

STORAGE NAME: h2173s1.hcl

DATE: April 20, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS**

BILL #: CS/HB 2173

RELATING TO: Dietetics and Nutrition Practice

SPONSOR(S): Committee on Health Care Licensing & Regulation and Representatives Greenstein and Lacasa

COMPANION BILL(S): SB 1822(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION YEAS 10 NAYS 0
 - (2) GOVERNMENTAL RULES & REGULATION
 - (3) HEALTH & HUMAN SERVICE APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 2173 creates a six-member Clinical Nutrition Study Committee to study the educational, experience, and training requirements for a person to be licensed as a clinical nutritionist or as a nutrition counselor. Members of the study committee shall include:

- ▶ a representative from the Department of Health;
- ▶ a member of the Dietetics and Nutrition Practice Council;
- ▶ two persons licensed as nutrition counselors;
- ▶ a member of the Florida Association of Dietitians; and
- ▶ a consumer 60 years of age or older.

A report is required to be submitted to the President of the Senate, the Speaker of the House, and the chairs of the appropriate substantive committees of the Legislature no later than January 1, 2000.

The bill does not have a fiscal impact on state or local government or on the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In 1988, the Florida Legislature enacted the Dietetics and Nutrition Practice Act (s. 468.501, F.S.) for the purpose of "protecting the public from unskilled and incompetent practitioners by setting forth minimum competency standards to assure that every person who practices dietetics and nutrition in this state meets minimum requirements for safe practice." The act included minimum competency standards for dietitians and nutritionists, and provided a grandfather clause for those persons not meeting the minimum competency requirements, classifying them as "nutrition counselors". In 1996, legislation was adopted which went into effect April 1, 1997, repealing the grandfather clause, and in its place another clause was included providing for license renewal for individuals who were licensed between April 1, 1988 and April 1, 1997. As a result, there is now no licensure avenue available for nutrition counselors. Currently in Florida, there are approximately 2,700 licensed dietitians/nutritionists compared to approximately 300 licensed nutrition counselors.

Dietitians/nutritionists and nutrition counselors are regulated by the Dietetics and Nutrition Practice Council under the Board of Medicine. The Council consists of five members which include four licensed members and one consumer age 60 or over (currently, three of those members are dietitians).

Dietitians/nutritionists believe that there is little difference between dietitians and nutritionists. They claim that dietitians work in a clinical or hospital setting and nutritionists work in a community setting. Academic training for both dietitians and nutritionists is the same in Florida and throughout the nation.

Both nutritionists and dietitians, however, differ greatly in philosophy, education, and practice from nutrition counselors. Since the Dietetics and Nutrition Practice Act was created, controversy has reigned between the dietitians/nutritionists and the nutrition counselors. First, and foremost, nutrition counselors believe that there is a significant difference between dietitians and nutritionists, and they argue that individuals currently considered dietitians and nutritionists under Florida law actually should only be considered dietitians. Nutrition counselors argue that up until the Dietetics and Nutrition Practice Act was created in 1988, they were considered nutritionists. Nutrition counselors believe that current dietitians/nutritionists practice dietetics, which is significantly different from the practice of nutrition counselors whose goals are to maintain, preserve, and restore nutritional health through wholesome nutrition, herbs, vitamins, and minerals where appropriate and the avoidance of some foods believed to be harmful.

Education requirements differ greatly between dietitian/nutritionists and nutrition counselors. Under Florida law, a licensed dietitian or nutritionist must possess a bachelor's of science degree in nutrition or in an approved related field, have 900 hours of supervised experience, and pass a state licensing exam. In addition to state licensing, many dietitians/nutritionists are also registered through the National Commission of Dietetic Registration, which requires taking an exam and education courses that have been approved by the American Dietetic Association. Florida law has no education requirement provisions for nutrition counselors, and because existing nutrition counselors were licensed through the repealed grandfather clause, the counselors did not have to take an exam or meet educational requirements. As a result, dietitians/nutritionists are often perceived to have superior educational backgrounds and more experience than nutrition counselors. Nutrition counselors believe that this perception is unfair and argue that most counselors hold advanced degrees and are better trained than many registered dietitians. Nutrition counselors believe specific education requirements need to be specified in statute, separate from those required for dietitians/nutritionists, so that nutrition counselors will not be limited to taking classes that may be designed for dietitians/nutritionists and that may conflict with the philosophy of nutrition counseling. Dietitians/nutritionists, however, feel that separate education course requirements are not necessary because education requirements and appropriate provisions for licensure are already specified in statute.

Dietitians/nutritionists and nutrition counselors differ in methodology as well. Dietitians/nutritionists use conservative and well-established scientific methods and believe that the nutrients humans need can be gotten from a balanced diet. They conduct nutrition screenings by assessment of dietary intake, anthropometric measurements, reviewing medical history and medications to assess for drug nutrient interactions, and reviewing demographic factors that would affect nutritional status.

Traditionally, dietitians/nutritionists sanction supplements only if one's diet is unbalanced and if the supplements contain no more than 100% of the recommended daily allowance.

Nutrition counselors, on the other hand, practice alternative methods of treatment and often use experimental therapies, which include the recommendation of supplements and megavitamin therapies. Representatives of the Nutrition Counselors Association indicate their profession has three categories of members: 1) Professional -- Consisting of those licensed to practice in Florida as nutrition counselors and whose primary practice is in that field; 2) Associate -- Other practitioners, such as medical, chiropractic and osteopathic physicians, licensed massage therapists, and licensed acupuncturists who use nutrition counseling as an adjunct to their primary practice; and 3) Supporting -- Health food store owners and others involved in nutrition science, products, and information, as well as members of the public. Nutrition counseling places emphasis on "the three S's": "sampling", testing of blood, hair, urine, and saliva; "sensitivity", determining from sampling certain foods to which an individual might be sensitive; and "supplements", using vitamins, minerals, and herbs to maintain, preserve, and restore nutritional health.

Critics of nutrition counseling claim that nutrition counselors face a conflict of interest when they benefit financially from vitamins they recommend/prescribe. Counselors who practice controversial methods such as iridology and cytotoxic testing have also received criticism. Iridology is a belief that diseases of the body can be reflected by the colors in the eyeball. Cytotoxic testing claims that food allergies can be diagnosed by the extent to which a sample of a suspect food kills a person's white blood cells. Such methods are seen to the more conservative dietitians/nutritionists as lacking scientific substance and bordering on "quackery".

Nutrition counselors, on the other hand, feel that mainstream dietitians/nutritionists are the ones who face a conflict of interest. Nutrition counselors feel that dietitians/nutritionists are too closely tied to the food industry and are manipulated by corporate benefactors. Counselors are critical of the American Dietetic Association's endorsement of the safety of artificial sweeteners and its passive attitude toward fast food and refined foods. Nutrition counselors also feel that claims that their methods are "quackery" are unfounded. They argue that the mainstream medical industry is now beginning to promote methods that nutrition counselors have believed in for years and that methods such as iridology and cytotoxic testing are refined specialties and are only done by individuals who know how to do them.

Since the Dietetics and Nutrition Practice Act was enacted in 1988, the Nutrition Counselors Association has felt that the Act has not properly represented the interests of nutrition counselors. During the 1993 and 1994 legislative sessions, members of the Nutrition Counselors Association attempted to have nutrition counselors removed from the auspices of the Dietetics and Nutrition Practice Council and proposed the creation of a Nutrition Counselors Practice Council under the jurisdiction of the Board of Medicine. These proposals were defeated.

Thirty-seven states, including Florida, have some form of regulation of the profession of dietetics/nutrition. Florida's legislation has been seen as a model for other states and was used as the prototype for Illinois and North Carolina.

In 1996, legislation was passed transferring the functions of the Division of Medical Quality Assurance from the Agency for Health Care Administration to the Department of Health. The Board of Medicine is one of the boards under the Division of Medical Quality Assurance and the Dietetics and Nutrition Practice Council is one of five councils under the Board of Medicine.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 2173 creates a six-member Clinical Nutrition Study Committee to study the educational, experience, and training requirements for a person to be licensed as a clinical nutritionist or as a nutrition counselor. Members of the study committee shall include:

- ▶ a representative from the Department of Health;
- ▶ a member of the Dietetics and Nutrition Practice Council;
- ▶ two persons licensed as nutrition counselors'
- ▶ a member of the Florida Association of Dietitians; and
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A report is required to be submitted to the President of the Senate, the Speaker of the House, and the chairs of the appropriate substantive committees of the Legislature no later than January 1, 2000.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

None.

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

None.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates a six-member Clinical Nutrition Study Committee appointed by the Secretary of Health to study the educational, experience, and training requirements for a person to be licensed as a clinical nutritionist or as a nutrition counselor. Requires a report to be presented to the President, Speaker, and appropriate legislative committees no later than January 1, 2000.

Section 2. Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 15, 1999, the Committee on Health Care Licensing & Regulation adopted a Committee Substitute (CS) for HB 2173 creating the Clinical Nutrition Study Committee. The original bill provided the following:

- ▶ Renamed the Dietetics and Nutrition Practice Council as the Dietetics/Nutrition Practice Council and created the Clinical Nutrition Practice Council with both councils under the jurisdiction of the Board of Medicine.
- ▶ Established the licensure requirements for dietetics/nutrition practice or clinical nutrition practice. Nutrition counselors received licensure through the "grandfathered clause" and have received no formal education or training to practice as a clinical nutritionist.
- ▶ Provided exemptions from the practice act, including any nutrition counselor or clinical nutritionist from another state practicing clinical nutrition incidental to a course of study when taking or giving a postgraduate course in this state, provided such nutrition counselor is licensed in another jurisdiction.

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- ▶ Exempts from the practice act other professionals doing work of a clinical nutrition nature consistent with the accepted standards of their respective professions, provided they do not use the protected title unless they are licensed as such.
- ▶ Allows the Board of Medicine to determine fees.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Lucretia Shaw Collins

Lucretia Shaw Collins