

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2187
(Senators K. Roers, Burckhard, Hogan)
(Representatives Devlin, Dobervich, Rohr)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and sections 43-44-09.1, 43-44-09.2, 43-44-10.1, 43-44-18, 43-44-19, 43-44-20, and 43-44-21, relating to criminal history background checks and licensure and regulation of nutritionists and dietitians; to amend and reenact sections 43-44-01, 43-44-02, 43-44-03, 43-44-05, 43-44-06, 43-44-07, 43-44-08, 43-44-09, 43-44-10, 43-44-12, 43-44-13, 43-44-15, 43-44-16, and 43-44-17 of the North Dakota Century Code, relating to the regulation and licensure of nutritionists and dietitians; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The board of dietetic practice for applications for licensure or renewal under chapter 43-44, except that criminal history record checks need not be made unless required by the board.

SECTION 2. AMENDMENT. Section 43-44-01 of the North Dakota Century Code is amended and reenacted as follows:

43-44-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the board of dietetic practice.
2. "Board for certification of nutrition specialists" means the entity that serves as the credentialing agency for certified nutrition specialists.
3. "Certified nutrition specialist" means an individual certified as a nutrition specialist by the board for certification of nutrition specialists that authorizes the individual to use the title "certified nutrition specialist" and the abbreviation "CNS" to indicate the individual is a certified nutrition specialist.
4. "Commission on dietetic registration" means the credentialing agency for the academy of nutrition and dietetics.
5. "Degree" means a degree received from a college or university that was a United States regionally accredited body recognized by the council for higher education accreditation and the United States department of education at the time the degree was received or validated foreign equivalent.
6. "Dietetics" means the integration, application, and communication of practice principles derived from integrating knowledge of the food, nutrition, biochemistry, physiology, management, and behavioral and social science, business, and basic sciences to achieve and maintain the health of people by providing optimal nutrition assessment and nutrition care services status of an individual. The primary function of the practice of dietetics is the provision of medical nutrition therapy.
3. "Dietitian" includes dietician.

4. "General nutrition services" means the counseling of individuals or groups in the selection of food to meet normal nutritional needs, and the assessment of nutritional needs of individuals or groups by planning, organizing, coordinating, and evaluating the nutritional components of community health services.
- 5-7. "Evidence-based" or "evidence-based practice" means an approach to health care through which health practitioners use the best evidence available, to make decisions for individuals, groups, and populations.
8. "Foreign practitioner" means an individual who holds and maintains a license in good standing to engage in the practice of dietetics and nutrition in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
9. a. "General nonmedical nutrition information" may include information on any of the following:
 - (1) Principles of good nutrition, menu planning, and food preparation.
 - (2) Food that should be included in the normal daily diet.
 - (3) The essential nutrients needed by the human body.
 - (4) The recommended amounts of essential nutrients in the human body.
 - (5) The actions of nutrients in the human body.
 - (6) The effects of deficiencies or excesses of nutrients in the human body.
 - (7) Foods, herbs, and supplements that are good sources of essential nutrients in the human body.
- b. The term does not include the provision of medical nutrition therapy.
10. "General supervision" means the qualified supervisor is onsite and present where nutrition care services are provided or is immediately available to the individual being supervised by means of electronic communications and maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all nutrition care services rendered by an individual.
11. "Licensed nutritionist" means a ~~person~~an individual licensed to provide general nutrition services as provided in this chapter as a nutritionist under this chapter who may be referred to or hold oneself out as a nutritionist.
- 6-12. "Licensed registered dietitian" means a ~~person~~an individual licensed to practice dietetics as provided in this chapter as a dietitian under this chapter who may be referred to or hold oneself out as a dietitian, dietitian nutritionist, nutritionist, or a dietician.
- 7-13. "Medical nutrition therapy" means the provision of nutrition care services for the treatment or management of a disease or medical condition. The term includes the provision of any part or all of the following services:
 - a. Interpreting anthropometric, biochemical, clinical, and dietary data in acute and chronic disease states and recommending or ordering nutrient needs based on the dietary data, including tube feedings and parenteral nutrition.
 - b. Food and nutrient counseling, including food and prescription drug interactions.

- c. Developing and managing food service operations, including operations for the management or treatment of disease or medical conditions, with the primary function of nutrition care or recommending or ordering therapeutic diets.
- d. Medical weight control.
- 14. "Medical weight control" means medical nutrition therapy for the purpose of reducing, maintaining, or gaining weight.
- 15. "Nonmedical weight control" means the provision of services for the purpose of reducing, maintaining, or gaining weight which does not constitute the treatment of a disease or medical condition. The term includes weight control services for healthy population groups to achieve or maintain a healthy weight.
- 16. "Nutrition" means the science of food and nutrients, including the action, interaction, and balance of food and nutrients in relation to health and disease and the process by which humans ingest, absorb, transport, utilize, and excrete food substances. The primary function of the practice of nutrition is the provision of medical nutrition therapy.
- 17. "Nutrition assessment" means the screening and evaluation of the nutrition of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine their nutritional needs and recommend appropriate nutritional intake including enteral and parenteral nutrition systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition-related problems. The mere collection of data itself does not constitute nutrition assessment. The term includes an ongoing, dynamic process that:
 - a. Involves an initial data collection and a reassessment and analysis of client or community needs; and
 - b. Provides the foundation for nutrition diagnosis and nutritional recommendations, including enteral and parenteral nutrition.
- 8-18. a. "Nutrition care services" includes:
 - a. Providing nutrition assessment.
 - b. Planning or providing of food appropriate for physical and medical needs.
 - c. Providing nutrition counseling to meet both normal and therapeutic needs.
 - d. Providing general nutrition services and related nutrition activities means the provision of any part or all of the following services within a systematic process:
 - (1) Assessing and evaluating the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness of the plans and orders.
 - (2) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints.
 - (3) Providing nutrition counseling in health and disease.
 - (4) Developing, implementing, and managing nutrition care systems.
 - (5) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

(6) Ordering therapeutic diets.

- b. The term does not include the retail sale of food products or vitamins, the giving of general nonmedical nutrition information, or the providing of nonmedical weight control by unlicensed individuals.
19. "Nutrition counseling" means the advice and assistance provided by a licensed registered dietitian or licensed nutritionist to an individual or group on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparations consistent with cultural background, socioeconomic status, and therapeutic needs.
20. "Nutrition diagnosis" means identifying and labeling nutritional problems managed and treated by a licensed registered dietitian or licensed nutritionist. The term does not include the medical differential diagnosis of the health status of an individual.
21. "Nutrition intervention" means purposefully planned actions and nutrition counseling intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of the health status for an individual.
22. "Nutrition monitoring and evaluation" means identifying patient outcomes relevant to a nutrition diagnosis and comparing the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether planned interventions should be continued or revised.
23. "Onsite supervision" means the qualified supervisor is present in the department or facility or virtual platform at which nutrition care services are provided, is immediately available to the individual being supervised and maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all nutrition care services rendered by an individual.
24. "Practice of dietetics and nutrition" means the integration and application of scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, food management, and behavioral and social sciences in achieving and maintaining health throughout the life span and in providing nutrition care services in person and via telehealth, including medical nutrition therapy, for the purpose of disease management and prevention, or to treat or rehabilitate an illness, injury, or condition.
25. "Provisional license" means a license granted to an applicant who has submitted the information required in section 43-44-12 and applied for examination but has not completed the examination successfully yet.
26. "Qualified supervisor" means:
- a. If supervising the provision of medical nutrition therapy, an individual who is:
- (1) A certified nutrition specialist or a registered dietitian nutritionist;
 - (2) A licensed nutritionist who has met the education and experience qualifications under section 43-44-07, a licensed dietitian nutritionist, or a licensed registered dietitian; or
 - (3) A health care provider licensed or otherwise authorized under the laws of any state to provide nutrition care services to treat or manage a disease or medical condition.
- b. If supervising the provision of nutrition care services that do not constitute medical nutrition therapy, an individual who either meets the requirements of paragraph 1 of subdivision a or an individual with at least three years of clinical nutrition experience who holds a master's or doctoral degree with a major course of study in dietetics, human

nutrition, foods and nutrition, community nutrition, public health nutrition, naturopathic medicine, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or an equivalent course of study as approved by the board.

27. "Registered dietitian" or "registered dietitian nutritionist" means an individual registered as a dietitian or a dietitian nutritionist with the commission on dietetic registration which authorizes the individual to use the title "registered dietitian nutritionist" or "registered dietitian" and the abbreviation "RDN" or "RD".
28. "Telehealth" means the use of electronic information and telecommunications technologies to provide services under this chapter to support clinical health care, patient and professional health-related education, public health, and health administration between a licensee in one location and an individual in another location.
29. "Therapeutic diet" means a diet intervention prescribed by a physician or other authorized nonphysician practitioner which provides food or nutrients via oral, enteral, or parenteral routes, or a combination thereof, as part of treatment of disease or diagnosed clinical conditions to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet.

SECTION 3. AMENDMENT. Section 43-44-02 of the North Dakota Century Code is amended and reenacted as follows:

43-44-02. Board of dietetic practice - Membership - Terms - Meetings.

1. The governor shall appoint a board of dietetic practice, consisting of five members, all of whom must be residents of the state at the time of their appointment. ~~The persons~~individuals appointed must have been engaged in the teaching or rendering of dietetics or ~~general nutrition services~~ to the public, or in research in dietetics or ~~general nutrition services~~ for three years immediately preceding their appointment. Three board members must be licensed registered dietitians and one member must be a licensed nutritionist. ~~The members first appointed to the board need not be licensed under this chapter for appointment to their first term on the board, but must possess the qualifications necessary for licensure under this chapter.~~ One member must be appointed to represent consumers of health services.
2. ~~The governor, prior to September 1, 1985, shall appoint two board members for a term of one year, two for a term of two years, and one for a term of three years. Appointments made thereafter are for terms of three years, but no person~~individual may be appointed to serve more than two consecutive full or partial terms. Terms begin on the first day of September and end on the last day of August or until successors are appointed. An appointment of any member to serve out the remaining term of any position on the board ~~that~~which becomes vacant must be made in the same manner as the original appointment for that position.
3. The governor may remove any board member for good cause after giving that member a written statement of the reasons for removal and after that member has had an opportunity for a hearing.
4. The board shall meet during September of each calendar year and select a chairperson. At least one additional meeting must be held before September of the next calendar year. Other meetings may be convened at the call of the chairperson or the written request of any two board members. All meetings of the board are open to the public, except that the board may hold closed sessions to approve an examination, ~~or upon request of an applicant who fails an examination, to prepare a response indicating any reason for the applicant's failure~~review patient medical records, review patient testimony, and for other reasons as referenced in section 44-04-19.2.

5. Members of the board receive no compensation for their services, but are entitled to mileage and travel expenses as provided in sections 54-06-09 and 44-08-04, and per diem as set by the board.

SECTION 4. AMENDMENT. Section 43-44-03 of the North Dakota Century Code is amended and reenacted as follows:

43-44-03. Board powers, and duties, and authority.

1. The board shall administer, coordinate, and enforce this chapter, evaluate the qualifications, and approve an examination for licensure under this chapter. The board shall keep any records and minutes as are necessary to carry out ~~its~~the board's functions.
2. The board may:
 1. a. Issue subpoenas, examine witnesses, administer oaths, and investigate allegations of practices violating this chapter.
 2. b. Adopt rules pursuant to chapter 28-32, to implement this chapter, including rules relating to professional licensure and the establishment of ethical standards of practice for licensed registered dietitians and licensed nutritionists.
 - c. Provide interpretive guidance on this chapter.

SECTION 5. AMENDMENT. Section 43-44-05 of the North Dakota Century Code is amended and reenacted as follows:

43-44-05. Fees.

The board shall set and collect fees for application, initial license, renewal of license, late renewal, and ~~limited permit~~provisional license. These fees must be set in such an amount not to exceed two hundred fifty dollars as to reimburse the board, to the extent feasible, for the cost of the services rendered. The board shall waive initial licensure and renewal licensure fees for active duty military and active duty military spouses serving in the United States armed forces in North Dakota.

SECTION 6. AMENDMENT. Section 43-44-06 of the North Dakota Century Code is amended and reenacted as follows:

43-44-06. License required - Title - Abbreviations.

~~A person may not practice or represent as able to practice as a dietitian, or use the title "dietitian", "registered dietitian", "licensed dietitian", or "licensed registered dietitian", or the abbreviations "RD", "LD", or "LRD" unless so licensed under this chapter. A licensed registered dietitian may use the title "licensed registered dietitian" and the abbreviation "LRD". A person may not practice, or represent that the person is able to practice, as a licensed nutritionist using the title "licensed nutritionist" or the abbreviation "LN" unless so licensed under this chapter. A licensed nutritionist may use the title "licensed nutritionist" and the abbreviation "LN"~~

1. Use of an earned, federally trademarked nutrition credential is not prohibited, but such use does not give an individual the right to practice dietetics or nutrition, provide medical nutrition therapy, or use the general titles of dietitian or nutritionist, unless an individual is licensed under this chapter. Notwithstanding any law to the contrary, all of the following are permissible:
 - a. An individual registered with the commission on dietetic registration may use the title "registered dietitian" and "registered dietitian nutritionist" and the designation of "RD" or "RDN".
 - b. An individual certified by the board of certification of nutrition specialists may use the title "certified nutrition specialist" and the designation "CNS".

- c. An individual certified by the American clinical board of nutrition may use the title "diplomate, American clinical board of nutrition" and use the designation "DACBN".
2. A person not licensed under this chapter may not do any of the following:
 - a. Provide medical nutrition therapy with or without compensation.
 - b. Use or allow a business entity or a business entity's employees, agents, or representatives to use any of the following titles or abbreviations in association with a person's name:
 - (1) Dietitian nutritionist or nutritionist.
 - (2) Dietitian or dietician.
 - (3) Nutrition counselor or nutrition specialist.
 - (4) LRD, LDN, or LN.
 - (5) Nutritional therapy practitioner or nutritional therapy consultant.
 - (6) Certified nutrition therapy practitioner.
 - (7) Master nutrition therapist.
 - (8) Licensed dietitian nutritionist, licensed registered dietitian, or licensed nutritionist.
 - (9) Any other designation, words, letters, or insignia in connection with a name indicating an offer or eligibility to provide medical nutrition therapy or indicating a license to practice dietetics and nutrition or provide medical nutrition therapy unless licensed under this chapter.
 3. This section does not prohibit an individual from using an earned title trademarked by the United States patent and trademark office.

SECTION 7. AMENDMENT. Section 43-44-07 of the North Dakota Century Code is amended and reenacted as follows:

43-44-07. Requirements for licensure - Licensed nutritionist.

1. An applicant for licensure as a licensed nutritionist must~~shall~~ file a written application with the board, submit any fees required by the board, and submit proof of completion of the following requirements:
 - a. ~~Have satisfactorily completed academic requirements required by the board, and have received a baccalaureate degree in the field of dietetics or food and nutrition, as approved by the board, from an accredited college or university;~~
 - b. ~~Have received a master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition from an accredited college or university, or have received a master's or doctorate degree in a related field that meets eligibility requirements of the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization;~~
 - c. ~~Maintain membership in one of the following organizations: American institute of nutrition, American society for clinical nutrition, or the American board of nutrition; or~~
 - d. ~~Present evidence to the board regarding employment and competence as a nutritionist before July 1, 1985, and the inability to meet the criteria of subdivision a, b, or c~~Have received a master's or doctoral nutrition degree or validated foreign equivalent with a

major course of study in human nutrition, foods and nutrition, community nutrition, public health nutrition, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or a comparable course of study, or a master's or doctoral degree or validated foreign equivalent, in a field of clinical health care from a college or university accredited at the time of graduation from the appropriate regional accrediting agency recognized by the council on higher education accreditation and the United States department of education, and have completed coursework leading to competence in medical nutrition therapy which must consist of the following courses:

- (1) Fifteen semester hours of clinical or life sciences, including such courses as chemistry, organic chemistry, biology, molecular biology, biotechnology, botany, genetics, genomics, neuroscience, experimental science, immunotherapy, pathology, pharmacology, toxicology, research methods, applied statistics, biostatistics, epidemiology, energy production, molecular pathways, hormone and transmitter regulations and imbalance, and pathophysiologic basis of disease. At least three semester hours must be in human anatomy and physiology or the equivalent.
 - (2) Fifteen semester hours of nutrition and metabolism, including such courses as nutrition assessment, developmental nutrition, nutritional aspects of disease, human nutrition, macronutrients, micronutrients, vitamins and minerals, clinical functional medicine nutrition, molecular metabolism, nutrition, nutritional biochemistry, nutrition and digestive health, and public health nutrition. At least six semester hours must be in biochemistry or an equivalent as approved by the board.
- b. The applicant must have completed a board-approved internship or a documented, supervised practice experience demonstrating competency in nutrition care services and the provision of medical nutrition therapy of not less than one thousand hours including at least two hundred hours of nutrition assessment, two hundred hours of nutrition intervention, education, counseling, or management, and two hundred hours of nutrition monitoring or evaluation. A minimum of seven hundred hours of supervised practice experience is required in professional work settings and no more than three hundred hours can be in alternate supervised experiences such as observational client-practitioner interactions, simulation, case studies, and role playing. This experience must be under the supervision of a qualified supervisor. A qualified supervisor shall provide onsite supervision of an applicant's supervised practice experience in the provision of medical nutrition therapy and provide general supervision of an applicant's provision of other nutrition care services that do not constitute medical nutrition therapy.
- c. The applicant meets one of the following criteria:
- (1) The applicant has successfully completed a board-approved examination such as the certification examination for nutrition specialists administered by the board for certification of nutrition specialists or the diplomate examination administered by the American clinical board of nutrition; or
 - (2) The applicant has either a valid certification with the board for certification of nutrition specialists that gives the applicant the right to use the term "certified nutrition specialist" or "CNS" or a valid certification with the American clinical board of nutrition which gives the applicant the right to use the term "diplomate, American clinical board of nutrition" or "DACBN".
- d. The applicant shall complete a background check or fingerprinting if requested by the board.
2. An applicant for renewal of a license as a licensed nutritionist must:

- a. ~~Comply~~Shall comply with subsection 1.
- b. ~~Have~~Must have satisfactorily completed continuing education requirements as specified and approved by the board.
- c. Shall complete a background check or fingerprinting if requested by the board.

SECTION 8. AMENDMENT. Section 43-44-08 of the North Dakota Century Code is amended and reenacted as follows:

43-44-08. Requirements for licensure - Licensed registered dietitian.

1. Applicants for licensure as a licensed registered dietitian must shall file a written application with the board, submit any fees required by the board, and submit proof of completion of the following requirements:
 - a. ~~Comply with subsection 1 of section 43-44-07.~~
 - b. Have satisfactorily completed the education and experience requirements for registered dietitians nutritionists approved by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
 - e.b. Have satisfactorily completed the examination approved and administered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Have a current valid registration with the commission on dietetic registration which gives the applicant the right to use the term "registered dietitian" or "registered dietitian nutritionist".
 - d. Complete a background check or fingerprinting if requested by the board.
2. Applicants for renewal of licensure as a licensed registered dietitian ~~must~~:
 - a. ~~Comply~~Shall comply with subsection 1.
 - b. ~~Have~~Must have satisfactorily completed continuing education requirements specified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Shall complete a background check or fingerprinting if requested by the board.

SECTION 9. AMENDMENT. Section 43-44-09 of the North Dakota Century Code is amended and reenacted as follows:

43-44-09. Waiver of requirements for licensure of dietitians.

~~Upon application, the board shall grant a license to any person certified prior to July 1, 1985, as a registered dietitian by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization. Upon application of any person certified by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization after July 1, 1985, the board may waive the examination, education, and experience requirements and grant the applicant a license if the board determines that the requirements for certification are equivalent to the related requirements for licensure in this chapter.~~

SECTION 10. Section 43-44-09.1 of the North Dakota Century Code is created and enacted as follows:

43-44-09.1. Grandfathering of licensed nutritionists.

An individual who meets the requirements for licensure and holds a license as a licensed nutritionist on the effective date of this Act and is practicing or residing in this state on the effective date of this Act is eligible to maintain and renew a license as a licensed nutritionist if the applicant furnishes evidence satisfactory to the board that the applicant has met continuing education as required by the board.

SECTION 11. Section 43-44-09.2 of the North Dakota Century Code is created and enacted as follows:

43-44-09.2. Scope of practice.

1. A licensed registered dietitian and licensed nutritionist shall provide nutrition care services using systematic, evidence-based, problem-solving methods of the nutrition care process to think critically and make decisions to address nutrition-related problems and provide safe, effective, quality nutrition services and medical nutrition therapy for patients and clients in both clinical and community settings.
2. A licensed registered dietitian or licensed nutritionist may accept or transmit oral, verbal, delegated, or electronically transmitted orders from the referring provider consistent with applicable laws and rules, including any protocols established to implement medical nutrition therapy.
3. A licensed registered dietitian or licensed nutritionist may order patient diets, including therapeutic diets, in accordance with the provisions of this chapter. Oral therapeutic diets may be ordered by either a licensed registered dietitian or a licensed nutritionist. Therapeutic diets include enteral and parenteral nutrition therapy, which consist of specialized enteral or intravenous solutions and may be ordered only by an individual licensed under this chapter who also meets one of the following criteria:
 - a. The individual is a registered dietitian nutritionist registered with the commission on dietetic registration;
 - b. The individual is a certified nutrition support clinician certified by the national board of nutrition support certification; or
 - c. The individual meets other requirements as determined by the board, consistent with competencies necessary for evaluating, ordering, and administering enteral and parenteral nutrition.
4. This chapter does not limit the ability of any other licensed health care practitioner in this state to order therapeutic diets if the ordering of therapeutic diets falls within the scope of the license held by the health care practitioner.
5. A licensed registered dietitian or licensed nutritionist who has met the qualifications under section 43-44-07 or 43-44-08 may order medical laboratory tests related to nutritional therapeutic treatments consistent with state law.
6. A licensed registered dietitian or licensed nutritionist may implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the licensed registered dietitian's or licensed nutritionist's knowledge, skills, judgment, and current evidence-informed clinical practice guidelines as indicated in a facility approved protocol and as approved and delegated by the licensed prescriber. This subsection does not allow licensees to prescribe or initiate drug treatment. A licensed registered dietitian and licensed nutritionist may be authorized to prescribe vitamin and mineral supplements or discontinue unnecessary vitamins and minerals.

SECTION 12. AMENDMENT. Section 43-44-10 of the North Dakota Century Code is amended and reenacted as follows:

43-44-10. Persons excepted from license requirement.

This chapter does not prevent or restrict the practice, services, or activities of:

1. ~~Persons licensed to practice medicine, nursing, pharmacy, or dentistry~~A licensed health care practitioner duly licensed in accordance with title 43 who is acting within the scope of the individual's licensed profession, consistent with the accepted standards of the practitioner's profession, if the persons practitioner does not represent themselves the practitioner as a licensed registered dietitians dietitian, nutritionist, or licensed nutritionists nutritionist.
2. ~~Any person pursuing a course of study in an approved program leading to a degree in the field of dietetics from an accredited college or university, if~~A student or trainee, working under the onsite supervision of a qualified supervisor while fulfilling an experience requirement or pursuing a course of study to meet the licensure requirements of section 43-44-07 or 43-44-08, for a time period of no more than five years after the student or trainee completed the course requirements for licensure and the person student or trainee is designated by a title which that clearly indicates that person's individual's status as a student or trainee.
3. ~~Any person in the process of fulfilling the experience requirements of section 43-44-07 or 43-44-08, if the activities and services constitute a part of the experience necessary to meet the requirements of those sections and the person is designated by a title which clearly indicates that person's status as a student or trainee~~An individual providing support activities related to medical nutrition therapy, if the individual works under the general supervision of a registered dietitian licensed by this board, licensed nutritionist licensed by this board, or other health care practitioner licensed by the appropriate North Dakota board whose licensed scope of practice includes the provision of nutrition care services for the purpose of managing a disease or medical condition.
4. ~~Any person who does not meet the requirements of subdivision a, b, or c of subsection 1 of section 43-44-07, and who provides nutrition care services, including weight control programs, under the supervision of a licensed registered dietitian, a dietitian licensed in another state that has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter, or a dietitian registered by the commission on dietetic registration of the academy of nutrition and dietetics or its predecessor or successor organization.~~
5. ~~A person practicing dietetics or~~An individual providing general nutrition care services for the purpose of treating or managing a disease or medical condition as a duty of serving in the armed forces.
- 6-5. ~~Any person practicing dietetics in this state for no more than ten days annually, if the person has met the commonly accepted standards for the practice of dietetics specifically defined by the board~~A foreign practitioner providing nutrition care services for the purpose of treating or managing a disease or medical condition in this state if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license if the services are provided through a remote means and are a continuation of an existing relationship between the foreign practitioner and the individual receiving the services which was formed in the state or jurisdiction in which the foreign practitioner is currently licensed.
- 7-6. ~~Any person practicing dietetics~~A foreign practitioner providing nutrition care services for the purpose of treating or managing a disease or medical condition in this state for more than ten days annually who has pending before the board an application for licensure as a licensed registered dietitian under this chapter if the practitioner is acting within the scope of practice

designated by the foreign practitioner's license and this title without obtaining a license if the services are provided in consultation with a person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the individual licensed by the board. Both the foreign practitioner and the individual licensed by the board are responsible for the services provided.

- ~~8-7.~~ An educator who is in the employ of a federal, state, county, or municipal agency, or other political subdivision, or an elementary or secondary school, or an accredited institution of higher education insofar as the activities and services are part of the duties of the employee's position and do not involve provision of medical nutrition therapy; or who is in the employ or service of a nonprofit organization approved by the board.
- ~~9-8.~~ ~~Any person~~An individual having received a baccalaureate degree in home economics or family and consumer sciences, if the ~~person~~individual does not represent that the ~~person~~individual is a licensed registered dietitian, nutritionist, or licensed nutritionist, insofar as the services and activities are within the scope of that ~~person's~~individual's education and training.
- ~~10-9.~~ ~~A person~~An individual who markets or distributes food, food materials, herbs, or dietary supplements, or any ~~person~~individual who engages in the advising of the use of those products, or the preparation of those products, or the counseling of individuals or groups in the selection of products to meet normal nutritional needs, if that ~~person~~individual does not represent that that ~~person~~individual is a licensed registered dietitian, nutritionist, or licensed nutritionist.
- ~~10.~~ An individual from providing nutrition information, individualized nutrition recommendations, health coaching, holistic and wellness education, guidance, motivation, behavior change management, nonmedical weight control, or other nutrition care services if the services do not constitute medical nutrition therapy and the individual does not hold the individual out as a licensed registered dietitian, nutritionist, or licensed nutritionist or as a provider of medical nutrition therapy or otherwise violate provisions of this chapter.
- ~~11.~~ An individual providing medical weight control services for individuals with prediabetes or obesity:
- a. Under a program of instruction approved in writing by one of the following:
- (1) A licensed registered dietitian or licensed nutritionist in this state;
- (2) A dietitian nutritionist or nutritionist licensed in another state that has licensure requirements at least as stringent as the licensure requirements under this chapter, as determined by the board;
- (3) A registered dietitian nutritionist; or
- (4) A certified nutrition specialist; or
- b. As part of a plan of care overseen by a health care practitioner licensed in this state and acting within the scope of the individual's licensed profession, consistent with the accepted standards of the practitioner's profession to provide nutrition care services for the purpose of treatment or management of a disease or medical condition.
- ~~12.~~ An individual who provides nutrition care services without remuneration to family members.

SECTION 13. Section 43-44-10.1 of the North Dakota Century Code is created and enacted as follows:

43-44-10.1. Qualified supervision.

1. A qualified supervisor must be licensed in this state if supervising an applicant providing medical nutrition therapy to an individual in this state. A qualified supervisor who obtained a doctoral degree outside the United States must have a degree validated by the board as equivalent to the doctoral degree conferred by a United States regionally accredited college or university.
2. The board may adopt rules as necessary and appropriate to implement or clarify onsite supervision.

SECTION 14. AMENDMENT. Section 43-44-12 of the North Dakota Century Code is amended and reenacted as follows:

43-44-12. Limited permitsProvisional license.

A limited permit to practice as a licensed registered dietitian must be issued by the board upon application and submission of evidence of successful completion of the education and experience requirements under subdivision b of subsection 1 of section 43-44-08. The limited permit expires one year from the date of issuance. The limited permit may be renewed for a period not to exceed six months upon submission to the board of a satisfactory explanation for the applicant's failure to become licensed within the original one-year period. An applicant for a provisional license shall file a written application with the board, submit any fees required by the board, complete a criminal history background check if requested by the board, and submit evidence of successful completion of the academic and supervised practice requirements during the five-year period after completion of the academic and supervised practice requirements specified under subdivisions a and b of subsection 1 of section 43-44-07 or subdivision a of subsection 1 of section 43-44-08. A provisional license must be available to an applicant with the applicant's initial application for examination and the applicant may practice only under the supervision of a licensed registered dietitian or a licensed nutritionist who meets requirements under subsection 1 of section 43-44-07. A provisional license expires automatically upon receiving notice of failure of the licensure examination but may be renewed a maximum of one time until the date of the next examination, at which time the provisional license automatically expires and must be surrendered to the board.

SECTION 15. AMENDMENT. Section 43-44-13 of the North Dakota Century Code is amended and reenacted as follows:

43-44-13. Reciprocity.

The board shall grant a license to anyan applicant who presents proof of current licensure in good standing without any limitations on the license, as a dietitian or nutritionist in another state whichthat has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter.

SECTION 16. AMENDMENT. Section 43-44-15 of the North Dakota Century Code is amended and reenacted as follows:

43-44-15. Suspension and revocation of license - Refusal to renew.

1. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions on a licensee if the licensee or applicant has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.

- b. Being guilty of unprofessional conduct as defined by rules adopted by the board, or violating any code of ethics adopted by the ~~academy of nutrition and dietetics or its predecessor or successor organization~~board.
 - c. Being convicted of an offense, as defined by section 12.1-01-04, that the board determines has a direct bearing upon a person's ability to serve the public as a licensed registered dietitian or a licensed nutritionist or, following conviction of any offense, if the board determines that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
 - d. Violating any lawful order or rule of the board.
 - e. Violating this chapter.
2. A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board after a hearing pursuant to rules adopted by the board. An application for reinstatement may be made to the board one year from the date of the revocation of a license. The board may at its discretion accept or reject an application to consider such reinstatement.

SECTION 17. AMENDMENT. Section 43-44-16 of the North Dakota Century Code is amended and reenacted as follows:

43-44-16. Injunction.

The civil remedy of injunction is available to the board to restrain and enjoin violations of this chapter. The board may apply to an appropriate court for an order enjoining violations of this chapter, and upon a showing by the board that a person has violated or is about to violate this chapter, the court may grant an injunction or a restraining order, or take other appropriate action.

SECTION 18. AMENDMENT. Section 43-44-17 of the North Dakota Century Code is amended and reenacted as follows:

43-44-17. Penalty.

Any~~A~~ person ~~whothat~~ violates this chapter is guilty of a class B misdemeanor. Each act of such unlawful practice constitutes a distinct and separate offense.

SECTION 19. Section 43-44-18 of the North Dakota Century Code is created and enacted as follows:

43-44-18. Costs.

The board may assess the attorney fees of disciplinary actions against a licensee or person found to be in violation of this chapter or rules adopted by the board. Costs recovered pursuant to this section are the property of the board.

SECTION 20. Section 43-44-19 of the North Dakota Century Code is created and enacted as follows:

43-44-19. Telehealth.

1. The provision of medical nutrition therapy and nutrition care services for the purpose of treating or managing a disease or medical condition provided by way of telehealth to an individual in this state is not prohibited under this chapter if:
 - a. Telehealth is appropriate for the individual receiving the services;
 - b. The level of care provided meets the required level of care for that individual and:

- (1) The level of care complies with applicable regulations and laws;
 - (2) Personal health information is protected; and
 - (3) Documentation of nutrition care services are included in the medical records of the patient.
2. An individual providing services regulated by this chapter via telehealth shall comply with, and is subject to, all licensing and disciplinary provisions of this chapter.

SECTION 21. Section 43-44-20 of the North Dakota Century Code is created and enacted as follows:

43-44-20. Limited practice without a license.

Upon prior written application to the board, a foreign practitioner practicing under this section may provide medical nutrition therapy or nutrition care services for the purpose of treating or managing a disease or medical condition in this state under section 43-51-05 if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board if the services are provided for no more than thirty full or partial days per year. The one-year period commences on the date the written application is approved by the board. An application from a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. The board may require payment of a fee of twenty-five dollars or other fee established by the board by administrative rule, not to exceed the higher of twenty-five dollars or one-tenth of the fee for an annual license from the board, as a condition of approving an application under this section. A foreign practitioner is subject to the regulatory and disciplinary provisions of section 43-51-08 and this chapter.

SECTION 22. Section 43-44-21 of the North Dakota Century Code is created and enacted as follows:

43-44-21. Criminal history record checks.

1. The board may require an applicant for licensure or renewal to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. Refusal to consent to a criminal history record check may constitute grounds for the board to deny licensure to an applicant. All costs associated with obtaining a background check are the responsibility of the applicant.
2. The board may request a criminal history record check for an applicant returning to active status as a licensed registered dietitian or licensed nutritionist.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2187.

Senate Vote: Yeas 46 Nays 1 Absent 0

House Vote: Yeas 81 Nays 12 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State