

By Senator Gibson

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1 A bill to be entitled
2 An act relating to diabetes educator practice;
3 creating part XVII of ch. 468, F.S., entitled
4 "Diabetes Educators Practice"; creating s. 468.931,
5 F.S.; providing legislative findings and intent;
6 creating s. 468.932, F.S.; defining terms; creating s.
7 468.933, F.S.; prohibiting a person from engaging in
8 diabetes education or diabetes self-management
9 education or training unless he or she holds a certain
10 license; creating s. 468.934, F.S.; providing
11 applicability; creating s. 468.935, F.S.; specifying
12 that the Dietetics and Nutrition Practice Council,
13 under the supervision of the Board of Medicine, is
14 responsible for licensing, monitoring, and
15 disciplining diabetes educators; creating s. 468.936,
16 F.S.; authorizing the board to adopt rules, subject to
17 certain requirements; creating s. 468.937, F.S.;
18 requiring the board to establish licensure and other
19 fees and capping certain fees; creating s. 468.938,
20 F.S.; providing requirements for licensure as a
21 diabetes educator; creating s. 468.939, F.S.;
22 providing for the use of certain titles by a licensed
23 diabetes educator; requiring a person licensed under
24 this part to display and exhibit the license pursuant
25 to board rule; creating s. 468.940, F.S.; providing
26 for licensure by endorsement; providing an exception;
27 creating s. 468.941, F.S.; requiring the council to
28 issue license renewals in certain circumstances;
29 requiring the board to adopt rules that establish a
30 procedure for the biennial renewal of diabetes
31 educator licenses; creating s. 468.942, F.S.;
32 authorizing the reactivation of inactive licenses

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33 under certain circumstances; requiring the board to
34 adopt rules for inactive licenses and continuing
35 education requirements for the reactivation of
36 licenses; creating s. 468.943, F.S.; providing
37 prohibitions and penalties; creating s. 468.944, F.S.;
38 specifying grounds for denial of licensure or
39 disciplinary action; amending s. 468.506, F.S.;
40 revising the membership and responsibilities of the
41 Dietetics and Nutrition Practice Council; requiring
42 the council to ensure that diabetes educators meet
43 certain requirements; providing an effective date.
44

45 Be It Enacted by the Legislature of the State of Florida:
46

47 Section 1. Part XVII of chapter 468, Florida Statutes,
48 consisting of ss. 468.931-468.944, Florida Statutes, is created
49 and entitled "Diabetes Educators Practice."

50 Section 2. Section 468.931, Florida Statutes, is created to
51 read:

52 468.931 Legislative findings and intent.—The Legislature
53 finds that the practice of diabetes education or diabetes self-
54 management education and training (DSME/T) requires highly
55 skilled and educated professionals to protect the public health
56 and safety. The Legislature further finds that it is difficult
57 for the public to make informed choices about diabetes education
58 and that the consequences of wrong choices could seriously
59 endanger the public health and safety. The sole legislative
60 purpose in enacting this part is to ensure that every person who
61 practices diabetes education or DSME/T in this state meets

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62 minimum requirements for safe practice. It is the intent of the
63 Legislature that any person practicing diabetes education or
64 DSME/T who falls below minimum competency or who otherwise
65 presents a danger to the public be prohibited from practicing in
66 this state. It is also the intent of the Legislature that the
67 practice of diabetes education or DSME/T be authorized and
68 regulated solely within the limits expressly provided by this
69 part and rules adopted thereunder.

70 Section 3. Section 468.932, Florida Statutes, is created to
71 read:

72 468.932 Definitions.—As used in this part, the term:

73 (1) "Board" means the Board of Medicine.

74 (2) "Board Certified-Advanced Diabetes Management
75 Professional" means a health care professional who has passed
76 the Board Certified-Advanced Diabetes Management (BC-ADM)
77 examination administered by the American Association of Diabetes
78 Educators.

79 (3) "Certified diabetes educator" or "CDE" means a health
80 care professional who possesses comprehensive knowledge of and
81 experience in prediabetes, diabetes prevention, and DSME/T, and
82 who has passed the National Certification Board for Diabetes
83 Educators (NCBDE) certification examination for diabetes
84 educators.

85 (4) "Council" means the Dietetics and Nutrition Practice
86 Council created by s. 468.506 which regulates the licensure of
87 diabetes educators under the direct supervision of the board.

88 (5) "Department" means the Department of Health.

89 (6) "Diabetes self-management education and training" or
90 "DSME/T" means educational services provided for diabetes self-

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91 management included in the national standards published by the
92 American Association of Diabetes Educators and the American
93 Diabetes Association.

94 (7) "Licensed diabetes educator" or "LDE" means a person
95 who has met all of the requirements of this part to receive a
96 license pursuant to s. 468.938.

97 (8) "National Certification Board for Diabetes Educators"
98 or "NCBDE" means the board that conducts the national
99 certification program and administers certification in a manner
100 that upholds standards for competent practice in diabetes
101 education and DSME/T.

102 (9) "Person" means a natural person.

103 (10) "Practice of diabetes education or DSME/T" means the
104 assessment of a person with or at risk for diabetes, the
105 development of a plan of care for that person, the evaluation of
106 the person's response to the implementation of the plan of care,
107 and the recording and evaluation of the person's experience.

108 Section 4. Section 468.933, Florida Statutes, is created to
109 read:

110 468.933 License required.—A person may not engage for
111 remuneration in diabetes education or DSME/T or hold himself or
112 herself out as a practitioner of diabetes education or DSME/T
113 unless he or she is licensed in accordance with this part.

114 Section 5. Section 468.934, Florida Statutes, is created to
115 read:

116 468.934 Applicability.—This part does not prohibit:

117 (1) A person licensed in this state under chapter 458,
118 chapter 459, chapter 461, chapter 463, part I of chapter 464,
119 chapter 465, or chapter 466, when engaging in the profession or

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120 occupation for which he or she is licensed, or any person
121 employed by and performing tasks or activities under the
122 supervision of the licensee, from rendering services within the
123 scope of the profession or occupation of the licensee.

124 (2) A person who is employed by the Federal Government or
125 any bureau, division, or agency of the Federal Government from
126 discharging his or her official duties.

127 (3) A person who is a diabetes educator licensed under the
128 laws of another state or territory of the United States or
129 another country whose licensure requirements are equal to or
130 exceed those defined in this part from engaging in diabetes
131 education or DSME/T.

132 Section 6. Section 468.935, Florida Statutes, is created to
133 read:

134 468.935 Dietetics and Nutrition Practice Council.—In
135 addition to the powers and duties delegated to the Dietetics and
136 Nutrition Practice Council under s. 468.506, the council is
137 responsible, under the supervision of the board, for licensing,
138 monitoring, and disciplining diabetes educators to ensure that
139 minimum requirements for competency and safe practice are met.

140 Section 7. Section 468.936, Florida Statutes, is created to
141 read:

142 468.936 Rulemaking Authority.—The board may adopt rules
143 pursuant to ss. 120.536(1) and 120.54 to implement this part and
144 chapter 456. The powers and duties of the board as set forth in
145 this part are supplemental and additional to those conferred
146 upon the board by chapter 458 and do not limit or supersede the
147 powers and duties of the board under that chapter.

148 Section 8. Section 468.937, Florida Statutes, is created to

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149 read:

150 468.937 Fees.—The board shall establish by rule the
 151 following fees, which must be adequate to administer and
 152 implement this part:

153 (1) A nonrefundable application fee, which may not exceed
 154 \$100.

155 (2) An initial licensure fee, which may not exceed \$100.

156 (3) A biennial renewal fee, which may not exceed \$50.

157 (4) A fee for licensure by endorsement, which may not
 158 exceed \$350.

159 (5) A fee for a temporary permit, which may not exceed
 160 \$100.

161 (6) A fee for reactivation of an inactive license, which
 162 may not exceed \$50.

163 (7) Fees for application and certification verification,
 164 recordmaking, and recordkeeping, respectively.

165 Section 9. Section 468.938, Florida Statutes, is created to
 166 read:

167 468.938 Licensure requirements.—To qualify for a license to
 168 practice as a diabetes educator, a person must submit a written
 169 application on forms provided by the board evidencing and
 170 ensuring to the satisfaction of the board that the applicant has
 171 met one or more of the following requirements:

172 (1) Passed the National Certification Board of Diabetes
 173 Educator’s (NCBDE) examination for and received certification as
 174 a certified diabetes educator (CDE).

175 (2) Passed the Board Certified-Advanced Diabetes Management
 176 (BC-ADM) examination and received the American Association of
 177 Diabetes Educators’ BC-ADM designation.

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178 (3) Completed a minimum of 250 hours of experience under
 179 the supervision of an CDE, with at least 40 percent of those
 180 hours earned in the 12 months immediately before submitting an
 181 application, and passed a certification examination administered
 182 by the NCBDE.

183 Section 10. Section 468.939, Florida Statutes, is created
 184 to read:

185 468.939 License to be displayed.-

186 (1) A licensed diabetes educator may use the term "licensed
 187 diabetes educator" or "LDE" in connection with his or her name
 188 or place of business to denote licensure under this part.

189 (2) Each person who is issued a license under this part
 190 shall conspicuously display the license in his or her office,
 191 place of business, or place of employment and shall exhibit such
 192 license to any member or authorized representative of the board
 193 as required by board rule.

194 Section 11. Section 468.940, Florida Statutes, is created
 195 to read:

196 468.940 Licensure by endorsement.-

197 (1) The council shall issue a license by endorsement to an
 198 applicant whom the board certifies as qualified, upon receipt of
 199 a completed application and the fee specified in s. 468.937.

200 (2) The board shall certify as qualified for licensure by
 201 endorsement under this section an applicant who:

202 (a) Presents evidence satisfactory to the board that he or
 203 she is a CDE or has received a BC-ADM designation; or

204 (b) Holds a valid license to practice diabetes education or
 205 DSME/T issued by another state, district, or territory of the
 206 United States, if the board determines that the criteria for the

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207 issuance of such a license are substantially equivalent to or
208 more stringent than those of this state.

209 (3) The council may not issue a license by endorsement
210 under this section to an applicant who is under investigation in
211 any jurisdiction for any act that would constitute a violation
212 of this part or chapter 456 until the investigation is complete
213 and disciplinary proceedings have been terminated.

214 Section 12. Section 468.941, Florida Statutes, is created
215 to read:

216 468.941 Renewal of license.-

217 (1) The council shall renew a license under this part upon
218 receipt of the renewal application and the fee specified in s.
219 468.937 and the successful completion of 75 hours of continuing
220 education in the preceding 5 years or 15 hours of continuing
221 education in the preceding year. For a biennial renewal,
222 licensees must successfully complete 30 hours of continuing
223 education during the 2-year license period.

224 (2) The board shall adopt rules establishing a procedure
225 for the biennial renewal of licenses under this part.

226 Section 13. Section 468.942, Florida Statutes, is created
227 to read:

228 468.942 Reactivation of license.-

229 (1) The board shall adopt rules relating to inactive
230 licenses and for the reactivation of such licenses. The board
231 shall also prescribe by rule continuing education requirements
232 for reactivation of a license, which may not exceed 20 hours for
233 each year the license was inactive.

234 (2) A license issued under this part which has become
235 inactive may be reactivated upon receipt by the council of a

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236 reactivation application, the fee specified in s. 468.937, and
237 proof of the successful completion of continuing education
238 required by the NBCDE and board rule.

239 Section 14. Section 468.943, Florida Statutes, is created
240 to read:

241 468.943 Prohibitions; penalties.—

242 (1) A person may not knowingly do any of the following:

243 (a) Engage in diabetes education or the practice of DSME/T
244 for remuneration unless the person is licensed under this part.

245 (b) Use the name or title "LDE," "licensed diabetes
246 educator," "diabetes specialist," "diabetes educator," or any
247 other words, letters, abbreviations, or insignia indicating or
248 implying that he or she is a diabetes educator, or holds himself
249 or herself out as such, unless the person is licensed under this
250 part.

251 (c) Present as his or her own the license of another.

252 (d) Give false or forged evidence to the board or a member
253 of the board.

254 (e) Use or attempt to use a license that has been
255 suspended, revoked, or placed on inactive or delinquent status.

256 (f) Employ unlicensed persons to engage in diabetes
257 education or DSME/T.

258 (g) Conceal information relative to any violation of this
259 part.

260 (2) A person who violates this section commits a
261 misdemeanor of the first degree, punishable as provided in s.
262 775.082 or s. 775.083.

263 Section 15. Section 468.944, Florida Statutes, is created
264 to read:

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265 468.944 Grounds for disciplinary action.—

266 (1) The following acts constitute grounds for denial of a
267 license or disciplinary action, as specified in s. 456.072(2):

268 (a) Violating this part, a board rule adopted pursuant to
269 this part, or a lawful order of the board or council previously
270 entered in a disciplinary hearing held pursuant to this part, or
271 failing to comply with a lawfully issued subpoena of the
272 department, board, or council. This paragraph also applies to an
273 order or a subpoena previously issued by the department during
274 its period of regulatory control over this part.

275 (b) Being unable to engage in diabetes education or DSME/T
276 with reasonable skill and safety by reason of illness or use of
277 alcohol, drugs, narcotics, chemicals, or any other type of
278 material or as a result of any mental or physical condition.

279 1. A licensee whose license is suspended or revoked
280 pursuant to this paragraph, at reasonable intervals, shall be
281 given an opportunity to demonstrate that he or she can resume
282 the competent practice of diabetes education or DSME/T with
283 reasonable skill and safety to patients.

284 2. The record of the proceeding or the orders entered by
285 the board in a proceeding under this paragraph may not be used
286 against a licensee in any other proceeding.

287 (c) Attempting to procure or procuring a license to
288 practice diabetes education or DSME/T by fraud or
289 misrepresentation of material fact.

290 (d) Having a license to practice diabetes education or
291 DSME/T revoked, suspended, or otherwise acted against, including
292 the denial of licensure by the licensing authority of another
293 state, district, territory, or country.

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294 (e) Being convicted or found guilty of, or entering a plea
295 of nolo contendere to, regardless of adjudication, a crime in
296 any jurisdiction which directly relates to the practice of or
297 the ability to practice diabetes education or DSME/T.

298 (f) Making or filing a report or record, signed in the
299 licensee's capacity as a licensed diabetes educator, which he or
300 she knows to be false or willfully failing to file a signed
301 report or record required by state or federal law, willfully
302 impeding or obstructing such a filing, or inducing another
303 person to impede or obstruct such a filing.

304 (g) Advertising goods or services in a manner that is
305 fraudulent, false, deceptive, or misleading in form or content.

306 (h) Committing an act of fraud or deceit, or of negligence,
307 incompetency, or misconduct in the practice of diabetes
308 education or DSME/T.

309 (i) Practicing with a license that has been suspended,
310 revoked, or placed on inactive or delinquent status.

311 (j) Treating or attempting to treat human ailments by means
312 other than by diabetes education or DSME/T.

313 (k) Failing to maintain acceptable standards of practice as
314 set forth by the board and the council in rules adopted pursuant
315 to this part.

316 (l) Engaging directly or indirectly in the dividing,
317 transferring, assigning, rebating, or refunding of fees received
318 for professional services, or profiting by means of a credit or
319 other valuable consideration, such as an unearned commission, a
320 discount, or a gratuity, with a person referring a patient or
321 with a relative or business associate of the referring person.

322 This part does not prohibit the members of a regularly and

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323 properly organized business entity that is composed of licensees
324 under this part and recognized under the laws of this state from
325 making any division of their total fees among themselves as they
326 determine necessary.

327 (m) Advertising, by or on behalf of a licensee under this
328 part, a method of assessment or treatment that is experimental
329 or without generally accepted scientific validation.

330 (n) Violating this chapter or chapter 456, or any rules
331 adopted thereunder.

332 (2) The council must reissue the license of a disciplined
333 licensed diabetes educator upon certification by the board that
334 the disciplined diabetes educator has complied with the terms
335 and conditions set forth in the final order of the board
336 disciplining the diabetes educator.

337 Section 16. Section 468.506, Florida Statutes, is amended
338 to read:

339 468.506 Dietetics and Nutrition Practice Council.—There is
340 created the Dietetics and Nutrition Practice Council under the
341 supervision of the board. The council shall consist of three
342 ~~four~~ persons licensed under this part, one person licensed under
343 part XVII of this chapter, and one consumer who is 60 years of
344 age or older. Council members shall be appointed by the board.
345 Licensed members shall be appointed based on the proportion of
346 licensees within each of the respective disciplines. Members
347 shall be appointed for 4-year staggered terms. In order to be
348 eligible for appointment, each licensed member must have been a
349 licensee under this part for at least 3 years before ~~prior to~~
350 his or her appointment. A ~~No~~ council member may not ~~shall~~ serve
351 more than two successive terms. The board may delegate such

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352 powers and duties to the council as it may deem proper to carry
353 out the operations and procedures necessary to implement
354 ~~effectuate the provisions of~~ this part. However, the powers and
355 duties delegated to the council by the board must encompass both
356 dietetics and nutrition practice and nutrition counseling. The
357 council shall also operate under the supervision of the board to
358 ensure that diabetes educators in this state meet at least the
359 minimum requirements for the safe practice of diabetes education
360 or DSME/T. In addition to being responsible for licensing,
361 monitoring, disciplining, and educating dietitians,
362 nutritionists, and nutrition counselors, the council is
363 responsible for licensing, monitoring, and disciplining diabetes
364 educators to ensure patient safety and competency to practice in
365 this state. Any time there is a vacancy on the council, any
366 professional association composed of persons licensed under this
367 part may recommend licensees to fill the vacancy to the board in
368 a number at least twice the number of vacancies to be filled,
369 and the board may appoint from the submitted list, ~~in its~~
370 ~~discretion, any of those persons so recommended.~~ Any
371 professional association composed of persons licensed under this
372 part may file an appeal regarding a council appointment with the
373 State Surgeon General, whose decision shall be final. The board
374 shall fix council members' compensation and pay their expenses
375 in the same manner as provided in s. 456.011.

376 Section 17. This act shall take effect January 1, 2018.