

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	11 Y, 0 N, As CS	Castagna	O'Callaghan
2) Health & Human Services Committee		Castagna	Calamas

SUMMARY ANALYSIS

Dietician/nutritionists (DNs) are regulated under Part X of Ch. 468, F.S., the Dietetics and Nutrition Practice Act (Act), and by the Board of Medicine under the Department of Health's (Department) Division of Medical Quality Assurance.

The bill expands the scope of practice for licensed DNs by authorizing DNs to order therapeutic diets. The bill also states that the Act does not preclude a licensed dietician or nutritionist from independently ordering a therapeutic diet if otherwise authorized to order such a diet in Florida.

Additionally, the bill allows DNs to become licensed without an examination when applicants for such licensure are:

- Registered with the Commission on Dietetic Registration (Commission) and are in compliance with all of the qualifications in ch. 468.509, F.S., related to the practice of dietetics and nutrition; or
- Certified as nutrition specialists by the Certification Board for Nutrition Specialists, or are Diplomates of the American Clinical Board of Nutrition, and are in compliance with the qualifications under s. 468.509, F.S.

The bill provides title protection for certain qualified individuals. Specifically, the bill authorizes only individuals who are:

- Registered with the Commission as a DN to use the title "Registered Dietician/Nutritionist" and the designation "R.D.N.";
- Certified by the Certification Board for Nutrition Specialists to use the title "Certified Nutrition Specialist" and the designation "CNS"; and
- Certified by the American Clinical Board of Nutrition to use the title "Diplomate of the American Clinical Board of Nutrition" and the designation of "DACBN."

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

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.¹ 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.²

Dietetics and nutrition practitioners work in health care systems, home health care, foodservice, 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.³

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 (Board) 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 and nutrition counselors to assure competency and safety to practice in Florida.⁴

The Council is comprised of five members appointed by the Board, 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 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.⁵

Licensure

There are 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."

¹ Section 468.503(3), F.S.

² Section 468.503(4), F.S.

³ Academy of Nutrition and Dietetics, *About Us*, available at <http://www.eatrightpro.org/resources/about-us> (last visited March 12, 2015).

⁴ 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).

⁵ Section 468.506, F.S.

To be licensed as a DN one must pass the licensure examination, show the successful completion of 900 hours of pre-professional planned and continuous supervised practice in dietetics or nutrition,⁶ completion of a 2-hour course relating to prevention of medical errors, pay the licensure fee, and have possession of the following:⁷

- At least a bachelor's degree with a major course of study in human nutrition, food and nutrition, dietetics, or food management or an equivalent major,⁸ as determined by the Council, from 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.

The licensure examination requirement is waived for individuals who present the Board proof of a registered dietician credential from the Commission.⁹

A DN license must 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.¹⁰

Therapeutic Diets

Dietetic and nutrition specialists, such as Registered Dietitians (RDs) and Registered Dietician Nutritionists (RDNs), provide a wide range of services related to food and nutrition including ordering or developing plans for therapeutic diets. Therapeutic diets are a diet intervention ordered by a health care practitioner as part of the treatment for a disease or clinical condition creating an altered nutritional status, to eliminate, decrease, or increase certain substances in a person's diet such as, sodium or calcium.¹¹ Therapeutic diets may also involve changing the texture of foods or replacing food with tube feedings.¹²

Section 468.516(1)(a), F.S., prohibits DNs from implementing a dietary plan (also referred to as a therapeutic diet) for a patient who is under the active care of a physician licensed under ch. 458 or ch. 459 F.S., or a chiropractor licensed under ch. 460, F.S., without the oral or written dietary order of the referring physician or chiropractor. However, if the DN is unable to obtain authorization or a consultation from the active treating physician or chiropractor, the DN may provide nutrition services and implement the dietary plan.

A Federal Centers for Medicare and Medicaid Services Rule¹³ change that was finalized in May of 2014 permits RDNs and RDs to order patient therapeutic diets independently in a hospital setting 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,

⁶ At least 200 hours must be performed in a clinical nutrition setting, such as hospital and 200 hours must be performed in a community nutrition setting, such as a public health program. Rule 64B8-42.002, F.A.C.

⁷ Section 468.509, F.S., and Rule 64B8-42.002, F.A.C.

⁸ An equivalent major must be a course of study specially designed to prepare an individual to integrate and apply principles of nutrition. Any major must include at least 30 semester hours covering human nutrition, nutrition in health and disease, nutrition education and counseling, food science, nutrition in the community, and administration of food service or nutrition programs. Rule 64B8-42.002, F.A.C.

⁹ Section 468.509(3), F.S.

¹⁰ Section 468.514, F.S.

¹¹ 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).

¹² California Department of Social Services, *Types of Therapeutic Diets*, available at http://webcache.googleusercontent.com/search?q=cache:sVskiJU_rjsJ:www.cdss.ca.gov/agedblinddisabled/res/VPTC2/9%2520Food%2520Nutrition%2520and%2520Preparation/Types_of_Therapeutic_Diets.pdf+&cd=3&hl=en&ct=clnk&gl=us (last visited March 17, 2015).

¹³ 42 C.F.R. §482.28(b)(1) addresses criteria that hospitals must meet to be eligible to participate in Medicaid and Medicare, specifically hospitals' food and dietetic services.

cost-effective, and evidence-based nutrition services as the recognized nutrition experts on a hospital interdisciplinary team.¹⁴

Dietetics and Nutrition Credentialing Organizations

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.¹⁵ The Academy's goal is to improve the nation's health and advance dietetics through research, education, and advocacy.

The Commission on Dietetic Registration (Commission) is an arm of the Academy that administers credentialing programs. 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 Registered Dietician Nutritionist or Registered Dietician appointed for a one-year term.¹⁶

The Commission grants seven separate and distinct credentials including a Registered Dietitian Nutritionist (RDN) and Registered Dietitian (RD) credential.¹⁷ This credential is granted for individuals who have:

- Completed the minimum of a Baccalaureate degree granted by a U.S. regionally accredited college or university, or foreign equivalent;
- Met current minimum academic requirements (Didactic Program in Dietetics) as approved by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics;
- Completed a supervised practice program accredited by the ACEND of the Academy of Nutrition and Dietetics;
- Successfully completed the Registration Examination for Dietitians;
- Remitted the annual registration fee; and
- Complied with the Professional Development Portfolio recertification requirements.¹⁸

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

Certification Board for Nutrition Specialists

The Certification Board for Nutrition Specialists (CBNS) is a credentialing body for nutrition care professionals with advanced degrees and training in nutrition science. The CBNS supports scientific training and the participation of professional nutritionists in independent evaluations of scientific data.¹⁹

The Certified Nutrition Specialist (CNS) credential, offered by the CBNS, is granted to individuals who have:

¹⁴ 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).

¹⁵ *Supra* fn. 3.

¹⁶ Commission on Dietetic Registration, *About DCR*, available at <http://www.cdrnet.org/about/> (last visited March 17, 2015).

¹⁷ As of 2013, the Commission has granted credentials to a total of 89,385 RDs. 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).

¹⁸ Commission on Dietetic Registration, *Who Is a Registered Dietician or Registered Dietician Nutritionist*, available at <http://www.cdrnet.org/about/who-is-a-registered-dietitian-rd> The credentialing program for an RDN and RD is accredited by the National Commission for Certifying Agencies.

¹⁹ Certification Board for Nutrition Specialists, *About the BCNS*, available at <http://cbns.org/about/> (last visited March 23, 2015).

- Completed a master's or doctoral degree in the field of nutrition or a doctoral degree in a field of clinical health care from a U.S. accredited education program or its foreign equivalent. The academic requirement also includes specific coursework requirements in the fields of:
 - Nutrition,
 - Biochemistry,
 - Physiology, and
 - Clinical or life sciences;
- Completed 1,000 hours of documented supervised practice experience in nutrition; and
- Successfully completed the CBNS certifying examination.²⁰

To maintain the CNS credential, the individual must be re-certified every five years with payment of the required fee and completion of 75 continuing nutrition education credits.²¹

American Clinical Board of Nutrition

The American Clinical Board of Nutrition (ACBN) is a credentialing body for nutrition specialists. The ACBN was founded in 1986 and is the first and only nutrition certifying agency to offer Diplomate status to health care providers beyond the doctoral level in the U.S. and internationally. The ACBN provides an examination that evaluates the competency of all types of qualified doctoral-level health care providers and ensures a standard level of knowledge in the field of clinical nutrition.²²

The ACBN's Diplomate credential is offered to individuals who have submitted the required application and fee and who have:

- Earned a doctoral degree from an accredited education program holding status with the U.S. Department of Education;
- Completed a minimum of 300 hours of nutrition education from an accredited education program;
- Completed a minimum of two years practice experience;
- Submitted a published article or paper on some aspect of nutrition; and
- Successfully completed the two-part examination which includes a section on case histories²³ and 150 examination questions.²⁴

The ACBN requires Diplomates to be re-certified annually with submission of a fee and proof of 12 hours at ACBN approved nutritional educational seminars or submission of the following:

- Proof of engagement in nutrition education at a college, university, foundation, or agency having status with the U.S. Department of Education, or an agency having a reciprocal agreement with the recognized agency;
- A paper on nutrition for publication with a minimum of ten references; or
- At least two case histories suitable for publication.²⁵

Effect of Proposed Changes

CS/HB 951 amends part X of ch. 468, F.S., the Dietetics and Nutrition Practice Act (Act).

²⁰ Certification Board for Nutrition Specialists, *Eligibility Requirements for the CNS Credential*, available at http://cbns.org/?page_id=238&preview=true (last visited March 23, 2015).

²¹ *Id.*

²² American Clinical Board of Nutrition, *Welcome to the ACBN*, available at <http://www.acbn.org/index.html> (last visited March 23, 2015).

²³ A case history is a written narrative showing all aspects of a health care provider's care of an actual patient, from medical history documenting to follow-up and release from care. American Clinical Board of Nutrition, *Candidates Handbook*, available at <http://www.acbn.org/handbook.html> (last visited March 23, 2015).

²⁴ *Id.*

²⁵ *Id.*

Currently DNs are only authorized to implement a therapeutic diet that is ordered by a patient's treating physician or chiropractor.²⁶ The bill expands the scope of practice for licensed DNs by authorizing DNs to order therapeutic diets. The bill also states that the Act does not preclude a licensed DN from independently ordering a therapeutic diet if otherwise authorized to order such a diet in Florida.

Additionally, the bill allows individuals to become licensed as a DN without an examination when applicants for such licensure are:

- Registered with the Commission on Dietetic Registration (Commission) and are in compliance with all of the qualifications in ch. 468, F.S., related to the practice of dietetics and nutrition; or
- Certified as nutrition specialists by the Certification Board for Nutrition Specialists, or are Diplomates of the American Clinical Board of Nutrition, and are in compliance with the qualifications under s. 468.509, F.S.²⁷

The bill provides title protection for certain qualified individuals. Specifically, the bill authorizes only individuals who are:

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- Certified by the American Clinical Board of Nutrition to use the title "Diplomate of the American Clinical Board of Nutrition" and the designation of "DACBN."

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

B. SECTION DIRECTORY:

Section 1. Amends s. 468.503, F.S., relating to definitions.

Section 2. Amends s. 468.505, F.S., relating to exemptions; exceptions.

Section 3. Amends s. 468.509, F.S., relating to dietician/nutritionist; requirements for licensure.

Section 4. Amends s. 468.516, F.S., relating to practice requirements.

Section 5. 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 may have an insignificant negative fiscal impact on the Department associated with enforcing the additional title protections provided in the bill and associated with amending any rules to conform to changes made by the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

²⁶ Section 468.516(1)(a), F.S.

²⁷ The Commission, the CBNS, and the ACBN are all accredited by the National Commission for Certifying Agencies.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 16, 2015, the Health Quality Subcommittee adopted a strike all amendment to the bill and reported the bill favorably as a committee substitute. The amendment:

- Defines the Commission on Dietetic Registration, which is the current credentialing body used by the DOH.
- Inserts the title “registered dietitian/nutritionist” into the Dietetics and Nutrition Practice Act and authorizes other titles and title abbreviations that may be used by certified practitioners of dietetics and nutrition.
- Authorizes registered dietitians and registered dietitian/nutritionists to order therapeutic diets.
- Authorizes licensure without examination for registered dietitians or registered dietitian/nutritionists.
- States that the Dietetics and Nutrition Practice Act does not preclude a licensed dietitian/nutritionist from independently ordering a therapeutic diet if they are otherwise authorized to do so.

The analysis is drafted to the committee substitute.