

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 1208

INTRODUCER: Senator Bean

SUBJECT: Dietetics and Nutrition

DATE: March 13, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Pre-meeting</b>
2.			AHS	
3.			FP	

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**I. Summary:**

SB 1208 revises the Dietetics and Nutrition Practice Act (Act) to update terminology, transform the Dietetics and Nutrition Practice Council to a free-standing licensing board under the Department of Health (department), and to update practice requirements to conform to current practice guidelines.

New or substantially modified definitions are provided for Commission on Dietetic Registration (Commission); dietetics and nutrition practice; nutrition and dietetics technician, registered; medical nutrition therapy; nutrition assessment; nutrition care process; nutrition counseling; nutrition diagnosis; and nutrition intervention.

A Certified Nutrition Specialist and certain nutritionists are exempted from the examination requirement as a condition for licensure as a dietitian or nutritionist.

The bill is effective July 1, 2015.

**II. Present Situation:**

**Current Nutrition Employment Fields**

There is a broad spectrum of nutrition related fields, but very few standardized descriptions of services for those fields. The Standard Occupational Classification of the U.S. Bureau of Labor Statistics (USBLS) classifies Dietitians and Nutritionists, which also includes Pediatric Dietitians, Clinical Dietitian, and Dietetic Technician. The USBLS description states that dietitians and nutritionists plan and conduct food service or nutritional programs to assist in the promotion of health and control disease. Individuals in this occupation may also supervise

activities of a dietetic department providing quality food service, counsel individuals, or conduct nutritional research.<sup>1</sup>

The median annual wage in May 2012 for dietitians and nutritionists was \$55,240 and the employment outlook was expected to grow 21 percent from 2012 to 2022, faster than average for all occupations.<sup>2</sup> Most dietitians and nutritionists were employed in hospitals, nursing homes, cafeterias, and schools.<sup>3</sup>

A dietetic technician is defined by the USBLS as an individual who assists in the provision of food service and nutritional programs, under the supervision of a dietitian. A dietetic technician may plan and produce meals based on established guidelines, teach principles of food and nutrition, or counsel individuals.<sup>4</sup> The mean annual wage for this status is \$28,580 as of May 2013.<sup>5</sup> The top paying employers for dietetic technicians are outpatient care centers, schools, and local governments while the employers with the highest concentration of employees are medical and surgical hospitals, skilled nursing facilities, and continuing care communities or assisted living facilities for the elderly.<sup>6</sup>

### **Certification Process**

The Academy of Nutrition and Dietetics (Academy) is an organization of food and nutrition professionals with over 75,000 members committed to advancing the profession through research, education and advocacy.<sup>7</sup> The Accreditation Council for Education in Nutrition and Dietetics (ACEND) is the Academy's accrediting agency for education programs and the Commission on Dietetic Registration (Commission) is the Agency's credentialing agency for dietitians and dietetic technicians under seven separate and distinct credentials. The credentials awarded by the Commission are:

- Registered Dietitian Nutritionist (RDN) or Registered Dietitian;
- Nutrition and Dietetics Technician, Registered (NDTR) or Dietetic Technician, Registered;
- Board Certified Specialist in Renal Nutrition (CSR);
- Board Certified Specialist in Pediatric Nutrition (CSP);
- Board Certified Specialist in Sports Dietetics (CSSD);
- Board Certified Specialist in Gerontological Nutrition (CSG); and
- Board Certified Specialist in Oncology Nutrition.<sup>8</sup>

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<sup>1</sup> United States Department of Labor, Bureau of Labor Statistics, *Occupational Employment and Wages, May 2013 for Dietitians and Nutritionists*, <http://www.bls.gov/oes/current/oes291031.htm> (last visited Mar. 12, 2015).

<sup>2</sup> United States Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook - Dietitians and Nutritionists (Summary)*, <http://www.bls.gov/ooh/healthcare/dietitians-and-nutritionists.htm> (last visited Mar. 12, 2015).

<sup>3</sup> United States Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook - Dietitians and Nutritionists (Work Environment)*, <http://www.bls.gov/ooh/healthcare/dietitians-and-nutritionists.htm#tab-3> (last visited Mar. 12, 2015).

<sup>4</sup> United States Department of Labor, Bureau of Labor Statistics, *Occupational Employment Statistics, May 2013 for Dietetic Technicians*, <http://www.bls.gov/oes/current/oes292051.htm> (last visited Mar. 12, 2015).

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Academy of Nutrition and Dietetics, *About Us*, <http://www.eatrightpro.org/resources/about-us> (last visited Mar. 12, 2015).

<sup>8</sup> Commission on Dietetic Registration, *About CDR*, <http://www.cdrnet.org/about>, (last visited Mar. 12, 2015).

To receive the certification of “Registered Dietitian (RD)” or “Registered Dietitian Nutritionist (RDN),” from the Commission, an individual must:

- Complete the minimum of a bachelor’s degree granted by a United States regionally accredited college or university, or foreign equivalent;
- Meet the current minimum academic requirements as approved the ACEND;
- Complete a supervised practice program accredited by the ACEND;
- Pass the registration examination for dietitians;
- Remit the annual registration fee;
- Comply with the Professional Development Portfolio recertification requirements.<sup>9</sup>

Florida currently recognizes the titles “Dietitian/Nutritionist,” “Nutrition Counselor,” “Dietetic Technician,” and “Registered Dietitian.”

One USBL classification not recognized by either the Commission or Florida’s current Act, is the Certified Nutrition Specialist (CNS) credential of the Board for Certification of Nutrition Specialists (BCNS).<sup>10</sup> A CNS provides individual nutrition assessment, evaluation, intervention, and monitoring to prevent and improve health conditions.<sup>11</sup> Becoming a CNS, requires an individual to have:

- An advanced degree, masters or doctorate, in the field of nutrition or a doctoral level degree in a clinical health field;
- Minimum coursework of 15 credit hours in nutrition and metabolism (including 6 in biochemistry) and 15 credit hours in clinical or life sciences (including 3 in anatomy/physiology);
- At least 1,000 hours of supervised practice experience;
- Successfully passed the BCNS Certifying Examination in clinical nutrition science; and
- Continuing education requirements of at least 75 credits every 5 years.<sup>12</sup>

The Chiropractic Board of Clinical Nutrition (CBCN) also credentials and certifies chiropractic physicians under the American Chiropractic Association and as a member of the American Board of Chiropractic Specialties. Upon application, completion of the required coursework, at least 2 years of practice in good standing, and examination, the CBCN issues a specialty certification of Diplomate (DCBCN).<sup>13</sup>

### **Medicare Regulations**

On January 30, 2015, the Center for Clinical Standards and Quality/Survey and Certification Group released guidance announcing an update to 42 CFR Part 482 §482.28(b)(1) and (2), relating to food and dietetic services. The technical corrections and clarifications permit a

<sup>9</sup> Commission on Dietetic Registration, *Who is a Registered Dietitian (RD) or Registered Dietitian Nutritionist (RDN)?*, <http://www.cdrnet.org/about/who-is-a-registered-dietitian-rd> (last visited Mar. 12, 2015).

<sup>10</sup> Board for Certification of Nutrition Specialists, *Setting the Standard for Advanced Nutrition Professionals*, <http://cbns.org/> (last visited Mar. 12, 2015).

<sup>11</sup> Id.

<sup>12</sup> Board for Certification of Nutrition Specialists, *Now is the Time to Transform*, [http://cbns.org/wp-content/uploads/2010/08/CNSBrochure\\_web.pdf](http://cbns.org/wp-content/uploads/2010/08/CNSBrochure_web.pdf) (last visited Mar. 12, 2015).

<sup>13</sup> Chiropractic Board of Clinical Nutrition, *Eligibility Requirements for Diplomate Status*, <http://www.cbnc.us/eligibility> (last visited Mar. 12, 2015).

qualified dietitian or qualified nutrition professional to order diets, if authorized by the medical staff and in accordance with state law governing dietitians and nutrition professionals. Previously, Medicare regulations restricted the ordering of diets to physicians and non-physician practitioners such as nurse practitioners and physician assistants.<sup>14</sup>

### **Dietetics and Nutrition Practice Act**

The 1988 Legislature enacted part X, ch. 468, F.S., the “Dietetics and Nutrition Practice Act” (Act) to ensure that every person who practices dietetics and nutrition or nutrition counseling meets the minimum requirements for safe practice.<sup>15</sup> The Act prohibits any person from engaging in dietetics and nutrition practice<sup>16</sup> or nutrition counseling<sup>17</sup> for remuneration or holding him or herself out as a practitioner of dietetics and nutrition or a nutrition counselor unless the person is licensed or exempt.<sup>18</sup>

The Florida Department of Health (department) has responsibility for licensing and regulating health care practitioners to preserve the health, safety, and welfare of the public.<sup>19</sup> General licensing provisions applicable to health care practitioners are contained in ch. 456, F.S., which also sets out in more detail the framework for regulation. Specifically, regulation is to occur when:<sup>20</sup>

- Unregulated practice can harm or endanger the health, safety, and welfare of the public, and the potential for harm outweighs the potentially anticompetitive effect of regulation;
- The public is not adequately protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation; and
- Less restrictive means of regulation are not available.

The Act provides for the regulation of dietetics and nutrition by the four-member Dietetics and Nutrition Council (council) under the Board of Medicine (BOM) within the department. As a council under the BOM, the BOM has the powers and duties of the statute, including rule-making authority. The council has only those duties and responsibilities conferred upon it specifically by the Act and those delegated by the BOM.

The Act and the rules adopted by the BOM thereunder provide prohibitions and penalties relating to the practice of dietetics and nutrition and nutrition counseling. Licensed practitioners may be

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<sup>14</sup> U.S. Department of Health and Human Services, Center for Clinical Standards and Quality/Survey & Certification Group, p. 2, *Letter to State Survey Agency Directors* (January 30, 2015), <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-15-22.pdf> (last visited Mar. 12, 2015).

<sup>15</sup> Section 468.502, F.S.

<sup>16</sup> “Dietetics and nutrition practice” means the assessment of nutritional needs and status using appropriate data; the recommendation of appropriate dietary regimens, nutrition support, and nutrition intake; the improvement of health status through nutrition research, counseling, and education; and implementation and management of nutritional care systems. *See* s. 468.503(4), F.S.

<sup>17</sup> “Nutrition counseling” means advising and assisting individuals or groups on appropriate intake by integrating information from the nutrition assessment. “Nutrition assessment” means the evaluation of the nutrition needs of individuals or groups, using appropriate data to determine nutrient needs or status and make appropriate nutrition recommendations. *See* s. 468.503(4), F.S.

<sup>18</sup> *See* s. 468.504, F.S.

<sup>19</sup> Section 20.43(1)(g), F.S.

<sup>20</sup> Section 456.003(2), F.S.

disciplined for violations of the Act, as well as provisions in ch. 456, F.S., that are applicable to all health care practitioners. Some of the grounds for disciplinary action include failing to comply with a department subpoena; being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol or drugs, narcotics, chemicals or any other type of materials or as a result of any mental or physical condition; filing false reports; attempting to procure or procuring a license to practice dietetics and nutrition by fraud or material misrepresentation; or advertising good and services in a fraudulent, false or misleading manner.<sup>21</sup>

Individuals providing regulated services who are neither licensed under, not exempt from, the Act may be prosecuted by the department for unlicensed activity. For the 2013-14 fiscal year, there were no emergency orders affecting these licensed practitioners, one voluntary license surrender, and two legally sufficient complaints with one completed investigation.<sup>22</sup>

Any individual who engages in either the practice of dietetics and nutrition or nutrition counseling must be licensed, unless the individual qualifies for one of the statutory exemptions. Exemptions to licensure are those individuals who meet one of these qualifications:

- Licensed in this state under chs. 457, 458, 459, 460, 461, 462, 462, part I of ch. 464, 465, 466, 480, 490, or 491<sup>23</sup>, when engaging in the profession for which the individual was licensed, or of any person employed by and under the supervision of the licensee when services are rendered;
- Employed as a dietitian in this state by the United States government, if the person is solely under direction or control of the organization by which the person is employed;
- Employed as a cooperative extension home economist;
- Enrolled in an accredited school leading to a degree in dietetics and nutrition and the activities and services are a part of a supervised course of study;
- Enrolled in activities or services that fulfill the supervised experience component of s. 468.509, F.S., and constitute a part of the experience necessary to meet that requirement;
- Participated in or conducted a post-graduate course or other course of study as a dietitian or nutritionist from another state, provided that the individual holds an appointment on the faculty of a school accredited, pursuant to s. 468.509(2), F.S.;
- Marketed or distributed food, food materials, or dietary supplements, or any person who engaged in the explanation of the use and benefits of these products, if the person did not do so for a fee;
- Marketed or distributed food, food materials, or dietary supplements, or explained the use of those products in the preparation of those foods as an employee of a food establishment;
- Employed as an educator of a non-profit organization approved by the council; a federal, state, county, or municipal agency, or other political subdivision; an elementary or secondary school; or an accredited institution of higher education;

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<sup>21</sup> Section 456.518, F.S. and Rule 64B8-44.002, F.A.C.

<sup>22</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2013-2014*, pgs. 22, 25, 28, 31, <http://mqawebteam.com/annualreports/1314/#40>, (last visited Mar. 12, 2015).

<sup>23</sup> Chapter 457 regulates acupuncture; chapter 458 regulates the medical practice; chapter 459 regulates the practice of osteopathic medicine; chapter 460 regulates the practice of chiropractic medicine; chapter 461 regulates the practice of podiatric medicine; chapter 462 regulates the practice of naturopathy; part I of chapter 464 regulates nursing; chapter 465 regulates pharmacy; chapter 466 regulates the practice of dentistry, dental hygiene and dental laboratories; chapter 480 regulates the practice of massage; chapter 490 regulates psychological services; and chapter 491 regulates clinical, counseling and psychotherapy services.

- Provided weight control services or related weight control products, provided the program has been reviewed by, consultation is available from, and no program change can be initiated without prior approval by a licensed dietitian/nutritionist, a dietitian or nutritionist licensed in another state that has licensure requirements considered by the council at least as stringent as the requirements for licensure under this part, or a registered dietitian;
- Employed by a hospital licensed under chapter 395, by a nursing home licensed under part II of chapter 400, by an assisted living facility licensed under chapter 429, or by a continuing care facility certified under chapter 651, if the person is employed in compliance with the laws and rules adopted regarding the operation of its dietetic department;
- A person employed by a nursing facility exempt from licensing under s. 395.002(12), F.S., or a person exempt from licensing under s. 464.022, F.S.; and
- A person employed as a dietetic technician.<sup>24</sup>

According to the department’s 2013-14 Medical Quality Assurance Annual Report, there were 4,072 active licensees in Florida.<sup>25</sup>

Type	In-State Active	Out of State Active	Military Active	Total Actives
Dietitian/Nutritionist	3,628	316	12	3,956
Nutrition Counselors	98	18	0	116
	3,726	334	12	4,072

For the same time period, an additional 382 applications for licensure had been received and 362 initial licenses were issued.<sup>26</sup>

Individuals are eligible for licensure in Florida as dietitian/nutritionist either by examination or endorsement. The fees are set by the council for application, examination, and licensure:<sup>27</sup>

<b>Application by Examination Fees</b>	
Application Fee (non-refundable)	\$80.00
Initial License Fee	\$80.00
Unlicensed Activity Fee	\$5.00
<b>Total Fee (without temporary permit)</b>	<b>\$165.00</b>
Temporary Permit Fee	\$50.00
<b>Total Fee (with temporary permit)</b>	<b>\$215.00</b>

Temporary permits allow an applicant to work under the supervision of licensed dietitian/nutritionist while the council reviews an application for up to one year. The Executive Director of the council makes a preliminary determination based on the application that the applicant appears to be eligible for licensure based on the documentation and is authorized to

<sup>24</sup> Section 468.505, F.S.

<sup>25</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2013-2014*, p.13, <http://mqawebteam.com/annualreports/1314/> (last visited Mar. 11, 2015).

<sup>26</sup> Id. at p. 18.

<sup>27</sup> Florida Department of Health, *Licensing - Application and Licensing Requirements*, <http://www.floridahealth.gov/licensing-and-regulation/dietetic-nutrition/licensing/index.html> (last visited Mar. 12, 2015).

issue a temporary permit.<sup>28</sup> The permit expires one year from the date of issuance, but may be extended under certain circumstances such as illness, death in the family, military duty, or jury duty.<sup>29</sup>

The minimum requirements for initial licensure are:

- An application and required fees;
- 900 hours of approved and pre-professional experience,<sup>30</sup> or equivalent experience or education;
- A passing score on the Commission’s licensure examination;
- A bachelor’s degree with a major in human nutrition, food and nutrition, dietetics, or food management, or equivalent from an accredited program or school; or
- A degree from a foreign country that has been validated by the United States Department of Education as equivalent to the degree conferred in the United States; and
- Completion of a 2-hour course relating to the prevention of medical errors which is required of all licensed health care professionals.<sup>31</sup>

The examination for licensure is the Registration Examination for Dietitians administered by the Commission. The examination fee is \$200.00.<sup>32</sup> The department indicates that scores from the exam are usually received within three weeks and license numbers are issued within 2 weeks.<sup>33</sup>

An individual may also be licensed by endorsement if he or she meets these minimum requirements:

- Holds registered dietitian credentials issued by the Commission; or,
- Holds certification or licensure to deliver dietetic and nutritional practice in another state, district, or territory of the United States; such certification must have been granted to requirements determined to be equivalent to or more stringent than the requirements of Florida; and
- Remains free from investigation, involvement in disciplinary proceedings in any jurisdiction, or otherwise disqualified by reason of violation for any act which is a violation of ch. 456, part II, ch., 468, part X, or the rules promulgated thereunder.<sup>34</sup>

To receive licensure by endorsement the following fee schedule applies:<sup>35</sup>

<b>Application by Endorsement Fees</b>	
Endorsement Fee	\$75.00
Application Fee	\$80.00

<sup>28</sup> See s. 468.511, F.S., and Rule 648B-42-003, F.A.C., for authorization of the Executive Director of the council to issue temporary permits.

<sup>29</sup> Id.

<sup>30</sup> Rule 64B8-42.002(3), F.A.C., requires a minimum of 200 hours each in the areas of clinical nutrition, community nutrition, and food service systems management.

<sup>31</sup> Section 456.013(7), F.S., and Rule 64B8-42.005, F.A.C.

<sup>32</sup> Florida Department of Health, *Licensing - Application and Licensing Requirements*, <http://www.floridahealth.gov/licensing-and-regulation/dietetic-nutrition/licensing/index.html> (last visited Mar. 12, 2015).

<sup>33</sup> Id.

<sup>34</sup> Rule 64B8-41.001, F.A.C.

<sup>35</sup> Rule 64B8-41.001, F.A.C.

Initial License Fee	\$80.00
Unlicensed Activity Fee	\$5.00
<b>Total Fee (without temporary permit)</b>	<b>\$240.00</b>
Temporary Permit Fee	\$50.00
<b>Total Fee (with temporary permit)</b>	<b>\$290.00</b>

Application fees for licensure by endorsement are also non-refundable should the applicant decide to no longer pursue licensure.

Licenses are no longer being issued for Nutrition Counselors in Florida. Any individual who was previously certified as a Nutrition Counselor from July 1, 1988 through March 30, 1997; however, may continue to renew their license under s. 468.514, F.S., the renewal provisions.

The renewal fee for an active license under any of these categories is \$95 plus \$5 to combat fraud, and the fee is due biennially by May 31.<sup>36</sup>

Under the Act's practice requirements, a licensee is not authorized to implement a dietary plan for any condition which the patient is under a physician's active care without the physician's written or oral dietary order.<sup>37</sup> If, after a good faith effort, the licensee is unable to receive authorization from the physician, the licensee is permitted to use his or her professional discretion in providing nutrition services until authorization can be received.<sup>38</sup>

If the licensee identifies a condition that is within the scope of practice of a health care practitioner licensed under ch. 458, ch. 459, or ch. 460, the licensee is required to refer that patient to a physician licensed under those same chapters, unless that patient is already being treated by a physician.<sup>39</sup>

A person may not knowingly engage in the practice of dietetics and nutrition for money unless the individual is licensed. The Act protects the use of certain titles, abbreviations, and insignia that indicate that an individual is a dietitian, nutritionist or nutrition counselor. Persons that hold themselves out to be licensed as someone else, give false or forged evidence, use a license that has been revoked or suspended, employ unlicensed individuals, or conceal information commit a misdemeanor of the first degree, which is punishable in s. 775.082, F.S. or s. 775.083, F.S.<sup>40</sup>

<sup>36</sup> Rule 64B8-41.001, F.A.C.; The Florida Department of Health website shows online renewal fees for an active license to an active license is \$105.00. <http://www.floridahealth.gov/licensing-and-regulation/dietetic-nutrition/renewal/fees.html> (last visited Mar. 13, 2015).

<sup>37</sup> Section 468.516(1)(a), and (2)(a), F.S.

<sup>38</sup> Id.

<sup>39</sup> Section 458.516(1)(b), F.S.

<sup>40</sup> Section 468.517, F.S. A first degree misdemeanor conviction under s. 775.082(4), F.S., is punishable by a definite term of imprisonment not to exceed 1 year. Under s. 775.083, F.S., a first degree misdemeanor conviction is punishable by a fine not to exceed \$1,000, in addition to any punishment under s. 775.082, F.S.



The department shall reissue the license of a disciplined dietitian/nutritionist or nutrition counselor upon certification by the board that the disciplined licensee has complied with all of the terms and conditions in the final order.<sup>41</sup>

### III. Effect of Proposed Changes:

SB 1208 revises the legislative intent to recognize the important role that dietetics and nutrition and nutrition counseling plays in promoting the maintenance and improvement of health.

#### Updated Terminology

The definitions for the Act are modified and updated to recognize changes in the occupation since the Act was established in 1988 and to update professional guidance under s. 468.502, F.S., which in many cases has not been updated since 1988.

The definition for the *Agency for Health Care Administration* (agency) has been deleted as the agency does not have a role in the licensing of health care professions. The use of the term, agency, has also been updated throughout SB 1208 to refer to the Department of Health (department).

The term *Board* (board) is changed to mean the Dietetics and Nutrition Practice Board, instead of the Board of Medicine (BOM).

A definition for the *Commission on Dietetic Registration* (*Commission*), means the Commission which is the accrediting entity of the Academy of Nutrition and Dietetics (Academy). The Academy actually has two entities, the Registration Commission, which credentials individuals through its licensing exams, and another entity called the Accreditation Council for Education in Nutrition and Dietetics (ACEND) which credentials educational programs.

The current definition for *dietetics and nutrition practice* is modified to include the use of the nutrition care process and recommendations for medical nutrition therapy, food and prescription drug interactions, and ordering therapeutic diets. This terminology is not found elsewhere in the bill.

The definition for dietitian/nutritionist is revised to *licensed dietitian or nutritionist* which means a person licensed pursuant to s. 468.509, F.S. The definition may create a new licensure category with the use of “or.” The recognized occupational term with similar educational and training requirements by the Commission is registered dietitian nutritionist and is used as a singular phrase.<sup>42</sup>

A *registered dietitian or nutritionist* is revised from its current definition of *registered dietitian* and means an individual registered with the commission. These two terms are not the same and have different education, training and examination requirements.

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<sup>41</sup> Section 468.518(3), F.S.

<sup>42</sup> *Supra* note 8.

A registered dietitian is an individual who has a bachelor's degree with a required internship and specific coursework and then an examination. A registered dietitian must also maintain continuing education credits and renew his or her credentials on a 5-year cycle.<sup>43</sup>

A nutritionist is not separately licensed in Florida. The definition may create a new licensure category with the use "or." The recognized occupational term by the Commission is registered dietitian nutritionist.<sup>44</sup>

The *Nutrition and dietetic technician, registered* definition is a revision from the original, dietetic technician, to match the current certification credential, Dietetic Technician, Registered, (DTR). The revised definition includes all of the eligibility requirements for certification within the definition, including education level, major course of study, and a requirement to be registered with the commission. The dietetic technician, registered, does not have its own subsection of statute within the Act, similar to the dietitian/nutritionists or the nutrition counselors. The term used by the Commission; however, is Registered Dietitian Nutritionist (RDN).

A definition for *medical nutrition therapy* is added and means the use of specific nutrition services for the purpose of disease management or to treat or rehabilitate an illness, injury, or condition. The term is used to describe two other definitions, nutrition care process and dietetics nutrition practice, and is added to scope of practice for dietetics and nutrition under s. 468.504, F.S.

The definition for *nutrition assessment* is modified to mean the systematic process of obtaining, verifying, and interpreting biochemical, anthropometric,<sup>45</sup> physical, and dietary data to make decisions about the nature and cause of nutrition related problems. Nutrition assessment involves initial data collection, reassessment, and analysis of client and community needs and provides the foundation for nutrition diagnosis and nutritional recommendations, including enteral and parenteral nutrition. The term is used in two other definitions, medical nutrition therapy and nutrition care process, and is not used elsewhere under the Act.

*Nutrition care process* is added as a definition to mean the systematic problem-solving method that dietitians and nutritionists use when providing medical nutrition therapy, addressing nutrition-related problems, and providing safe, effective, and high-quality care. The nutrition care process includes four distinct, but interrelated steps, including nutrition assessment, nutrition diagnosis, nutrition intervention, and nutrition monitoring and evaluation. *Nutrition monitoring and evaluation* within this subsection means identifying patient outcomes relevant to the nutrition diagnosis and nutrition intervention plans and goals, comparing such outcomes with the patient's status or intervention goals before treatment or with a reference standard to determine the progress made in achieving the desired outcome of nutrition care, and whether planned nutrition intervention should be continued or revised.

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<sup>43</sup> NutritionEd.org, *Registered Dietitian Career Overview*, <http://www.nutritioned.org/registered-dietitian.html> (last visited Mar. 13, 2015).

<sup>44</sup> *Supra* note 8.

<sup>45</sup> According to the Merriam-Webster Dictionary, "anthropometry" as a noun means the study of human body measurements, especially on a comparative basis.

The phrase, *nutrition care process*, is used within the definitions section of SB 1208 to define other terms and not found elsewhere in the bill. The secondary term that is defined, nutrition monitoring and evaluation, is only used to define another phrase, the nutrition care process.

*Nutrition counseling* is revised to include the integration of information about food, other sources of nutrients, and meal preparation while considering cultural background and socio-economic status with the nutrition assessment of a group or individuals.

A definition for *nutrition diagnosis* is added to mean the identification of nutritional problems that a licensed or registered dietitian or nutritionist is responsible for treating independently. The definition refers to occupations that do not specifically match the terms defined within this same section, so it may be unclear which specific professions are responsible or are authorized to treat nutritional problems independently.

In sections 3 through 12 of SB 1208, revisions recognize the updated definitions and the transformation of the council from under the BOM.

Section 468.504, F.S., is revised to include medical nutrition therapy as an area of practice that no person may engage in for money without a license in dietetics or nutrition.

Under s. 468.505, F.S., the bill modifies the list of those individuals who are exempted from licensure to reflect the current title for extension agents that specialize in family and consumer services. Interns are also added to the list of approved titles for exempted individuals, if they are pursuing a course of study that leads to a degree in dietetics or nutrition and their activities are part of a supervised course of study.

This section also addresses the titles individuals may use who are registered with the commission. The bill adds specific titles and designations to the one designation currently in statute.

Titles\Designations - SB 1208		Certification\Credentials	Current Florida Law
Title	Designation	Examining Agency	Licensure Required
Registered Dietitian	RDN	Commission (RD)	Yes - Dietitian\Nutritionist
Registered Nutritionist	RDN	Commission (RDN)	Yes - Dietitian\Nutritionist
Nutrition and Dietetics Technician, Registered	NDTR	Commission (NDTR)	Not available
Certified Nutrition Specialist	CNS	Certification Board for Nutrition Specialists	Not available

**Section 5** transforms the Dietetics and Nutrition Practice Council from a council under the Board of Medicine (BOM) into a free-standing board under the department as the Dietetics and Nutrition Practice Board (board). The board structure changes from four persons to six with at least one consumer and a requirement that at least one member of the board be 60 years of age or older. Board members are appointed by the Governor based on the proportion of licensees within each of the respective disciplines. Members serve 4-year terms. To be eligible for an appointment, a member must have been a licensee for at least 3 years before his or her appointment. If there is a vacancy on the board, any professional association with licensees under

this Act may recommend to the Governor at least twice the number of individuals needed to fill a vacancy for his or her consideration. Board members may not serve more than two successive terms. The board members are authorized to set their own compensation for serving as a board member.

For any newly added discipline under this bill, an initial board member is eligible to be licensed within one year and shall apply for licensure within 1 year after October 1, 2015.

**Section 6** amends s. 468.509, F.S., relating to requirements for licensure for dietitians and nutritionists. The bill removes the slash between the two words and adds an “or” to create two health care professional statuses.

The official terminology from the accrediting and credentialing bodies is to recognize the status as Registered Dietitian Certification (RD) or a Registered Dietitian Nutritionist.<sup>46</sup> There is also a separate status for Nutrition Dietetics Technician, Registered (NDTR). The qualifications for licensure listed in this statute, which remain unchanged, match those of the credentialing agency’s Registered Dietitian Nutritionist.

New exemptions from the examination requirement for licensure are added for a registered nutritionist who is registered with the commission and who is in compliance with the all of the requirements in ch. 468, F.S., or ch. 509, F.S.,<sup>47</sup> or for a certified nutrition specialist who is certified by the Certification Board for Nutrition Specialists or who is a Diplomate of the American Clinical Board of Nutrition and is in compliance with the qualifications of this section.

**Section 7** conforms provisions to definition changes and makes grammatical modifications to subsection (6) of 468.511, F.S.

**Section 8** revises s. 468.513, F.S., to clarify the licensure by endorsement component requiring the board to certify as qualified for licensure any applicant who complies with the licensure requirements of s. 468.509, F.S. The bill deletes the requirement that an applicant show evidence that he or she is a registered dietitian as part of the endorsement process.

**Sections 9 and 10** revise ss. 468.514-468.515, F.S. to replace “agency” references to the “department.”

**Section 11** revises s. 468.516, F.S., relating to the practice requirements. The new subsection (3) clarifies that the other provisions of this section would not preclude a licensed dietitian or nutritionist from independently ordering a therapeutic diet, if otherwise authorized to order such a diet in this state.

**Section 12** revises s. 468.518, F.S., to changes references to conform to the revised definitions.

**Section 13** provides an effective date of July 1, 2015.

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<sup>46</sup> *Supra* note 8.

<sup>47</sup> Chapter 509 covers lodging and food service establishments and membership campgrounds.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The re-write of this Act may bring clarity to those in the private sector that practice in dietetics and nutrition in some areas and confusion in others, as many of the definitions do not currently align with the certifications and designations of the Commission.

The bill provides another pathway for licensure for dietitian or nutritionist as a certified nutritional specialist by exempting them from an examination.

## C. Government Sector Impact:

The rules governing dietetics and nutrition must also be re-written to conform to the changes in SB 1208, including the professional name changes, inclusion of additional professions, and recognition of the new board, not a council. The department and the new board may incur one-time workload costs related to the re-write of these provisions.

According to the department's 2013-2014 Annual Report and Long Range Plan which looked at whether or not renewal fees were adequate to cover each board's or council's actual costs, the cost to regulate per applicant is \$117.<sup>48</sup>

**VI. Technical Deficiencies:**

In current law, the standard reference to what is currently known today as "registered dietitians nutritionists" by its accrediting and credentialing bodies is referenced as "dietitians/nutritionists" under ch. 468, part X, F.S. Under SB 1208, the name is split into an "or" making it appear as if

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<sup>48</sup> Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2013-2014*, pg. 42, <http://mqawebteam.com/annualreports/1314/> (last visited Mar. 13, 2015).

there are now two distinct professional groups, registered dietitians and registered nutritionists. The correct reference should be the “registered dietitians nutritionists” as a singular phrase.

One definition, the *Commission on Dietetic Registration (Commission)*, is defined to mean the Commission as the accrediting entity of the Academy of Nutrition and Dietetics (Academy). The Academy actually has two entities, the Registration Commission, which credentials individuals through its licensing exams, and another entity called the Accreditation Council for Education in Nutrition and Dietetics (ACEND) which credentials educational programs. The definition should refer to the Commission in this instance as the Commission as the credentialing entity.

The composition of the new board may not comport with s. 20.43, F.S., which requires at least two consumer members based on the board’s membership size.

## VII. Related Issues:

Under s. 464.015(5), F.S., clinical nurse specialists have the right to use the abbreviation “C.N.S.” Under SB 1208, certified nutrition specialists have the right to use the abbreviation “CNS”; the same initials, but without the periods between each letter. A person who uses either abbreviation and does not have the appropriate license for that designation would be guilty of a misdemeanor of the first degree, as provided under ss. 775.082 or 775.083, F.S.<sup>49</sup>

Board members set their own compensation in the bill creating a possible conflict of interest.<sup>50</sup>

The bill does not address confirmation of board members by the Senate which is required under s. 20.052(5)(b).

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 468.502, 468.503, 468.504, 468.505, 468.506, 468.509, 468.511, 468.513, 468.514, 468.515, 468.516, 468.518

## IX. Additional Information:

### A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

### B. Amendments:

None.

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<sup>49</sup> *Supra* note 40.

<sup>50</sup> Section 20.052(4)(d), F.S., prohibits an advisory body, commission, board of trustees, and other collegial bodies from being created or re-established unless certain criteria are met, including agreement that its members serve without additional compensation, honorarium, and are authorized only to receive per diem and reimbursement for travel expenses as provided under s. 112.061, F.S.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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