

STATE OF NEW YORK

7660

2019-2020 Regular Sessions

IN ASSEMBLY

May 14, 2019

Introduced by M. of A. JAFFEE -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to delivering nutrition care through therapeutic diets

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and declaration of purpose. The
2 legislature finds that the Center for Medicaid and Medicare Services
3 (CMS) issued a new rule that permits hospitals to allow qualified dieti-
4 tians and nutritionists to order therapeutic diets in the Federal Regis-
5 ter Volume 79, Number 91 on May 12, 2014. CMS rules are related to
6 federal reimbursement of services. The CMS rules state that dietitians
7 and nutritionists are the professionals who are best qualified to assess
8 a patient's nutritional status and to design and implement a nutritional
9 treatment plan in consultation with the patient's interdisciplinary care
10 team. In addition, the CMS rules state that the qualified dietitian or
11 nutritionist must be viewed as an integral member of the hospital inter-
12 disciplinary care team, one who, as the team's clinical nutrition
13 expert, is responsible for a patient's nutritional diagnosis and treat-
14 ment in light of a patient's medical diagnosis. The CMS rule further
15 states that all patient diets are considered to be therapeutic in
16 nature, regardless of the modality used to support the nutritional needs
17 of the patient and that the term would most certainly include parenteral
18 and enteral nutrition support. The legislature finds that CMS issued a
19 similar rule for long term care facilities in the Federal Register
20 Volume 81, Number 192 on October 4, 2016. Since CMS rules emphasize that
21 the state law governs the scope of practice, the legislature finds that
22 the current scope of practice for certified dietitians and certified
23 nutritionists does not specifically allow for the ordering of therapeu-
24 tic diets. The legislature intends to provide language which is needed
25 to allow the state of New York to deliver nutrition care via therapeutic

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

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1 diets through recognized dietetic and nutrition professionals, in a
2 manner deemed as being appropriate and efficient.

3 § 2. Section 8001 of the education law is amended by adding a new
4 subdivision 4 to read as follows:

5 4. Notwithstanding any other provision of law to the contrary, a
6 certified dietitian or certified nutritionist may prescribe, order,
7 write, review, evaluate, monitor and manage therapeutic diets, including
8 enteral and parenteral nutrition, in hospitals, including diagnostic
9 centers, treatment centers, hospital-based outpatient departments, resi-
10 dential health care facilities or nursing homes or any other facility as
11 defined in section twenty-eight hundred one of the public health law,
12 when competency is determined by the medical director or governing body
13 of such facility.

14 § 3. This act shall take effect on the one hundred eightieth day after
15 it shall have become a law. Effective immediately, the addition, amend-
16 ment and/or repeal of any rule or regulation necessary for the implemen-
17 tation of this act on its effective date are authorized to be made and
18 completed on or before such effective date.

