



Kirsten J. Gross

Bill Analysis
Legislative Service Commission

H.B. 132

123rd General Assembly
(As Introduced)

Reps. Boyd, Pringle, Barrett, Allen, Ford

BILL SUMMARY

- Requires dietetic technicians to be licensed, effective July 1, 2000.
- Expands the dietetic practices that generally may be performed only by licensed dietitians and dietetic technicians.
- Adds two dietetic technicians to the Ohio Board of Dietetics.

CONTENT AND OPERATION

Background

With certain exceptions, only dietitians licensed by the Ohio Board of Dietetics may practice dietetics in Ohio. Current law defines "the practice of dietetics" as any of the following: (1) nutritional assessment to determine nutritional needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition, (2) nutritional counseling or education as components of preventive, curative, and restorative health care, or (3) development, administration, evaluation, and consultation regarding nutritional care standards. (Sec. 4759.01(A).) Exceptions to the licensing requirement include the practice of dietetics by other regulated professionals, such as physicians and nurses, within the scope of their professions, the free dissemination of literature in the state, and physician-approved programs of weight-loss instruction.

Another exception currently is made for dietetic technicians--persons who have graduated from associate degree programs approved by the American Dietetic Association (ADA) or the Ohio Board of Dietetics. The law requires dietetic technicians to work under the supervision of licensed dietitians. It also appears to allow dietetic technicians to practice under the supervision of dietitians who are not licensed in Ohio but who are registered with the Commission on

Dietetic Registration, a private, nationwide credentialing organization, even though dietitians must be licensed to practice. (Sec. 4759.10.)

Expansion of "the practice of dietetics"

The bill adds "nutritional care evaluation, planning, and implementation" to the dietetic activities for which a license generally is required (sec. 4759.01).

Licensing of dietetic technicians

Effective July 1, 2000, the bill terminates the exemption for dietetic technicians and requires that they be licensed by the Ohio Board of Dietetics. In addition to requiring licensure, the bill retains the current requirement that dietetic technicians practice under the supervision of dietitians. However, while current law may permit them to be supervised by dietitians not licensed in Ohio who are registered with the Commission on Dietetic Registration, the bill requires, beginning July 1, 2000, that they be supervised by Ohio-licensed dietitians who are registered as dietitians by the Commission on Dietetic Registration. (Sec. 4759.02(A).) The Ohio Board is required to adopt rules in accordance with the Administrative Procedure Act establishing standards for supervision of dietetic technicians by dietitians (sec. 4749.05(A)).¹

To qualify for a license, a dietetic technician is required to have (1) earned an associate or higher degree from an accredited institution of higher education that is approved by the Board or a regional accreditation agency recognized by the Council on Postsecondary Education, (2) completed a program consistent with the academic standards for dietetic technicians established by the ADA, (3) completed pre-professional dietetic experience approved by the ADA or the Ohio Board, and (4) passed an examination approved by the Board (sec. 4759.06(A)). The Ohio Board is required to adopt rules prescribing additional educational requirements for license applicants who have not practiced dietetics during the previous five years (sec. 4759.05(A)). However, if a dietetic technician is registered with the Commission on Dietetic Registration, the Ohio Board must waive all education, experience, and examination requirements (sec. 4759.06(B)).

Licenses have to be renewed annually (sec. 4759.06(E)). The Ohio Board is required to adopt rules prescribing continuing education requirements for renewal, which have to be consistent with continuing education required by the Commission

¹ *The Board's current rules require the dietetic technician's supervising dietitian to "provide sufficient guidance and direction as to enable the person to perform competently." The supervisor "need not be on-site at all times." (Ohio Administrative Code §4759-5-01.)*

on Dietetic Registration (sec. 4759.05(A)). The fee for an initial license is at least \$110, and annual renewal costs at least \$80. These are the statutory fees currently prescribed for dietitian licenses, but the Board may increase them by up to 50%, subject to Controlling Board approval. (Sec. 4759.08(A) and (C).)

In accordance with the Administrative Procedure Act, the Ohio Board may suspend, revoke, impose probationary conditions on, or refuse to issue or renew a license if the applicant has (1) violated the dietetics statutes or rules, (2) knowingly made a false statement in an application for an initial or renewed license, (3) been convicted of or plead guilty to a felony in any state, (4) been convicted in any state of a misdemeanor in the course of work as a dietitian or dietetic technician, (5) been impaired in ability to practice dietetics due to using a controlled substance or alcoholic beverage, or (6) accrued a record of incompetent or negligent conduct in the practice of dietetics. (Sec. 4759.07(A).)

As under current law for dietitians, dietetic technicians may place their licenses in inactive status. Persons with inactive licenses may not practice dietetics. They have to comply with continuing education requirements, but do not have to pay the annual renewal fee.²

"Grandparenting" provision

The Board is required to waive the standard education, experience, and examination requirements for licensure of a dietetic technician if an applicant for a dietetic technician license presents evidence that the applicant is currently registered as a Registered Dietetic Technician with the Commission on Dietetic Registration. The Board is also required to waive the standard education, experience, and examination requirements for licensure of a dietetic technician if an applicant for a dietetic technician license submits all of the following to the Board no later than July 1, 2001: (1) a completed license application, (2) the required fee, and (3) evidence satisfactory to the Board that the applicant, prior to July 1, 2000, graduated from an associate degree or higher program approved by the American Dietetic Association or the Board, and practiced dietetics under the supervision of a licensed or registered dietitian. (Sec. 4759.06(B).)

Title protection

Effective July 1, 2000, the bill prohibits any person from using the title "dietetic technician" unless the person (1) holds an active dietetic technician license, (2) holds an inactive dietetic technician license but does not practice or

² O.A.C. 4759-4-06.

offer to practice dietetics, (3) practices dietetics related to employment in the armed forces, Veterans' Administration, or U.S. Public Health Service, or (4) is disseminating free information. However, dietetic technicians registered by the Commission on Dietetic Registration who are not licensed are allowed to use the title "Registered Dietetic Technician" and the abbreviation "D.T.R." as long as they do not practice, offer to practice, or hold themselves forth as practicing dietetics. (Secs. 4759.02(A), (B), and (C) and 4759.10.)

Penalties

The bill applies the current penalties for violating the dietetics law to dietetic technicians. Effective July 1, 2000, a dietetic technician who practices, offers to practice, or holds himself or herself forth as practicing dietetics without a license is guilty of a minor misdemeanor. If the offender has been convicted once previously, the offense is a fourth degree misdemeanor. If the offender has been convicted more than once before, it is a first degree misdemeanor. The same penalties apply effective July 1, 2000, to persons not authorized by the bill using the title "dietetic technician." (Sec. 4759.99, not in the bill.)

Addition of two dietetic technicians to the Board

Currently there are five members on the Ohio Board of Dietetics, all appointed by the Governor with the advice and consent of the Senate: three dietitians, one educator with a doctorate who is a regular faculty member in a dietetics program, and one representative of the general public. The bill adds two dietetic technicians to the Board. The Governor is required to appoint the initial two new members no later than 30 days after the bill's effective date. (Secs. 4759.03 and 4759.04.)

Conforming amendments to other laws

The bill amends several existing statutes that apply to dietitians and other licensed professionals so that they also apply to licensed dietetic technicians:

(1) Licensed dietetic technicians are included within the definition of "health care professional" under the statutes governing living wills and durable powers of attorney for health care. This clarifies that the provisions of those laws apply to dietetic technicians in the same way they currently apply to dietitians, physicians, physician assistants, nurses, medical technicians, emergency medical technicians, other persons acting under direction of an attending physician, and health facility administrators. This likely does not represent a substantive change, however, since dietetic technicians could have been previously considered persons acting under the direction of an attending physician. (Secs. 1337.11 and 2133.01.)

(2) Licensed dietetic technicians have qualified immunity from liability for volunteer dietetic services provided to indigent or uninsured individuals at nonprofit shelters or health care facilities. In addition to dietitians, current law grants this qualified immunity to physicians, physician assistants, podiatrists, nurses, dentists, dental hygienists, physical therapists, chiropractors, optometrists, and pharmacists. (Sec. 2305.234.)

(3) If convicted of a drug abuse offense, licensed dietetic technicians, in addition to criminal penalties, may be subject to professional disciplinary actions such as license revocation. This possibility currently exists for all other professionals for whom current law requires licensure, certification, or registration. (Sec. 2925.01.)

(4) Local health districts may purchase liability insurance on behalf of dietetic technicians with whom they contract to provide health care services. Local health districts currently are authorized to purchase liability insurance on behalf of dietitians, and also physicians, physician assistants, podiatrists, nurses, dentists, dental hygienists, physical therapists, physical therapist assistants, athletic trainers, occupational therapists, speech-language pathologists, audiologists, psychologists, counselors, social workers, pharmacists, and veterinarians. (Sec. 3709.161.)

(5) Licensed dietetic technicians and their employers are prohibited from balance billing Medicare beneficiaries, that is, charging them more for Medicare-covered services than Medicare agrees to pay. The current balance billing law applies to dietitians, physicians, physician assistants, podiatrists, nurses, dentists, dental hygienists, physical therapists, physical therapist assistants, occupational therapists, occupational therapist assistants, chiropractors, speech-language pathologists, audiologists, hearing aid dealers and fitters, optometrists, opticians, psychologists, counselors, social workers, pharmacists, practitioners of limited branches of medicine, and their employers. (Sec. 4769.01.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
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