized by the State
34 Department of Health Services to administer the examination.

35 (5) Satisfactory completion of continuing education
36 requirements established by a public or private agency or
37 institution recognized by the State Department of Health Services
38 to establish the requirements.

39 (c) It is a misdemeanor for any person not meeting the criteria
40 of subdivision (a) or (b) to use, in connection with his or her name



1 or place of business, the words “dietetic technician, registered,”
2 “dietitian,” “dietician,” “registered dietitian,” “registered
3 dietitian,” or the letters “RD,” “DTR,” or any other words,
4 letters, abbreviations, or insignia indicating or implying that the
5 person is a dietitian, or dietetic technician, registered or registered
6 dietitian, or to represent, in any way, orally, in writing, in print or
7 by sign, directly or by implication, that he or she is a dietitian or
8 a dietetic technician, registered or a registered dietitian.

9 (d) Any person employed by a licensed health care facility as
10 a registered dietitian on the effective date of this chapter may
11 continue to represent himself or herself as a registered dietitian
12 while employed by a licensed health care facility, if he or she has
13 satisfied the requirements of either paragraph (1) or paragraph (2)
14 of subdivision (a), except that he or she shall not be required to
15 satisfy the examination requirement of subparagraph (B) of
16 paragraph (2) of subdivision (a).

17 (e) Notwithstanding any other provision of law or regulation
18 that limits reimbursement to state licensed health care providers
19 and upon referral by a physician and surgeon, ~~registered the~~
20 *following persons may be reimbursed for the nutritional advice or*
21 *advice concerning proper nutrition as set forth in Section 2068, or*
22 *for the nutritional assessments, counseling, and treatments as set*
23 *forth in Section 2586:*

24 (1) *Registered dietitians or other.*

25 (2) *Other nutritional professionals with a master’s or higher*
26 *degree in a field covering clinical nutrition sciences, from a*
27 *college or university accredited by a regional accreditation agency,*
28 *who are deemed qualified to provide these services by the referring*
29 *physician and surgeon, may be reimbursed for the nutritional*
30 *advice or advice concerning proper nutrition as set forth in Section*
31 *2068, or for the nutritional assessments, counseling, and*
32 *treatments as set forth in Section 2586*

33 (f). Nothing in this section shall be construed to mandate direct
34 reimbursement of registered dietitians, or other nutrition
35 professionals described in ~~this subdivision~~ *subdivision (e)*, as a
36 separate provider type under the Medi-Cal program, nor to
37 mandate reimbursement where expressly prohibited by federal
38 law or regulation.

39 ~~SEC. 3.~~



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

3 2586. (a) Notwithstanding any other provision of law, a
4 registered dietitian, or other nutritional professional meeting the
5 qualifications set forth in subdivision (e) of Section 2585 may,
6 upon referral by a health care provider authorized to prescribe
7 dietary treatments, provide nutritional and dietary counseling,
8 conduct nutritional and dietary assessments, develop nutritional
9 and dietary treatments, including therapeutic diets, order medical
10 laboratory tests related to nutritional therapeutic treatments, and
11 accept or transmit verbal or electronically transmitted orders or
12 standards of protocol from the health care provider to implement
13 therapeutic treatments, for individuals or groups of patients in
14 licensed institutional facilities or in private office settings. The
15 referral shall be accompanied by a written prescription signed by
16 the health care provider detailing the patient's diagnosis and
17 including a statement of the desired objective of dietary treatment.
18 The services described in this subdivision may be termed
19 "medical nutrition therapy."

20 (b) (1) Notwithstanding any other provision of law, a dietetic
21 technician, registered meeting the qualifications set forth in
22 Section 2585 may, under the direct supervision of a registered
23 dietitian, assist in the implementation or monitoring of services
24 specified in subdivision (a), but may not develop nutritional or
25 dietary therapy or treatments.

26 (2) For purposes of this subdivision, "direct supervision"
27 means the supervising registered dietitian shall be physically
28 available to the dietetic technician, registered for consultation
29 whenever *consultation* is required.

30 (3) For purposes of this subdivision, a registered dietitian shall
31 not supervise more than two dietetic technicians, registered at one
32 time.

33 (c) It is a misdemeanor for a ~~registered dietitian~~ *person*
34 *specified in subdivision (e) of Section 2585* to practice in a manner
35 inconsistent with the requirements set forth in this section.

36 (d) Nothing in this section shall preclude a ~~registered dietitian~~
37 *person specified in subdivision (e) of Section 2585* from providing
38 information as permitted by Section 2068.



1 (e) For purposes of this section, “health care provider” means
2 any person licensed or certified pursuant to this division, or
3 licensed pursuant to the Osteopathic Initiative Act.

4 (f) The requirement of a written prescription shall be deemed
5 to be satisfied by an entry in the patient records of a patient who
6 is undergoing treatment at a licensed health care facility if the
7 contents of the patient records reflect the information required by
8 this section.

9 ~~SEC. 4.~~

10 *SEC. 3.* Section 10176.25 of the Insurance Code is amended
11 to read:

12 10176.25. (a) As an alternative to an exclusion permitted by
13 Section 10176, a disability insurance policy may provide that
14 services of a registered dietitian or other nutrition professional
15 meeting the qualifications prescribed by *subdivision (a) or (e) of*
16 Section 2585 of the Business and Professions Code will be paid
17 only if rendered pursuant to a method of treatment prescribed by
18 a person holding a physician’s and surgeon’s certificate issued by
19 the Medical Board of California.

20 (b) Nothing in this section requires disability insurers to
21 automatically pay for services provided by a registered dietitian or
22 other nutrition professional.

23 ~~SEC. 5.~~

24 *SEC. 4.* This act shall become operative on July 1, 2003.

25 ~~SEC. 6.~~

26 *SEC. 5.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

