S T A T E O F N E W Y O R K

7692--A

I N S E N A T E

May 12, 2016

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

S 8007. MANAGEMENT OF THERAPEUTIC DIET ORDERS IN A FACILITY. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "QUALIFIED DIETETIC PROFESSIONAL" OR "QUALIFIED NUTRITION PROFESSIONAL" SHALL BE AN INDIVIDUAL WHO MEETS THE FOLLOWING REQUIREMENTS:

(I) HOLDS A VALID LICENSE AND CURRENT REGISTRATION AS A CERTIFIED DIETICIAN OR CERTIFIED NUTRITIONIST IN ACCORDANCE WITH THIS ARTICLE; AND

(II) HAS NET THE REQUIREMENTS OF PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION EIGHT THOUSAND FOUR OF THIS ARTICLE AND SUBDIVISION THREE OF SECTION EIGHT THOUSAND FOUR OF THIS ARTICLE; AND

(III) HOLDS A REGISTRATION OR CERTIFICATION FROM A NATIONAL REGISTRATION OR CERTIFYING ASSOCIATION, WITH STANDARDS ACCEPTABLE TO THE DEPARTMENT, THAT PROVIDES EDUCATION AND TRAINING IN PARENTERAL AND ENTERAL NUTRITION ACCEPTABLE TO THE DEPARTMENT AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS.

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

(C) "FACILITY" SHALL MEAN A HOSPITAL, INCLUDING ANY DIAGNOSTIC CENTER, TREATMENT CENTER, OR HOSPITAL-BASED OUTPATIENT DEPARTMENT, RESIDENTIAL HEALTH CARE FACILITY OR NURSING HOME OR ANY FACILITY AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW, A HOME CARE AGENCY AS DEFINED IN SECTION THIRTY-SIX HUNDRED TWO OF THE PUBLIC HEALTH

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

LBD15363-03-6

LAW OR OTHER ENTITY THAT PROVIDES DIRECT PATIENT CARE UNDER THE AUSPICES OF A MEDICAL DIRECTOR.

2. (A) THE MANAGEMENT OF THERAPEUTIC DIETS PERFORMED BY A QUALIFIED DIETETIC PROFESSIONAL OR QUALIFIED NUTRITION PROFESSIONAL INCLUDES A REVIEW, EVALUATION, ORDER AND MANAGEMENT OF A THERAPEUTIC DIET, INCLUDING THE ORDERING OF FOOD AND NUTRITION SUPPLEMENTS, AND THE MANAGEMENT OF PARENTERAL OR ENTERAL NUTRITION, AS DEFINED IN THIS SUBDIVISION, TO A PATIENT WHO IS BEING TREATED IN A FACILITY BY A PHYSICIAN FOR SPECIFIC DISEASES OR DISEASE STATES, IN ACCORDANCE WITH THE POLICIES, PROCEDURES, AND PROTOCOLS OF THE FACILITY.

(B) THE MANAGEMENT OF PARENTERAL NUTRITION AS PART OF A THERAPEUTIC DIET ORDER BY A QUALIFIED DIETETIC PROFESSIONAL OR QUALIFIED NUTRITION PROFESSIONAL MAY INCLUDE PRESCRIBING, ADJUSTING AND MANAGING A DIET OR NUTRITION REGIMEN OF A PATIENT PURSUANT TO A PATIENT SPECIFIC WRITTEN ORDER OR PROTOCOL FOR PARENTERAL NUTRITION ACCESS MADE BY THE PATIENT'S PHYSICIAN. IMPLEMENTATION OR ADJUSTMENTS SHALL BE MADE AFTER THE REVIEW BY THE PHARMACISTS RESPONSIBLE TO THE FACILITY FOR THE CARE OF THE PATIENT. THE PHYSICIAN OR FACILITY MAY PROHIBIT, BY WRITTEN INSTRUCTION, ANY ADJUSTMENT OR CHANGE IN THE PATIENT'S DIET OR NUTRITION REGIMEN BY THE QUALIFIED DIETETIC PROFESSIONAL OR QUALIFIED NUTRITION PROFESSIONAL.

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

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

IN THE EVENT THAT A TREATING PHYSICIAN MAY DISAGREE WITH THE EXERCISE OF PROFESSIONAL JUDGMENT BY THE QUALIFIED DIETETIC PROFESSIONAL OR QUALIFIED NUTRITION PROFESSIONAL AS IT RELATES TO THE MANAGEMENT OF ENTERAL NUTRITION, THE JUDGMENT OF THE TREATING PHYSICIAN SHALL PREVAIL.

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

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

4. THE AUTHORIZATION OF ANY QUALIFIED DIETETIC PROFESSIONAL OR QUALIFIED NUTRITION PROFESSIONAL TO ENGAGE IN THE MANAGEMENT OF A THERAPEUTIC DIET ORDER, INCLUDING THE MANAGEMENT OF PARENTERAL AND ENTERAL NUTRITION, SHALL BE AT THE DISCRETION OF THE FACILITY.

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

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