

ASSEMBLY BILL

No. 575

Introduced by Assembly Member Hayashi

February 16, 2011

An act to amend Section 205 of, and to repeal and add Chapter 5.65 (commencing with Section 2585) of Division 2 of, the Business and Professions Code, relating to dietetics, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as introduced, Hayashi. Dietetics.

Existing law provides that any person representing himself or herself as a registered dietitian or dietetic technician shall meet specified requirements and qualifications.

This bill would repeal these provisions and enact new provisions providing for the licensing and regulation of dietitians by the Dietitians Bureau in the Department of Consumer Affairs, which the bill would create. The bill would specify the qualifications required for licensed dietitians and their scope of practice. The bill would specify the qualifications and required supervision for dietetic technicians. The bill would create an advisory committee within the bureau, with 5 members appointed by the Director of Consumer Affairs and the Legislature. The bill would authorize the bureau to impose licensing fees, which would be deposited in the Dietitian Licensing Fund, which the bill would create, and would continuously appropriate those revenues to the bureau. The bill would authorize the bureau to enforce these provisions and would enact other related provisions. The bill would provide that a violation of these provisions is a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Dietetics is a dynamic health profession that applies a
4 scientific body of knowledge to improve, promote, and optimize
5 millions of Californians’ health by means of appropriate nutrition
6 care services.

7 (b) Registered dietitians are highly trained allied health
8 professionals who obtain and maintain national registration status.
9 Registered dietitians are uniquely qualified by virtue of academic
10 and supervised practice training and certification to provide a
11 comprehensive array of evidence-based, nutrition-related
12 professional services.

13 (c) Registered dietitians practice in a variety of work settings.
14 The majority of registered dietitians practice as part of a
15 coordinated multidisciplinary medical care team in the treatment
16 and prevention of disease in clinical, patient care settings. These
17 include acute care, ambulatory care, long-term care, other health
18 care facilities, as well as private practice and managed care settings.
19 A large number of registered dietitians work in community and
20 public health programs, food and nutrition management,
21 consultation and business, and education and research.

22 (d) In recognition of the continually evolving practice of
23 dietetics, California’s current dietitian practice statutes require
24 updating to better reflect the breadth of nutrition-related services
25 provided by registered dietitians.

26 (e) In recognition of the continually evolving health care
27 practices in California and the requirement for licensed health care
28 providers to perform preventive and chronic disease management
29 within the health care arena, an enhanced regulatory framework
30 for the practice of dietetics is appropriate.

1 (f) For these reasons, the Legislature finds and declares that,
2 because the practice of dietetics in California affects the public's
3 health, safety, and welfare, there is a necessity for that practice to
4 be subject to licensing, regulation, and control.

5 SEC. 2. Section 205 of the Business and Professions Code is
6 amended to read:

7 205. (a) There is in the State Treasury the Professions and
8 Vocations Fund. The fund shall consist of the following special
9 funds:

- 10 (1) Accountancy Fund.
- 11 (2) California Architects Board Fund.
- 12 (3) Athletic Commission Fund.
- 13 (4) Barbering and Cosmetology Contingent Fund.
- 14 (5) Cemetery Fund.
- 15 (6) Contractors' License Fund.
- 16 (7) State Dentistry Fund.
- 17 (8) State Funeral Directors and Embalmers Fund.
- 18 (9) Guide Dogs for the Blind Fund.
- 19 (10) Home Furnishings and Thermal Insulation Fund.
- 20 (11) California Architects Board-Landscape Architects Fund.
- 21 (12) Contingent Fund of the Medical Board of California.
- 22 (13) Optometry Fund.
- 23 (14) Pharmacy Board Contingent Fund.
- 24 (15) Physical Therapy Fund.
- 25 (16) Private Investigator Fund.
- 26 (17) Professional Engineers' and Land Surveyors' Fund.
- 27 (18) Consumer Affairs Fund.
- 28 (19) Behavioral Sciences Fund.
- 29 (20) Licensed Midwifery Fund.
- 30 (21) Court Reporters' Fund.
- 31 (22) Veterinary Medical Board Contingent Fund.
- 32 (23) Vocational Nurses Account of the Vocational Nursing and
33 Psychiatric Technicians Fund.
- 34 (24) Electronic and Appliance Repair Fund.
- 35 (25) Geology and Geophysics Fund.
- 36 (26) Dispensing Opticians Fund.
- 37 (27) Acupuncture Fund.
- 38 (28) Physician Assistant Fund.
- 39 (29) Board of Podiatric Medicine Fund.
- 40 (30) Psychology Fund.

- 1 (31) Respiratory Care Fund.
- 2 (32) Speech-Language Pathology and Audiology Fund.
- 3 (33) Board of Registered Nursing Fund.
- 4 (34) Psychiatric Technician Examiners Account of the
- 5 Vocational Nursing and Psychiatric Technicians Fund.
- 6 (35) Animal Health Technician Examining Committee Fund.
- 7 (36) State Dental Hygiene Fund.
- 8 (37) State Dental Assistant Fund.
- 9 (38) Hearing Aid Dispensers Account of the Speech-Language
- 10 Pathology and Audiology Fund.
- 11 (39) *Dietitian Licensing Fund.*

12 (b) For accounting and recordkeeping purposes, the Professions
 13 and Vocations Fund shall be deemed to be a single special fund,
 14 and each of the several special funds therein shall constitute and
 15 be deemed to be a separate account in the Professions and
 16 Vocations Fund. Each account or fund shall be available for
 17 expenditure only for the purposes as are now or may hereafter be
 18 provided by law.

19 SEC. 3. Chapter 5.65 (commencing with Section 2585) of
 20 Division 2 of the Business and Professions Code is repealed.

21 SEC. 4. Chapter 5.65 (commencing with Section 2585) is added
 22 to Division 2 of the Business and Professions Code, to read:

23
 24 CHAPTER 5.65. DIETETICS

25
 26 2585. The purpose of this chapter is to protect the health, safety,
 27 and welfare of the public by providing for the licensing and
 28 regulation of persons engaged in the practice of dietetics.

29 2585.1. As used in this chapter, the following terms have the
 30 following meanings:

- 31 (a) "Association" or "ADA" means the American Dietetic
- 32 Association.
- 33 (b) "Bureau" means the Dietitians Bureau created pursuant to
- 34 Section 2585.4.
- 35 (c) "Commission on Accreditation for Dietetics Education" or
- 36 "CADE" means ADA's accrediting agency for education programs
- 37 preparing students for careers as registered dietitians or dietetic
- 38 technicians, registered.
- 39 (d) "Commission" means the Commission on Dietetic
- 40 Registration that is accredited by the National Commission for

1 Certifying Agencies, and is the certifying agency for voluntary
2 professional credentialing.

3 (e) “Degree” means a degree received from a United States
4 regionally accredited college or university recognized by the
5 Council for Higher Education Accreditation and the United States
6 Department of Education at the time the degree was received.

7 (f) “Dietetics” means the integration and application of
8 principles derived from the sciences of food, nutrition,
9 management, and communication, and from the biological,
10 physiological, behavioral, and social sciences to achieve and
11 maintain optimal human health.

12 (g) “Dietetic technician” is a person who is a graduate of at least
13 an associate degree program in dietetic technology or dietetics that
14 is accredited by CADE, and who is working under the direct
15 supervision of a dietitian licensed under this chapter or a registered
16 dietitian and uses the title dietetic technician, or dietetic technician,
17 registered.

18 (h) “Direct supervision” means the supervising dietitian shall
19 be available to the dietetic technician, for consultation whenever
20 consultation is required. The dietitian may be available for
21 consultation by telephone or other electronic means, provided that
22 the dietitian is physically on the facility site a sufficient amount
23 of time to provide adequate supervision over and review of the
24 work of the dietetic technician.

25 (i) “General nonmedical nutrition information” means
26 information on any of the following:

- 27 (1) Principles of good nutrition and food preparation.
- 28 (2) Food to be included in the normal daily diet.
- 29 (3) The essential nutrients needed by the body.
- 30 (4) Recommended amounts of the essential nutrients, based on
31 established standards.
- 32 (5) The actions of nutrients on the body.
- 33 (6) The effects of deficiencies or excesses of nutrients.
- 34 (7) Food and supplements that are good sources of essential
35 nutrients.

36 (j) “Licensed dietitian” means a person licensed under this
37 chapter to practice dietetics, including medical nutrition therapy.
38 Activities of a licensed dietitian do not include the medical
39 differential diagnosis of the health status of an individual.

1 (k) “Medical nutrition therapy” means the use of specific
2 nutrition services for the purpose of disease management to treat
3 or rehabilitate an illness, injury, or condition and includes all of
4 the following:

- 5 (1) Performing nutritional assessments and reassessments.
- 6 (2) Interpreting dietary data and recommending nutrient needs
7 relative to medically prescribed diets, including, but not limited
8 to, tube feedings, specialized intravenous solutions, and specialized
9 oral feedings.
- 10 (3) Developing and implementing medically prescribed diets,
11 including, but not limited to, obesity, diabetes, cardiovascular
12 disease, and renal failure.
- 13 (4) Evaluating and advising about food and drug interactions.
- 14 (5) Developing and managing food service operations in
15 facilities whose functions include the provision of safe and
16 effective nutrition care and the provision of general or medically
17 prescribed diets for an individual, target group, or community as
18 set out, and in compliance with, recognized nutrition standards.
- 19 (6) Nutrition monitoring and evaluation.

20 (l) “Medically prescribed diet” means a diet prescribed when
21 specific food or nutrient levels need to be monitored or altered, or
22 both, as a component of a treatment program for an individual
23 whose health status is impaired or at risk due to disease, injury, or
24 surgery and that may only be performed as initiated by or in
25 consultation with a licensed physician and surgeon, or by an
26 individual authorized under the terms of his or her license to
27 prescribe medical care in this state.

28 (m) “Nutrition assessment” means the systematic process of
29 obtaining, verifying, and interpreting biochemical, anthropometric,
30 physical, and dietary data in order to make decisions about the
31 nature and cause of nutrition-related problems. It is an ongoing,
32 dynamic process that involves not only initial data collection, but
33 also reassessment and analysis of client or community needs and
34 provides the foundation for nutrition diagnosis and nutritional
35 recommendations, including enteral and parenteral nutrition.

36 (n) “Nutrition care process” means the systematic problem
37 solving method that dietitians use to critically think and make
38 decisions when providing medical nutrition therapy or to address
39 nutrition-related problems and provide safe, effective, high-quality
40 care. The nutrition care process consists of four distinct, but

1 interrelated steps, including nutrition assessment, nutrition
2 diagnosis, nutrition intervention, and nutrition monitoring and
3 evaluation.

4 (o) “Nutrition care services” means any of the following:

5 (1) Assessing the nutrition needs of individuals and groups and
6 determining resources and constraints.

7 (2) Establishing priorities, goals, and objectives that meet
8 nutrition needs and are consistent with available resources and
9 constraints.

10 (3) Providing nutrition counseling in health and disease.

11 (4) Developing, implementing, and managing nutrition care
12 systems.

13 (5) Evaluating making changes in and maintaining appropriate
14 standards of quality in food and nutrition care services.

15 (p) “Nutrition diagnosis” means identifying and labeling
16 nutritional problems that a licensed dietitian is responsible for
17 treating independently.

18 (q) “Nutrition intervention” means purposefully planned actions
19 intended to positively change a nutrition-related behavior, risk
20 factor, environmental condition, or aspect of health status for an
21 individual and his or her family or caregiver, target groups, or
22 community at large.

23 (r) “Nutrition monitoring and evaluation” means identifying
24 patient-client outcomes relevant to the nutrition diagnosis and
25 intervention plans and goals, and comparing those outcomes with
26 previous status, intervention goals, or a reference standard to
27 determine the progress made in achieving desired outcomes of
28 nutrition care and whether planned interventions should be
29 continued or revised.

30 (s) “Registered dietitian” means an individual registered with
31 the commission.

32 2585.2. (a) A licensed dietitian engages in (1) the provision
33 of medical nutrition therapy and (2) the nutrition care process.

34 (b) A licensed dietitian may, upon referral by a health care
35 provider authorized to prescribe dietary treatments, conduct
36 nutritional and dietary assessments, and develop nutritional and
37 dietary treatments, including therapeutic diets, for individuals or
38 groups of patients in licensed institutional facilities or in private
39 office settings. The referral shall be accompanied by a written
40 prescription signed by the health care provider detailing the

1 patient's diagnosis and including a statement of the desired
2 objective of dietary treatment. The requirement of a referral shall
3 be deemed to be satisfied by an entry in the patient records of a
4 patient who is undergoing treatment at a licensed health care
5 facility if the contents of the patient records reflect the information
6 required by this section. The services described may be termed
7 medical nutrition therapy.

8 (c) A licensed dietitian may accept or transmit verbal orders or
9 electronically transmitted orders from a referring physician and
10 surgeon.

11 (d) A licensed dietitian may order medical laboratory tests
12 approved by a referring physician and surgeon and related to
13 nutritional therapeutic treatments by facility or agency policy and
14 when otherwise permitted by applicable law and regulations.

15 2585.3. Only a person licensed as a dietitian or otherwise
16 authorized to practice under this chapter shall practice dietetics or
17 medical nutrition therapy, or use the title dietitian, or use the word
18 dietitian or registered dietitian, alone or in combination, or use the
19 term licensed dietitian, or the letters LD or similar titles or initials.

20 2585.4. There is, in the Department of Consumer Affairs, the
21 Dietitians Bureau, under the supervision and control of the director.
22 The director may appoint a chief at a salary to be fixed and
23 determined by the director, with the approval of the Director of
24 Finance. The duty of enforcing and administering this chapter is
25 vested in the chief, and he or she is responsible to the director
26 therefor. The chief shall serve at the pleasure of the director.

27 2585.5. The bureau may establish rules and regulations
28 necessary for the administration and enforcement of this chapter
29 and prescribe the form of statements and reports provided for in
30 this chapter. The rules and regulations shall be adopted, amended,
31 or repealed in accordance with the provisions of the Administrative
32 Procedures Act (Chapter 3.5 (commencing with Section 11340)
33 of Part 1 of Division 2 of Title 2 of the Government Code).

34 2585.6. In the enforcement of this chapter, the bureau has all
35 the powers and is subject to all the responsibilities vested in and
36 imposed upon the head of a department under Chapter 2
37 (commencing with Section 11150) of Part 1 of Division 3 of Title
38 2 of the Government Code, as follows:

39 (1) To license dietitians in a manner consistent with the
40 provisions of this chapter.

1 (2) To keep a record of its proceedings, a register of all
2 applicants for licensure, and a register of all licensed dietitians.

3 2585.7. (a) There is within the bureau a five-member advisory
4 committee. On or before July 1, 2012, the members of the
5 committee shall be appointed as follows:

6 (1) Three members, who shall have been actively practicing in
7 the field of dietetics for not less than five years, appointed by the
8 director.

9 (2) One public member appointed by the Senate Committee on
10 Rules.

11 (3) One public member appointed by the Speaker of the
12 Assembly.

13 (b) The advisory committee shall advise the bureau with respect
14 to matters relating to the administration of this chapter, including
15 annually reviewing the fee schedule, licensing, and enforcement
16 provisions of this chapter.

17 (c) The bureau shall actively seek input from, and consult with,
18 the advisory committee regarding the development of regulations
19 to implement this chapter.

20 (d) The bureau shall not proceed with any proposed regulations
21 without first receiving written comments from the advisory
22 committee.

23 (e) The bureau shall adopt as continuing education requirements
24 the requirements utilized by the commission as they are
25 periodically modified, and shall require all applicants for licensure
26 to provide evidence of compliance with those requirements.

27 (f) The bureau shall have power to seek injunctive relief to
28 prohibit any person from providing professional dietetic or
29 nutritional care services as defined in this chapter without being
30 licensed or exempt from licensure as provided in this chapter.

31 (g) On an annual basis, the bureau shall provide the advisory
32 committee with information regarding the number of complaints
33 received by the bureau regarding the practice of dietetics, a
34 summary of the nature of the complaints, and the number of
35 enforcement actions undertaken by the bureau or referred to other
36 agencies.

37 2585.8. The bureau shall notify in writing any person
38 determined by the bureau to be in violation of this chapter. The
39 notification shall state that the person may request a hearing by
40 the bureau within the amount of time specified by the bureau

1 pursuant to the Administrative Procedure Act. If the person fails
2 to request a hearing, or if the bureau determines from the hearing
3 that the person is in violation of this chapter, the bureau may apply
4 to the superior court in the county in which the violation is
5 occurring for an injunction or other appropriate remedy to prohibit
6 the continued violation of this chapter.

7 2585.9. (a) The bureau shall issue a license as a dietitian to a
8 person who satisfactorily completes an application, pays all
9 required fees, and certifies and furnishes evidence satisfactory to
10 the board that the applicant has completed all of the following:

11 (1) (A) Has received a baccalaureate or post-baccalaureate
12 degree from a United States regionally accredited college or
13 university with a major course of study in human nutrition,
14 nutrition education, public health nutrition, food and nutrition,
15 dietetics, or food systems management, or an equivalent major
16 course of study as approved by the bureau.

17 (B) Applicants who have obtained their education outside the
18 United States and its territories must have their academic degree
19 or degrees validated as equivalent to the baccalaureate or master's
20 degree conferred by a regionally accredited college or university
21 in the United States.

22 (2) Has completed a documented supervised preprofessional
23 practice experience component in dietetics of not less than 900
24 hours under the supervision of a registered dietitian, a licensed
25 dietitian or nutritionist, or an individual with a doctoral degree
26 conferred by a United States regionally accredited college or
27 university with a major course of study in human nutrition,
28 nutrition education, food and nutrition, dietetics, or food systems
29 management. Supervised practice experience must be completed
30 in the United States or its territories. Supervisors who obtained
31 their doctoral degree outside the United States and its territories
32 must have their degree validated as equivalent to the doctoral
33 degree conferred by a United States regionally accredited college
34 or university.

35 (3) Has successfully completed the registration examination for
36 dietitians administered by the commission.

37 (b) The applicant must be 21 years of age.

38 (c) (1) For one year, beginning on January 1, 2012, the bureau
39 shall waive the licensure requirement and may grant a license to

1 any applicant who makes satisfactory application to the bureau
2 and complies with either of the following:

3 (A) Is registered with the commission.

4 (B) Received a baccalaureate or post-baccalaureate degree from
5 a United States regionally accredited college or university with a
6 program in dietetics or nutrition or an equivalent major course of
7 study as approved by the board, has completed an experience
8 approved by, and met the educational requirements of, the
9 commission, and has successfully completed the registration
10 examination for dietitians administered by the commission.

11 (2) The bureau shall waive any additional educational
12 requirements the bureau considers necessary if the applicant
13 presents satisfactory evidence to the bureau of current registration
14 as a registered dietitian with the commission.

15 (3) The bureau shall waive the licensure requirements if the
16 application for renewal is made within two years after the date of
17 license expiration.

18 (4) A nonresident registered dietitian licensed in another state
19 may practice dietetics in the state without a license for 90 days or
20 up to 120 days if the requirements for licensure are substantially
21 equal to the requirements for licensure contained in this chapter.

22 2585.10. (a) All fee revenues collected under this chapter shall
23 be deposited in the Dietitian Licensing Fund, which is hereby
24 created, and are hereby continuously appropriated to the bureau
25 for the ordinary expenses of the bureau in administration of this
26 chapter.

27 (b) The bureau shall establish reasonable and necessary fees
28 relating to the administration of this chapter, none of which are
29 refundable. The fees shall be set at a level to produce revenue
30 which shall not exceed the cost and expense of administering this
31 chapter.

32 2585.11. This chapter shall not be construed to affect or prevent
33 any of the following:

34 (a) Any person licensed in this state under this division from
35 engaging in the practice of dietetics when it is within his or her
36 licensed scope of practice and is incidental to the practice for which
37 he or she is licensed.

38 (b) Any person licensed in this state under this division from
39 engaging in the practice for which he or she is licensed.

1 (c) A student enrolled in a CADE-accredited program in dietetics
2 or nutrition from engaging in the practice of dietetics under the
3 supervision of a licensed dietitian as part of that program.

4 (d) A dietitian or nutritionist who is serving in the Armed Forces
5 or the public health service of the United States or is employed by
6 the United States Department of Veterans Affairs from engaging
7 in the practice of dietetics provided that practice is related to the
8 service or employment.

9 (e) A person that furnishes oral or written general nonmedical
10 nutrition information related to food, food materials, or dietary
11 supplements or the marketing of food, food materials, or dietary
12 supplements, provided the person is not engaged in the practice
13 of dietetics.

14 (f) A person providing weight control services through a
15 program that has been reviewed and approved by a licensed
16 dietitian, or where consultation from a licensed dietitian is not
17 available, from a dietitian licensed in another state that has
18 licensure requirements at least as stringent as the requirements for
19 licensure under this chapter, from a registered dietitian, or from a
20 licensed physician and surgeon. Program changes may not be
21 initiated without prior approval by the program approver.

22 (g) A person who has completed the educational and
23 preprofessional practice requirements to sit for the licensure
24 examination, but has not yet passed the examination, may practice
25 under the supervision of a licensed dietitian for a period of six
26 months after completing the licensure education requirements.

27 (h) A dietetic technician may, under the direct supervision of a
28 licensed dietitian, assist in the implementation or monitoring of
29 services.

30 2585.12. Licenses may be renewed upon satisfactory
31 completion of the renewal application, payment of the renewal
32 fee, and proof of compliance with the commission's continuing
33 education requirements.

34 2585.13. (a) Any person who violates any of the provisions
35 of this chapter shall be guilty of a misdemeanor punishable by
36 imprisonment in a county jail not exceeding six months, or a fine
37 not exceeding one thousand dollars (\$1,000), or by both that fine
38 and imprisonment.

39 (b) In addition to any other fine or penalty that may be imposed
40 against any person found to have violated any provision of this

1 chapter, the board may assess and collect all costs incurred in
2 connection with disciplinary actions, including, but not limited to,
3 investigator fees, stenographer fees, attorney's fees, and hearing
4 costs. Any amounts collected under this subdivision shall be
5 deposited in the Dietitian Licensing Fund and shall be subject to
6 Section 207.

7 SEC. 5. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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