

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 951 Dietetics and Nutrition
SPONSOR(S): Magar
TIED BILLS: **IDEN./SIM. BILLS:** SB 1208

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Castagna	O'Callaghan
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Dietician/nutritionists (DN) are regulated under part X of ch. 468, F.S., the Dietetics and Nutrition Practice Act (Act). The Board of Medicine under the Department of Health's (Department) Division of Medical Quality Assurance (MQA) is responsible for administering such regulations.

HB 951 amends multiple definitions and adds new definitions into the Act to expand the authority of DNs to practice certain nutrition-related techniques such as, medical nutrition therapy. The bill separates the DN title into two professions, dietitians and nutritionists.

The term "agency" is replaced with "department" throughout the bill to reflect the Department's current regulation of dietitians and nutritionists.

The bill changes the Dietetics and Nutrition Practice Council to the Dietetics and Nutrition Practice Board under the Department's Division of MQA, removes the Board of Medicine as the governing board, requires the new board to have seven members, and requires members to be appointed by the Governor instead of the Board of Medicine.

The bill expands exemptions for persons whose professional practice or activities may be prohibited or restricted by the Act and revises the titles and title abbreviations dietitians and nutritionists may use.

The bill creates a process for licensure without examination and revises the requirements for licensure endorsement for dietitians and nutritionists.

The bill includes a statement that the Act does not preclude a licensed dietitian or nutritionist from independently ordering a therapeutic diet if otherwise authorized to order such a diet in Florida.

In addition, the bill makes many technical and conforming changes.

The bill has an insignificant negative fiscal impact on the Department and no fiscal impact on local government.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Academy of Nutrition and Dietetics

The Academy of Nutrition and Dietetics (Academy) was founded in 1917 to help the government conserve food and improve the public's health and nutrition. The Academy has over 75,000 members from various food and nutrition professions.¹ The Academy's goal is to improve the nation's health and advance dietetics through research, education, and advocacy. Dietetics and nutrition practitioners work in health care systems, home health care, foodservice, business, research and educational organizations, as well as in private practice. They provide medical nutrition therapy in settings such as hospitals and nursing facilities and use specific nutrition services to treat chronic conditions, illnesses, or injuries. Community-based dietetics practitioners provide health promotion, disease prevention, and wellness services.²

Credentialing

The Commission on Dietetic Registration (Commission) is an arm of the Academy that administers credentialing processes. The Commission grants seven separate and distinct credentials including, a Registered Dietitian Nutritionist (RDN) and Registered Dietitian (RD) credential.³ The credentialing programs for an RDN and RD are accredited by the National Commission for Certifying Agencies.⁴

The Commission has 11 members, including 9 with three-year terms elected by credentialed practitioners, one public representative appointed for a five-year term, and one newly credentialed RDN or RD appointed for a one-year term. As of 2013, the Commission has granted credentials to a total of 89,385 RDs.⁵

Some states, including Florida, require licensure applicants to pass the Commission's licensure exam as part of state licensure requirements.

Services Provided by Dietitians and Dietician/Nutritionists

RDNs and RDs provide a wide range of services related to food and nutrition including Medical Nutrition Therapy (MNT) and ordering or developing plans for therapeutic diets. MNT is an evidence-based practice that involves the:

- Performance of a comprehensive nutrition assessment;
- Determination of the nutrition diagnosis;
- Planning and implementation of a nutrition intervention using evidence-based nutrition practice guidelines; and
- Monitoring and evaluation of an individual's progress toward goals.⁶

¹ Academy of Nutrition and Dietetics, *About Us*, available at <http://www.eatrightpro.org/resources/about-us> (last visited March 12, 2015).

² *Id.*

³ The other credentials issued by the Commission are: Nutrition and Dietetics Technician, Registered / Dietetic Technician, Registered, Board Certified Specialist in Renal Nutrition, Board Certified Specialist in Pediatric Nutrition, Board Certified Specialist in Sports Dietetics, Board Certified Specialist in Gerontological Nutrition, and Board Certified Specialist in Oncology Nutrition. Commission on Dietetic Registration, *About CDR*, available at <http://www.cdrnet.org/about> (last visited March 12, 2015).

⁴ *Id.*

⁵ Commission on Dietetic Registration, *Setting the Standard Since 1969*, available at <http://www.cdrnet.org/vault/2459/web/files/SettingtheStandardssince1969-2014.pdf> (last viewed March 13, 2015).

⁶ Academy of Nutrition and Dietetics, *Scope of Practice for the Registered Dietitian*, available at <http://www.eatrightidaho.org/wp-content/uploads/Scope-of-Practice-for-the-Registered-Dietitian.pdf> (last visited March 12, 2015).

MNT services are provided by an RND or an RD for individuals and groups utilizing meal plans, medically prescribed diets and tube feedings, specialized intravenous nutrition solutions, and specialized oral feedings. MNT services also include the analysis of potential food and drug interactions.⁷

Therapeutic diets are a diet intervention ordered by a health care practitioner as part of the treatment for a disease or clinical condition manifesting an altered nutritional status, to eliminate, decrease, or increase certain substances in the diet such as, sodium.⁸

Federal Rule Change

A Centers for Medicare and Medicaid Services Rule⁹ change that was finalized in May of 2014 permits RDNs and RDs to order patient therapeutic diets independently instead of under the direction and supervision of a health care practitioner. This change allows physicians and other practitioners more time to care for patients and allows RDNs and RDs to better provide timely, cost-effective, and evidence-based nutrition services as the recognized nutrition experts on a hospital interdisciplinary team.¹⁰

Dietetics and Nutrition Practice in Florida

Section 468.503(3), F.S., defines dietetics as the integration and application of the principles derived from the sciences of nutrition, biochemistry, food, physiology, and management and from the behavioral and social sciences to achieve and maintain a person's health throughout the person's life. It is an integral part of preventive, diagnostic, curative, and restorative health care of individuals, groups, or both.¹¹ Dietetics and nutrition practice includes:

- Assessing nutrition needs and status using appropriate data;
- Recommending appropriate dietary regimens, nutrition support, and nutrient intake;
- Improving health status through nutrition research, counseling, and education; and
- Developing, implementing, and managing nutrition care systems, which includes, but is not limited to, evaluating, modifying, and maintaining appropriate standards of high quality in food and nutrition care services.¹²

The Dietetics and Nutrition Practice Council

The Dietetics and Nutrition Practice Council (Council) is an advisory council under the supervision of the Board of Medicine within the Department of Health's Division of Medical Quality Assurance and was established to ensure that every dietitian, nutritionist, or nutrition counselor practicing in this state meets minimum requirements for safe practice. The Council is responsible for licensing, monitoring, disciplining and educating dietitians/nutritionists (DN) and nutrition counselors to assure competency and safety to practice in Florida.¹³

The Council is comprised of five members appointed by the Board of Medicine, three are licensed dietitians, one is a nutrition counselor, and one is a consumer member who is 60 years of age or older. Members are appointed to 4-year staggered terms. To be eligible for appointment, each licensed

⁷ *Id.*

⁸ Academy of Nutrition and Dietetics, Definition of Terms List, available at [http://www.eatright.org/uploadedFiles/Members/1\(1\).pdf](http://www.eatright.org/uploadedFiles/Members/1(1).pdf). (last visited March 12, 2015).

⁹ 42 C.F.R. §482.28(b)(1)

¹⁰ Academy of Nutrition and Dietetics, *FAQs - CMS Final Rule Related to Therapeutic Diet Orders*, available at <http://www.eatrightpro.org/resource/advocacy/quality-health-care/consumer-protection-and-licensure/faqs-cms-final-rule-related-to-therapeutic-diet-orders> (last visited March 12, 2015).

¹¹ Section 468.503(3), F.S.

¹² Section 468.503(4), F.S.

¹³ Section 468.506, F.S.

member must have been a licensee under this part for at least 3 years prior to his or her appointment. No council member shall serve more than two successive terms.¹⁴

Licensure

There are multiple variations of licensure and credentialing for this profession. Two licensed professionals exist under Florida law, a “licensed dietitian/nutritionist” (DN) and a “licensed nutrition counselor.”

To be licensed as a DN one must show the successful completion of 900 hours of pre-professional planned and continuous supervised practice in dietetics or nutrition, completion of a 2-hour course relating to prevention of medical errors, and have possession of the following:¹⁵

- At least a bachelor's degree with a major course of study in human nutrition, food and nutrition, dietetics, or food management by an accredited Council approved program; or
- An academic degree with a major course of study in human nutrition, food and nutrition, dietetics, or food management from a foreign country, provided that degree has been validated by an accrediting agency approved by the U.S. Department of Education as equivalent to the baccalaureate or post baccalaureate degree conferred by a regionally accredited college or university in the United States.

A DN license shall be renewed every 2 years upon receipt of a renewal application, fee, and proof of the successful completion of continuing education requirements as determined by the Board of Medicine.¹⁶

Effect of Proposed Changes

HB 951 amends s. 468.502, F.S., of the Dietetics and Nutrition Practice Act. The bill specifies that the practice of dietetics and nutrition or nutrition counseling plays an important part in promoting the maintenance and improvement of health. The bill separates the currently used DN title into two separate titles, dietitians and nutritionists, throughout the bill.

Definitions

The bill adds definitions in s. 468.503, F.S., for the Commission on Dietetic Registration and the Department of Health (Department), which are the licensing and credentialing bodies of dietitians and nutritionists in Florida.

Some new definitions are created and some existing definitions are amended in the bill to specify dietitian and nutrition practices, such as:

- “Medical nutrition therapy,” which is the use of specific nutrition services for the purpose of disease management or to treat or rehabilitate, an illness, injury, or condition.
- “Nutrition care process,” which is the systematic method that dietitians and nutritionists use when providing medical nutrition therapy and address nutrition related problems.
- “Nutrition diagnosis,” which is the identification of nutritional problems.
- “Nutrition intervention,” which is the actions intended to change a nutrition-related behavior.
- “Dietetics and nutrition practice,” to also authorize dietitians and nutritionists to practice medical nutrition therapy, the determination of food and prescription drug interactions, and the ordering of therapeutic diets.
- “Nutrition assessment,” which includes the systematic and biological process that is required to make decisions about nutrition-related problems.

¹⁴ Florida Dep’t of Health, *Dietetics and Nutrition Council*, available at <http://www.floridahealth.gov/licensing-and-regulation/dietetic-nutrition/council/index.html> (last visited March 12, 2015).

¹⁵ Section 468.509, F.S., and 64B8-42.002, F.A.C.

¹⁶ Section 468.514, F.S.

- “Nutrition counseling,” which includes the consideration of persons’ cultural background when advising appropriate nutrition intake.

Licensure

The bill amends the requirements for licensure to require the Department instead of the Agency for Health Care Administration to license dietitians and nutritionists and makes conforming changes throughout the bill changing “agency” to “department.”

The bill includes a section for licensure by endorsement of dietitians or nutritionists who comply with the Act’s licensure requirements. The bill specifies that licensure examination requirements shall be waived for an applicant who:

- Is registered with the Commission on Dietetic Registration and in compliance with all of the qualifications as stated in ch. 468, F.S., related to the practice of dietetics and nutrition, or ch. 509, F.S., relating to public food service establishments; or
- Is a certified nutrition specialist certified by the Certification Board for Nutrition Specialists or who is a Diplomate of the American Clinical Board of Nutrition and who is in compliance with the qualifications under s. 468.509, F.S.

Other types of professions engage in activities that are similar to those of dietitians and nutritionists. The bill modifies the list of persons in s. 468.505, F.S., who are exempt from the requirements of the Act and whose practices and activities will not be prohibited or restricted to also include:

- Interns pursuing a degree in dietetics;
- Registered nurses from another state;
- Licensed dietitians, licensed nutritionists, or registered nutritionists who provide weight control services;
- A person employed as a registered nutrition and dietetics technician; or
- A person employed by a hospital, a nursing home, an assisted living facility or by a continuing care facility if the person is employed in compliance with the procedures regarding the operation of the facilities dietetic or nutrition department.

The bill amends s. 468.516, F.S., to clarify that the Act does not preclude a licensed dietitian or nutritionist from independently ordering a therapeutic diet if otherwise authorized to order such a diet in Florida.

Title Protection

The bill revises the titles and title abbreviations that may be used by dietitians and nutritionists that are registered by the Commission to include “Registered Nutritionist” and “R.D.N.” The bill includes that an individual certified by the Certification Board for Nutrition Specialists has the right to use the title “Certified Nutrition Specialist” and the designation “CNS.” It also adds that an individual certified by the American Clinical Board of Nutrition has the right to use the title “Diplomate of the American Clinical Board of Nutrition” and the designation of “DACBN.”

Dietetics and Nutrition Practice Council

The bill changes the Dietetics and Nutrition Practice Council to the Dietetics and Nutrition Practice Board under the Department’s Division of MQA, revises membership from five to seven members, and requires members to be appointed by the Governor instead of the Board of Medicine.

An initial board member for a newly added discipline is eligible to be licensed and shall apply for licensure within 1 year after October 1, 2015.

In addition, the bill makes many conforming and technical changes.

The bill provides an effective date of July 1, 2015.

B. SECTION DIRECTORY:

Section 1. Amends s. 468.502, F.S., relating to purpose and intent.

Section 2. Amends s. 468.503, F.S., relating to definitions.

Section 3. Amends s. 468.504, F.S., relating to license required.

Section 4. Amends s. 468.505, F.S., relating to exemptions; exceptions.

Section 5. Amends s. 468.506, F.S., relating to Dietetics and Nutrition Practice Council.

Section 6. Amends s. 468.509, F.S., relating to Dietician/nutritionist; requirements for licensure.

Section 7. Amends s. 468.511, F.S., relating to Dietician/nutritionist; temporary permit.

Section 8. Amends s. 468.513, F.S., relating to Dietician/nutritionist licensure by endorsement.

Section 9. Amends s. 468.514, F.S., relating to renewal of license

Section 10. Amends s. 468.515, F.S., relating to inactive status.

Section 11. Amends s. 468.516, F.S., relating to practice requirements.

Section 12. Amends s. 468.518, F.S., relating to grounds for disciplinary action.

Section 13. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an insignificant negative fiscal impact on the Department associated with increased workload which can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Health with rulemaking authority to implement various sections of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES