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I N   S E N A T E

May 12, 2016

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Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to management of therapeutic diet orders in a facility

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The education law is amended by adding a new section 8007  
2     to read as follows:

3     S 8007. MANAGEMENT OF THERAPEUTIC DIET ORDERS IN A FACILITY. 1. AS  
4     USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEAN-  
5     INGS:

6     (A) "QUALIFIED DIETETIC OR NUTRITION PROFESSIONAL" IS A CERTIFIED  
7     DIETICIAN OR CERTIFIED NUTRITIONIST LICENSED AND REGISTERED IN ACCORD-  
8     ANCE WITH THIS ARTICLE, WHO HAS MET THE REQUIREMENTS OF PARAGRAPHS (A)  
9     AND (B) OF SUBDIVISION TWO AND SUBDIVISION THREE OF SECTION EIGHT THOU-  
10     SAND FOUR OF THIS ARTICLE AND WHO HAS MET NATIONAL REGISTRATION OR  
11     CERTIFICATION STANDARDS ACCEPTABLE TO THE DEPARTMENT THAT PROVIDES  
12     EDUCATION AND TRAINING IN PARENTERAL AND ENTERAL NUTRITION.

13     (B) "THERAPEUTIC DIET" IS A DIET INTERVENTION THAT PROVIDES FOOD OR  
14     NUTRIENTS VIA ORAL, ENTERAL AND PARENTERAL ROUTES AS A PART OF TREATMENT  
15     OF DISEASE OR CLINICAL CONDITIONS TO MODIFY, ELIMINATE, DECREASE, OR  
16     INCREASE IDENTIFIED MICRO- AND MACRO-NUTRIENTS IN THE DIET.

17     (C) "FACILITY" SHALL MEAN A HOSPITAL, INCLUDING ANY DIAGNOSTIC CENTER,  
18     TREATMENT CENTER, OR HOSPITAL-BASED OUTPATIENT DEPARTMENT, RESIDENTIAL  
19     HEALTH CARE FACILITY OR NURSING HOME OR ANY FACILITY AS DEFINED IN  
20     SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW, A HOME CARE  
21     AGENCY AS DEFINED IN SECTION THIRTY-SIX HUNDRED TWO OF THE PUBLIC HEALTH  
22     LAW OR OTHER ENTITY THAT PROVIDES DIRECT PATIENT CARE UNDER THE AUSPICES  
23     OF A MEDICAL DIRECTOR.

24     2. (A) THE MANAGEMENT OF THERAPEUTIC DIETS PERFORMED BY A QUALIFIED  
25     DIETETIC OR NUTRITION PROFESSIONAL INCLUDES A REVIEW, EVALUATION, ORDER  
26     AND MANAGEMENT OF A THERAPEUTIC DIET, INCLUDING THE ORDERING OF FOOD AND  
27     NUTRITION SUPPLEMENTS, AND THE MANAGEMENT OF PARENTERAL OR ENTERAL  
28     NUTRITION, AS DEFINED IN THIS SUBDIVISION, TO A PATIENT WHO IS BEING

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 TREATED IN A FACILITY BY A PHYSICIAN FOR SPECIFIC DISEASES OR DISEASE  
2 STATES, IN ACCORDANCE WITH THE POLICIES, PROCEDURES, AND PROTOCOLS OF  
3 THE FACILITY.

4 (B) THE MANAGEMENT OF PARENTERAL NUTRITION AS PART OF A THERAPEUTIC  
5 DIET ORDER BY A QUALIFIED DIETETIC OR NUTRITION PROFESSIONAL MAY INCLUDE  
6 PRESCRIBING, ADJUSTING AND MANAGING A DIET OR NUTRITION REGIMEN OF A  
7 PATIENT PURSUANT TO A PATIENT SPECIFIC WRITTEN ORDER OR PROTOCOL FOR  
8 PARENTERAL NUTRITION ACCESS MADE BY THE PATIENT'S PHYSICIAN. IMPLEMEN-  
9 TATION OR ADJUSTMENTS SHALL BE MADE AFTER THE REVIEW BY THE PHARMACISTS  
10 RESPONSIBLE TO THE FACILITY FOR THE CARE OF THE PATIENT. THE PHYSICIAN  
11 OR FACILITY MAY PROHIBIT, BY WRITTEN INSTRUCTION, ANY ADJUSTMENT OR  
12 CHANGE IN THE PATIENT'S DIET OR NUTRITION REGIMEN BY THE QUALIFIED DIET-  
13 ETIC OR NUTRITION PROFESSIONAL.

14 IN THE EVENT THAT A TREATING PHYSICIAN OR PHARMACIST MAY DISAGREE WITH  
15 THE EXERCISE OF PROFESSIONAL JUDGMENT BY THE QUALIFIED DIETETIC OR  
16 NUTRITION PROFESSIONAL AS IT RELATES TO THE MANAGEMENT OF PARENTERAL  
17 NUTRITION, THE JUDGMENT OF THE TREATING PHYSICIAN OR PHARMACIST SHALL  
18 PREVAIL.

19 (C) THE MANAGEMENT OF ENTERAL NUTRITION AS PART OF A THERAPEUTIC DIET  
20 ORDER BY A QUALIFIED DIETETIC OR NUTRITION PROFESSIONAL MAY INCLUDE  
21 ADJUSTING AND MANAGING A DIET OR NUTRITION REGIMEN OF A PATIENT PURSUANT  
22 TO A PATIENT SPECIFIC WRITTEN ORDER OR PROTOCOL FOR ENTERAL NUTRITION  
23 ACCESS MADE BY THE PATIENT'S PHYSICIAN. THE PHYSICIAN OR FACILITY MAY  
24 PROHIBIT, BY WRITTEN INSTRUCTION, ANY ADJUSTMENT OR CHANGE IN THE  
25 PATIENT'S DIET OR NUTRITION REGIMEN BY THE QUALIFIED DIETETIC OR NUTRI-  
26 TION PROFESSIONAL.

27 IN THE EVENT THAT A TREATING PHYSICIAN MAY DISAGREE WITH THE EXERCISE  
28 OF PROFESSIONAL JUDGMENT BY THE QUALIFIED DIETETIC OR NUTRITION PROFES-  
29 SIONAL AS IT RELATES TO THE MANAGEMENT OF ENTERAL NUTRITION, THE JUDG-  
30 MENT OF THE TREATING PHYSICIAN SHALL PREVAIL.

31 (D) A QUALIFIED DIETETIC OR NUTRITION PROFESSIONAL MAY EVALUATE AND,  
32 ONLY IF SPECIFICALLY AUTHORIZED BY THE POLICIES, PROCEDURES, OR PROTOCOL  
33 OF THE FACILITY AND ONLY TO THE EXTENT NECESSARY TO DISCHARGE THE  
34 RESPONSIBILITIES SET FORTH IN THIS SECTION, ORDER CLINICAL LABORATORY  
35 TESTS RELATED TO THE MANAGEMENT OF A THERAPEUTIC DIET ORDER FOR THE  
36 SPECIFIC DISEASES OR DISEASE STATES SPECIFIED WITHIN THE WRITTEN ORDER  
37 OR PROTOCOL, AND ORDER OR PERFORM ROUTINE PATIENT MONITORING FUNCTIONS  
38 AS MAY BE NECESSARY FOR THE MANAGEMENT OF PARENTERAL AND ENTERAL NUTRI-  
39 TION.

40 3. NOTHING HEREIN SHALL AUTHORIZE A QUALIFIED DIETETIC OR NUTRITION  
41 PROFESSIONAL TO ESTABLISH OR MODIFY A MEDICAL DIAGNOSIS.

42 4. THE AUTHORIZATION OF ANY QUALIFIED DIETETIC OR NUTRITION PROFES-  
43 SIONAL TO ENGAGE IN THE MANAGEMENT OF A THERAPEUTIC DIET ORDER, INCLUD-  
44 ING THE MANAGEMENT OF PARENTERAL AND ENTERAL NUTRITION, SHALL BE AT THE  
45 DISCRETION OF THE FACILITY.

46 5. NOTHING HEREIN CONTAINED SHALL BE DEEMED TO AUTHORIZE, GRANT, OR  
47 EXTEND HOSPITAL PRIVILEGES TO INDIVIDUALS CERTIFIED UNDER THIS ARTICLE.

48 S 2. This act shall take effect on the one hundred eightieth day after  
49 it shall have become a law; provided, however, that effective immediate-  
50 ly the department of education may promulgate any rule or regulation  
51 necessary for the timely implementation of this act on this effective  
52 date.