



H.B. 288

124th General Assembly
(As Introduced)

Reps. Jones, Allen, Barrett, Britton, Ford

BILL SUMMARY

- Requires dietetic technicians to be licensed.
- Adds to the Ohio Board of Dietetics one dietetic technician registered with the Commission on Dietetic Registration and one educator of dietetic technicians.

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.)

Clarification of "the practice of dietetics"

The bill adds to the dietetic activities for which a license generally is required the practice of dietetics that occurs in diverse health systems and community based settings.

Current law allows the free dissemination of literature within the state without first obtaining a license from the Board. The bill expands this exception to allow for the sale of literature within the state without requiring a license from the Board to do so (sec. 4759.10(F)). (Sec. 4759.02(A).)

Licensing of dietetic technicians

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 one year after the bill's effective date, that they be supervised by Ohio-licensed dietitians or registered dieticians who practice dietetics in Ohio. (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 institution of higher education that is approved by the Board or a regional accreditation agency recognized by the Commission on Recognition of Postsecondary Accreditation, (2) completed a program consistent with the academic standards for dietetic technicians established by the ADA, including a pre-professional dietetic experience, and (3) passed an examination approved by the Board (sec. 4759.06(A)). However, the Ohio Board may waive all education, experience, and examination requirements if an applicant submits all of the following to the Board not later than one year after the effective date of the bill:

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.)*

(1) A complete license application;

(2) A \$80 license fee;

(3) Evidence satisfactory to the Board that the applicant, prior to the bill's effective date, graduated from an associate or higher degree program approved by the ADA or the Board and practiced dietetics under the supervision of a licensed dietitian or a registered dietitian immediately preceding application (sec. 4759.06(B)).

Licenses must 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 on Dietetic Registration (sec. 4759.05(A)). The fee for an initial license is \$80 and the annual renewal fee is \$60. The fee for reinstatement of a lapsed, revoked, or suspended license is \$120. A duplicate license is \$20. Under existing law the Board may increase any fee 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 must comply with continuing education requirements, but do not have to pay the annual renewal fee.²

Title protection

Starting on the date that is one year after the bill's effective date, the bill prohibits any person from using the title "dietetic technician" unless the person holds an active dietetic technician license or holds an inactive dietetic technician license but does not practice or offer to practice dietetics. 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

² O.A.C. 4759-4-06.

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.)

Under current law, a person who does not perform more than 15 days of dietetic practice in this state, and who is licensed in another state or registered by the Commission on Dietetic Registration is not prohibited from using the title dietitian.

The bill clarifies that the person must not have performed more than 15 days of dietetic practice in Ohio, *cumulatively since 1987*, to qualify for this exemption. The bill also applies this exception to the use of terms relative to dietetic technicians. (Sec. 4759.02(E).)

Nutrition assistant

Under the bill, a person may practice dietetics without a license if that person holds a current, valid nutrition assistant certificate of exemption issued by the Board, practices dietetics only under the supervision of a dietitian licensed by the Board or a registered dietitian, and uses only the title, "nutrition assistant." (Sec. 4759.10.) A person may obtain a nutrition assistant certificate of exemption by applying to the Board and presenting evidence of both of the following:

(1) Completion of a program meeting the academic standards set by the ADA for dietitians resulting in the receipt of a baccalaureate or higher degree from a school, college, or university approved by a regional accreditation agency recognized by the Commission on Recognition of Postsecondary Accreditation;

(2) Supervision by a licensed dietitian, including the name, title, license number, and professional address of the licensed dietitian who will supervise the applicant during the period of exemption.

The certificate of exemption as a nutrition assistant is valid for two years from the date of issue and is not renewable. If there is a change in the nutrition assistant's supervision, the nutrition assistant is required, prior to the change or immediately thereafter, to report to the Board the name, title, license number, and professional address of the licensed dietitian who will provide supervision. The Board may revoke the certificate of exemption for violations of these rules. All actions to deny or revoke a certificate of exemption are subject to the Administrative Procedure Act. (Sec. 4759.101.)

Penalties

The bill applies the current penalties for violating the dietetics law to dietetic technicians. Effective one year after the effective date of the bill, 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 one year after the effective date of the bill, 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. One must be a dietetic technician registered with the Commission on Dietetic Registration who has been actively engaged in the practice of dietetics for at least three years preceding appointment and one must be an educator with a master's or higher degree who holds a full-time faculty appointment in a two-year program that prepares dietetic technician students to meet the bill's licensing requirements. The Governor is required to appoint the initial two new members no later than 30 days after the bill's effective date, one for a term ending July 1, 2004, and one for a term ending July 1, 2005. (Secs. 4759.03 and 4759.04.)

Under current law, the Board designates an executive secretary to help to administer the chapter. The bill changes the title of "executive secretary" to "director." (Sec. 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.)

Definitions

The bill creates definitions for the following terms:

(1) "Licensed dietetic technician" means both a person licensed to practice dietetics under the supervision of a licensed dietitian or a registered dietitian *and* a dietetic technician licensed to practice dietetics who is also registered as a dietetic technician by the Commission on Dietetic Registration and who practices dietetics under the supervision of a licensed dietitian or a registered dietitian.

(2) "Licensed dietitian" means a person licensed to practice dietetics in Ohio who may also be a registered dietitian.

(3) "Registered dietitian" means a dietitian who is currently registered as a dietitian by the Commission on Dietetic Registration.

(4) "Nutrition assistant" means a person who holds a two-year certification of exemption to practice dietetics under the supervision of a licensed dietitian or a registered dietitian. (Sec. 4759.01(D) to (G).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-05-01	p. 623

H0288-I.124/jc