

Assembly Bill No. 1444

CHAPTER 628

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

[Approved by Governor October 8, 2001. Filed with Secretary of State October 9, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1444, Maddox. Nutritional advice.

Existing law does not prohibit a person from providing nutritional 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. Existing law requires that the referral be accompanied by a written prescription containing specified information and signed by the health care provider.

This bill would subject other nutritional professionals to certain provisions governing registered dietitians. The bill would create an exception to the written prescription requirement where a referring physician and surgeon has established or approved a written protocol governing the patient's treatment. The bill would also authorize registered dietitians and other nutritional professionals who are not specified licensed health care providers to order, when authorized to do so by a written protocol prepared or approved by the referring physician and surgeon, medical laboratory tests related to nutritional therapeutic treatments and to accept or transmit verbal orders consistent with the established protocol or electronically transmitted orders from a health care provider in order to implement medical nutrition therapy. The bill would designate the services described above that registered 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.

Existing law requires a person representing himself or herself as a dietitian to meet certain requirements, including satisfactory completion of a program of supervised clinical experience of not less than 6 months.

This bill would instead require that the person satisfactorily complete a program of supervised practice for a minimum of 900 hours.

Existing law requires any person representing himself or herself as a dietetic technician, registered to complete a program meeting specified requirements, including not less than 450 hours of supervised clinical experience.

This bill would change the requirement to 450 hours of supervised practice.

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 people of the State of California do enact as follows:

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

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

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

(2) Possess all of the following qualifications:

(A) Be 18 years of age or older.

(B) Satisfactory completion of appropriate academic requirements for the field of dietetics and related disciplines and receipt of a baccalaureate or higher degree from a college or university accredited by the Western Association of Schools and Colleges or other regional accreditation agency.

(C) Satisfactory completion of a program of supervised practice for a minimum of 900 hours that is designed to prepare entry level practitioners through instruction and assignments in a clinical setting. Supervisors of the program shall meet minimum qualifications established by public or private agencies or institutions recognized by



the State Department of Health Services to establish those qualifications.

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

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

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

(1) Be 18 years of age or older.

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

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

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

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

(c) It is a misdemeanor for any person not meeting the criteria of subdivision (a) or (b) to use, in connection with his or her name or place of business, the words "dietetic technician, registered," "dietitian," "dietician," "registered dietitian," "registered dietician," or the letters "RD," "DTR," or any other words, letters, abbreviations, or insignia indicating or implying that the person is a dietitian, or dietetic technician, registered or registered dietitian, or to represent, in any way, orally, in writing, in print or by sign, directly or by implication, that he or she is a dietitian or a dietetic technician, registered or a registered dietitian.

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



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

(1) Registered dietitians.

(2) Other nutritional professionals with a master's or higher degree in a field covering clinical nutrition sciences, from a college or university accredited by a regional accreditation agency, who are deemed qualified to provide these services by the referring physician and surgeon.

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

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

2586. (a) Notwithstanding any other provision of law, a registered dietitian, or other nutritional professional meeting the qualifications set forth in subdivision (e) of Section 2585 may, upon referral by a health care provider authorized to prescribe dietary treatments, provide nutritional and dietary counseling, conduct nutritional and dietary assessments, develop nutritional and dietary treatments, including therapeutic diets, order medical laboratory tests related to nutritional therapeutic treatments when authorized to do so by a written protocol prepared or approved by the referring physician and surgeon, and accept or transmit verbal orders consistent with an established protocol as required by this section or electronically transmitted orders from the health care provider to implement medical nutrition therapy for individuals or groups of patients in licensed institutional facilities or in private office settings. The referral shall be accompanied by a written prescription signed by the health care provider detailing the patient's diagnosis and including a statement of the desired objective of dietary treatment, unless a referring physician and surgeon has established or approved a written protocol governing the patient's treatment. The services described in this subdivision may be termed "medical nutrition therapy."

(b) (1) Notwithstanding any other provision of law, a dietetic technician, registered meeting the qualifications set forth in Section 2585 may, under the direct supervision of a registered dietitian, assist in the implementation or monitoring of services specified in subdivision



(a), but may not develop nutritional or dietary therapy or treatments, order medical laboratory tests, or accept or transmit verbal orders.

(2) (A) For purposes of this subdivision, “direct supervision” means the supervising registered dietitian shall be physically available to the dietetic technician, registered for consultation whenever consultation is required. However, in the case of a small or rural hospital, as defined in Section 124840 of the Health and Safety Code, the registered dietitian may be available for consultation by telephone or other electronic means, provided that the registered dietitian is physically on the facility site a sufficient amount of time to provide adequate supervision over and review of the work of the dietetic technician, registered.

(B) For purposes of this subdivision, “physically available” means physical onsite presence during regular business hours, and includes telephonic or electronic availability at all times and the ability to respond to the facility within a reasonable period of time when required. The registered dietitian shall review any activities performed by the dietetic technician, registered during any period when the registered dietitian was not physically onsite.

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

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

(d) Nothing in this section shall preclude a person specified in subdivision (e) of Section 2585 from providing information as permitted by Section 2068.

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

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

(g) Nothing in this section or Section 2585 shall be interpreted to establish educational criteria or practice restrictions or limitations for other health care providers licensed under Division 2 (commencing with Section 500) or the Osteopathic Initiative Act or the Chiropractic Initiative Act.

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

10176.25. (a) As an alternative to an exclusion permitted by Section 10176, a disability insurance policy may provide that services of a registered dietitian or other nutrition professional meeting the qualifications prescribed by subdivision (a) or (e) of Section 2585 of the



Business and Professions Code will be paid only if rendered pursuant to a method of treatment prescribed by a person holding a physician's and surgeon's certificate issued by the Medical Board of California.

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

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

