

Introduced by

Senators K. Roers, Burckhard, Hogan

Representatives Devlin, Dobervich, Rohr

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and
2 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,
3 relating to criminal history background checks and licensure and regulation of nutritionists and
4 dietitians; to amend and reenact sections 43-44-01, 43-44-02, 43-44-03, 43-44-05, 43-44-06,
5 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
6 of the North Dakota Century Code, relating to the regulation and licensure of nutritionists and
7 dietitians; and to provide a penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

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

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

16 **43-44-01. Definitions.**

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

- 18 1. "Board" means the board of dietetic practice.
- 19 2. "Board for certification of nutrition specialists" means the entity that serves as the
20 credentialing agency for certified nutrition specialists.
- 21 3. "Certified nutrition specialist" means an individual certified as a nutrition specialist by
22 the board for certification of nutrition specialists that authorizes the individual to use
23 the title "certified nutrition specialist" and the abbreviation "CNS" to indicate the
24 individual is a certified nutrition specialist.

- 1 4. "Commission on dietetic registration" means the credentialing agency for the academy
2 of nutrition and dietetics.
- 3 5. "Degree" means a degree received from a college or university that was a United
4 States regionally accredited body recognized by the council for higher education
5 accreditation and the United States department of education at the time the degree
6 was received or validated foreign equivalent.
- 7 6. "Dietetics" means the integration, application, and communication of practice
8 principles derived from integrating knowledge of the food, nutrition, biochemistry,
9 physiology, management, and behavioral and social science, business, and basic
10 sciences to achieve and maintain the health of people by providing optimal nutrition
11 assessment and nutrition care services status of an individual. The primary function of
12 the practice of dietetics is the provision of medical nutrition therapy.
- 13 ~~3.~~ ~~"Dietitian" includes dietician.~~
- 14 ~~4.~~ ~~"General nutrition services" means the counseling of individuals or groups in the~~
15 ~~selection of food to meet normal nutritional needs, and the assessment of nutritional~~
16 ~~needs of individuals or groups by planning, organizing, coordinating, and evaluating~~
17 ~~the nutritional components of community health services.~~
- 18 5-7. "Evidence-based" or "evidence-based practice" means an approach to health care
19 through which health practitioners use the best evidence available, to make decisions
20 for individuals, groups, and populations.
- 21 8. "Foreign practitioner" means an individual who holds and maintains a license in good
22 standing to engage in the practice of dietetics and nutrition in a state or jurisdiction
23 other than this state and who is not the subject of a pending disciplinary action in any
24 state or jurisdiction.
- 25 9. a. "General nonmedical nutrition information" may include information on any of the
26 following:
- 27 (1) Principles of good nutrition, menu planning, and food preparation.
- 28 (2) Food that should be included in the normal daily diet.
- 29 (3) The essential nutrients needed by the human body.
- 30 (4) The recommended amounts of essential nutrients in the human body.
- 31 (5) The actions of nutrients in the human body.

- 1 (6) The effects of deficiencies or excesses of nutrients in the human body.
- 2 (7) Foods, herbs, and supplements that are good sources of essential nutrients
3 in the human body.
- 4 b. The term does not include the provision of medical nutrition therapy.
- 5 10. "General supervision" means the qualified supervisor is onsite and present where
6 nutrition care services are provided or is immediately available to the individual being
7 supervised by means of electronic communications and maintains continual
8 involvement in the appropriate aspects of patient care, and has primary responsibility
9 for all nutrition care services rendered by an individual.
- 10 11. "Licensed nutritionist" means a person an individual licensed to provide general
11 nutrition services as provided in this chapter as a nutritionist under this chapter who
12 may be referred to or hold oneself out as a nutritionist.
- 13 6-12. "Licensed registered dietitian" means a person an individual licensed to practice
14 dietetics as provided in this chapter as a dietitian under this chapter who may be
15 referred to or hold oneself out as a dietitian, dietitian nutritionist, nutritionist, or a
16 dietician.
- 17 7-13. "Medical nutrition therapy" means the provision of nutrition care services for the
18 treatment or management of a disease or medical condition. The term includes the
19 provision of any part or all of the following services:
- 20 a. Interpreting anthropometric, biochemical, clinical, and dietary data in acute and
21 chronic disease states and recommending or ordering nutrient needs based on
22 the dietary data, including tube feedings and parenteral nutrition.
- 23 b. Food and nutrient counseling, including food and prescription drug interactions.
- 24 c. Developing and managing food service operations, including operations for the
25 management or treatment of disease or medical conditions, with the primary
26 function of nutrition care or recommending or ordering therapeutic diets.
- 27 d. Medical weight control.
- 28 14. "Medical weight control" means medical nutrition therapy for the purpose of reducing,
29 maintaining, or gaining weight.
- 30 15. "Nonmedical weight control" means the provision of services for the purpose of
31 reducing, maintaining, or gaining weight which does not constitute the treatment of a

1 disease or medical condition. The term includes weight control services for healthy
2 population groups to achieve or maintain a healthy weight.

3 16. "Nutrition" means the science of food and nutrients, including the action, interaction,
4 and balance of food and nutrients in relation to health and disease and the process by
5 which humans ingest, absorb, transport, utilize, and excrete food substances. The
6 primary function of the practice of nutrition is the provision of medical nutrition therapy.

7 17. "Nutrition assessment" means the screening and evaluation of the nutrition of
8 individuals and groups based upon appropriate biochemical, anthropometric, physical,
9 and dietary data to determine their nutritional needs and recommend appropriate
10 nutritional intake including enteral and parenteral nutrition systematic process of
11 obtaining, verifying, and interpreting biochemical, anthropometric, physical,
12 nutrigenomic, and dietary data to make decisions about the nature and cause of
13 nutrition-related problems. The mere collection of data itself does not constitute
14 nutrition assessment. The term includes an ongoing, dynamic process that:

15 a. Involves an initial data collection and a reassessment and analysis of client or
16 community needs; and

17 b. Provides the foundation for nutrition diagnosis and nutritional recommendations,
18 including enteral and parenteral nutrition.

19 8-18. a. "Nutrition care services" includes:

20 a. Providing nutrition assessment.

21 b. Planning or providing of food appropriate for physical and medical needs.

22 c. Providing nutrition counseling to meet both normal and therapeutic needs.

23 d. Providing general nutrition services and related nutrition activities means the
24 provision of any part or all of the following services within a systematic process:

25 (1) Assessing and evaluating the nutritional needs of individuals and groups,
26 and determining resources and constraints in the practice setting, including
27 ordering laboratory tests to check and track nutrition status, creating dietary
28 plans and orders, and monitoring the effectiveness of the plans and orders.

29 (2) Establishing priorities, goals, and objectives that meet nutritional needs and
30 are consistent with available resources and constraints.

31 (3) Providing nutrition counseling in health and disease.

- 1 (4) Developing, implementing, and managing nutrition care systems.
- 2 (5) Evaluating, making changes in, and maintaining appropriate standards of
3 quality in food and nutrition services.
- 4 (6) Ordering therapeutic diets.
- 5 b. The term does not include the retail sale of food products or vitamins, the giving
6 of general nonmedical nutrition information, or the providing of nonmedical weight
7 control by unlicensed individuals.
- 8 19. "Nutrition counseling" means the advice and assistance provided by a licensed
9 registered dietitian or licensed nutritionist to an individual or group on nutrition intake
10 by integrating information from the nutrition assessment with information on food and
11 other sources of nutrient and meal preparations consistent with cultural background,
12 socioeconomic status, and therapeutic needs.
- 13 20. "Nutrition diagnosis" means identifying and labeling nutritional problems managed and
14 treated by a licensed registered dietitian or licensed nutritionist. The term does not
15 include the medical differential diagnosis of the health status of an individual.
- 16 21. "Nutrition intervention" means purposefully planned actions and nutrition counseling
17 intended to positively change a nutrition-related behavior, risk factor, environmental
18 condition, or aspect of the health status for an individual.
- 19 22. "Nutrition monitoring and evaluation" means identifying patient outcomes relevant to a
20 nutrition diagnosis and comparing the outcomes with the patient's previous health
21 status, intervention goals, or reference standards to determine the progress made in
22 achieving desired outcomes of nutrition care and whether planned interventions
23 should be continued or revised.
- 24 23. "Onsite supervision" means the qualified supervisor is present in the department or
25 facility or virtual platform at which nutrition care services are provided, is immediately
26 available to the individual being supervised and maintains continual involvement in the
27 appropriate aspects of patient care, and has primary responsibility for all nutrition care
28 services rendered by an individual.
- 29 24. "Practice of dietetics and nutrition" means the integration and application of scientific
30 principles derived from the study of food, nutrition, biochemistry, metabolism,
31 nutrigenomics, physiology, food management, and behavioral and social sciences in

1 achieving and maintaining health throughout the life span and in providing nutrition
2 care services in person and via telehealth, including medical nutrition therapy, for the
3 purpose of disease management and prevention, or to treat or rehabilitate an illness,
4 injury, or condition.

5 25. "Qualified supervisor" means:

6 a. If supervising the provision of medical nutrition therapy, an individual who is:

7 (1) A certified nutrition specialist or a registered dietitian nutritionist;

8 (2) A licensed nutritionist who has met the education and experience

9 qualifications under section 43-44-07, a licensed dietitian nutritionist, or a
10 licensed registered dietitian; or

11 (3) A health care provider licensed ~~in the United States, including a licensed or~~
12 ~~certified dietitian nutritionist or licensed nutritionist, whose scope of practice~~
13 ~~includes the provision of~~ otherwise authorized under the laws of any state
14 to provide nutrition care services ~~for the purpose of treating or managing to~~
15 treat or manage a disease or medical condition.

16 b. If supervising the provision of nutrition care services that do not constitute
17 medical nutrition therapy, an individual who either meets the requirements of
18 paragraph 1 of subdivision a or an individual with at least three years of clinical
19 nutrition experience who holds a ~~master's or~~ doctoral degree with a major course
20 of study in dietetics, human nutrition, foods and nutrition, community nutrition,
21 public health nutrition, naturopathic medicine, nutrition education, nutrition,
22 nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling,
23 nutrition and functional medicine, nutritional biochemistry, nutrition and integrative
24 health, or an equivalent course of study as approved by the board.

25 26. "Registered dietitian" or "registered dietitian nutritionist" means an individual registered
26 as a dietitian or a dietitian nutritionist with the commission on dietetic registration
27 which authorizes the individual to use the title "registered dietitian nutritionist" or
28 "registered dietitian" and the abbreviation "RDN" or "RD".

29 27. "Telehealth" means the use of electronic information and telecommunications
30 technologies to provide services under this chapter to support clinical health care.

1 patient and professional health-related education, public health, and health
2 administration between a licensee in one location and an individual in another location.
3 28. "Therapeutic diet" means a diet intervention prescribed by a physician or other
4 authorized nonphysician practitioner which provides food or nutrients via oral, enteral,
5 or parenteral routes, or a combination thereof, as part of treatment of disease or
6 diagnosed clinical conditions to modify, eliminate, decrease, or increase identified
7 micronutrients and macronutrients in the diet.

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

10 **43-44-02. Board of dietetic practice - Membership - Terms - Meetings.**

- 11 1. The governor shall appoint a board of dietetic practice, consisting of five members, all
12 of whom must be residents of the state at the time of their appointment. The
13 ~~persons~~individuals appointed must have been engaged in the teaching or rendering of
14 dietetics or ~~general nutrition services~~ to the public, or in research in dietetics or
15 ~~general nutrition services~~ for three years immediately preceding their appointment.
16 Three board members must be licensed registered dietitians and one member must be
17 a licensed nutritionist. ~~The members first appointed to the board need not be licensed~~
18 ~~under this chapter for appointment to their first term on the board, but must possess~~
19 ~~the qualifications necessary for licensure under this chapter.~~ One member must be
20 appointed to represent consumers of health services.
- 21 2. ~~The governor, prior to September 1, 1985, shall appoint two board members for a term~~
22 ~~of one year, two for a term of two years, and one for a term of three years.~~
23 Appointments made thereafter are for terms of three years, but no ~~person~~individual
24 may be appointed to serve more than two consecutive full or partial terms. Terms
25 begin on the first day of September and end on the last day of August or until
26 successors are appointed. An appointment of any member to serve out the remaining
27 term of any position on the board ~~that~~which becomes vacant must be made in the
28 same manner as the original appointment for that position.
- 29 3. The governor may remove any board member for good cause after giving that
30 member a written statement of the reasons for removal and after that member has had
31 an opportunity for a hearing.

- 1 4. The board shall meet during September of each calendar year and select a
2 chairperson. At least one additional meeting must be held before September of the
3 next calendar year. Other meetings may be convened at the call of the chairperson or
4 the written request of any two board members. All meetings of the board are open to
5 the public, except that the board may hold closed sessions to ~~approve an examination,~~
6 ~~or upon request of an applicant who fails an examination, to prepare a response~~
7 ~~indicating any reason for the applicant's failure~~ review patient medical records, review
8 patient testimony, and for other reasons as referenced in section 44-04-19.2.
9 5. Members of the board receive no compensation for their services, but are entitled to
10 mileage and travel expenses as provided in sections 54-06-09 and 44-08-04, and per
11 diem as set by the board.

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

14 **43-44-03. Board powers, and duties, and authority.**

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

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

28 **43-44-05. Fees.**

29 The board shall set and collect fees for application, initial license, renewal of license, late
30 renewal, and limited permit. These fees must be set in such an amount not to exceed two
31 hundred fifty dollars as to reimburse the board, to the extent feasible, for the cost of the services

1 rendered. The board shall waive initial licensure and renewal licensure fees for active duty
2 military and active duty military spouses serving in the United States armed forces in North
3 Dakota.

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

6 **43-44-06. License required - Title - Abbreviations.**

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

14 1. Use of an earned, federally trademarked nutrition credential is not prohibited, but such
15 use does not give an individual the right to practice dietetics or nutrition, provide
16 medical nutrition therapy, or use the general titles of dietitian or nutritionist, unless an
17 individual is licensed under this chapter. Notwithstanding any law to the contrary, all of
18 the following are permissible:

19 a. An individual registered with the commission on dietetic registration may use the
20 title "registered dietitian" and "registered dietitian nutritionist" and the designation
21 of "RD" or "RDN".

22 b. An individual certified by the board of certification of nutrition specialists may use
23 the title "certified nutrition specialist" and the designation "CNS".

24 c. An individual certified by the American clinical board of nutrition may use the title
25 "diplomate, American clinical board of nutrition" and use the designation
26 "DACBN".

27 2. A person not licensed under this chapter may not do any of the following:

28 a. Provide medical nutrition therapy with or without compensation.

29 b. Use or allow a business entity or a business entity's employees, agents, or
30 representatives to use any of the following titles or abbreviations in association
31 with a person's name:

- 1 (1) Dietitian nutritionist or nutritionist.
- 2 (2) Dietitian or dietician.
- 3 (3) Nutrition counselor or nutrition specialist.
- 4 (4) LRD, LDN, or LN.
- 5 (5) Nutritional therapy practitioner or nutritional therapy consultant.
- 6 (6) Certified nutrition therapy practitioner.
- 7 (7) Master nutrition therapist.
- 8 (8) Licensed dietitian nutritionist, licensed registered dietitian, or licensed
- 9 nutritionist.
- 10 (9) Any other designation, words, letters, or insignia in connection with a name
- 11 indicating an offer or eligibility to provide medical nutrition therapy or
- 12 indicating a license to practice dietetics and nutrition or provide medical
- 13 nutrition therapy unless licensed under this chapter.
- 14 3. This section does not prohibit an individual from using an earned title trademarked by
- 15 the United States patent and trademark office.

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

18 **43-44-07. Requirements for licensure - Licensed nutritionist.**

- 19 1. An applicant for licensure as a licensed nutritionist ~~must~~shall file a written application
20 with the board, submit any fees required by the board, and submit proof of completion
21 of the following requirements:
 - 22 a. ~~Have satisfactorily completed academic requirements required by the board, and~~
23 ~~have received a baccalaureate degree in the field of dietetics or food and~~
24 ~~nutrition, as approved by the board, from an accredited college or university;~~
 - 25 b. ~~Have received a master's or doctorate degree in human nutrition, nutrition-~~
26 ~~education, foods and nutrition, or public health nutrition from an accredited~~
27 ~~college or university, or have received a master's or doctorate degree in a related~~
28 ~~field that meets eligibility requirements of the commission on dietetic registration-~~
29 ~~of the academy of nutrition and dietetics or its predecessor or successor~~
30 ~~organization;~~

- 1 e. ~~Maintain membership in one of the following organizations: American institute of~~
2 ~~nutrition, American society for clinical nutrition, or the American board of nutrition;~~
3 ~~or~~
4 d. ~~Present evidence to the board regarding employment and competence as a~~
5 ~~nutritionist before July 1, 1985, and the inability to meet the criteria of~~
6 ~~subdivision a, b, or c~~Have received a master's or doctoral nutrition degree or
7 validated foreign equivalent with a major course of study in human nutrition,
8 foods and nutrition, community nutrition, public health nutrition, nutrition
9 education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition,
10 nutrition counseling, nutrition and functional medicine, nutritional biochemistry,
11 nutrition and integrative health, or a comparable course of study, or a master's or
12 doctoral degree or validated foreign equivalent, in a field of clinical health care
13 from a college or university accredited at the time of graduation from the
14 appropriate regional accrediting agency recognized by the council on higher
15 education accreditation and the United States department of education, and have
16 completed coursework leading to competence in medical nutrition therapy which
17 must consist of the following courses:
18 (1) Fifteen semester hours of clinical or life sciences, including such courses as
19 chemistry, organic chemistry, biology, molecular biology, biotechnology,
20 botany, genetics, genomics, neuroscience, experimental science,
21 immunotherapy, pathology, pharmacology, toxicology, research methods,
22 applied statistics, biostatistics, epidemiology, energy production, molecular
23 pathways, hormone and transmitter regulations and imbalance, and
24 pathophysiologic basis of disease. At least three semester hours must be in
25 human anatomy and physiology or the equivalent.
26 (2) Fifteen semester hours of nutrition and metabolism, including such courses
27 as nutrition assessment, developmental nutrition, nutritional aspects of
28 disease, human nutrition, macronutrients, micronutrients, vitamins and
29 minerals, clinical functional medicine nutrition, molecular metabolism,
30 nutrition, nutritional biochemistry, nutrition and digestive health, and public

1 health nutrition. At least six semester hours must be in biochemistry or an
2 equivalent as approved by the board.

3 b. The applicant must have completed a board-approved internship or a
4 documented, supervised practice experience demonstrating competency in
5 nutrition care services and the provision of medical nutrition therapy of not less
6 than one thousand hours including at least two hundred hours of nutrition
7 assessment, two hundred hours of nutrition intervention, education, counseling,
8 or management, and two hundred hours of nutrition monitoring or evaluation. A
9 minimum of seven hundred hours of supervised practice experience is required in
10 professional work settings and no more than three hundred hours can be in
11 alternate supervised experiences such as observational client-practitioner
12 interactions, simulation, case studies, and role playing. This experience must be
13 under the supervision of a qualified supervisor. A qualified supervisor shall
14 provide onsite supervision of an applicant's supervised practice experience in the
15 provision of medical nutrition therapy and provide general supervision of an
16 applicant's provision of other nutrition care services that do not constitute medical
17 nutrition therapy.

18 c. The applicant meets one of the following criteria:
19 (1) The applicant has successfully completed a board-approved examination
20 such as the certification examination for nutrition specialists administered by
21 the board for certification of nutrition specialists or the diplomate
22 examination administered by the American clinical board of nutrition; or
23 (2) The applicant has either a valid certification with the board for certification of
24 nutrition specialists that gives the applicant the right to use the term
25 "certified nutrition specialist" or "CNS" or a valid certification with the
26 American clinical board of nutrition which gives the applicant the right to use
27 the term "diplomate, American clinical board of nutrition" or "DACBN".

28 d. The applicant shall complete a background check or fingerprinting if requested by
29 the board.

30 2. An applicant for renewal of a license as a licensed nutritionist must:

31 a. Comply~~Comply~~Shall comply with subsection 1.

1 b. ~~Have~~Must have satisfactorily completed continuing education requirements as
2 specified and approved by the board.

3 c. Shall complete a background check or fingerprinting if requested by the board.

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

6 **43-44-08. Requirements for licensure - Licensed registered dietitian.**

7 1. Applicants for licensure as a licensed registered dietitian ~~must~~shall file a written
8 application with the board, submit any fees required by the board, and submit proof of
9 completion of the following requirements:

10 a. ~~Comply with subsection 1 of section 43-44-07.~~

11 b. Have satisfactorily completed the education and experience requirements for
12 registered dietitians nutritionists approved by the commission on dietetic
13 registration of the academy of nutrition and dietetics or its predecessor or
14 successor organization.

15 ~~e.~~b. Have satisfactorily completed the examination approved and administered by the
16 commission on dietetic registration of the academy of nutrition and dietetics or its
17 predecessor or successor organization.

18 c. Have a current valid registration with the commission on dietetic registration
19 which gives the applicant the right to use the term "registered dietitian" or
20 "registered dietitian nutritionist".

21 d. Complete a background check or fingerprinting if requested by the board.

22 2. Applicants for renewal of licensure as a licensed registered dietitian ~~must~~:

23 a. ~~Comply~~Shall comply with subsection 1.

24 b. ~~Have~~Must have satisfactorily completed continuing education requirements
25 specified by the commission on dietetic registration of the academy of nutrition
26 and dietetics or its predecessor or successor organization.

27 c. Shall complete a background check or fingerprinting if requested by the board.

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

1 **43-44-09. Waiver of requirements for licensure of dietitians.**

2 ~~Upon application, the board shall grant a license to any person certified prior to July 1,~~
3 ~~1985, as a registered dietitian by the commission on dietetic registration of the academy of~~
4 ~~nutrition and dietetics or its predecessor or successor organization.~~ Upon application of any
5 person certified by the commission on dietetic registration of the academy of nutrition and
6 dietetics or its predecessor or successor organization ~~after July 1, 1985,~~ the board may waive
7 the examination, education, and experience requirements and grant the applicant a license if
8 the board determines that the requirements for certification are equivalent to the related
9 requirements for licensure in this chapter.

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

12 **43-44-09.1. Grandfathering of licensed nutritionists.**

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

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

20 **43-44-09.2. Scope of practice.**

- 21 1. A licensed registered dietitian and licensed nutritionist shall provide nutrition care
22 services using systematic, evidence-based, problem-solving methods of the nutrition
23 care process to think critically and make decisions to address nutrition-related
24 problems and provide safe, effective, quality nutrition services and medical nutrition
25 therapy for patients and clients in both clinical and community settings.
- 26 2. A licensed registered dietitian or licensed nutritionist may accept or transmit oral,
27 verbal, delegated, or electronically transmitted orders from the referring provider
28 consistent with applicable laws and rules, including any protocols established to
29 implement medical nutrition therapy.
- 30 3. A licensed registered dietitian or licensed nutritionist may order patient diets, including
31 therapeutic diets, in accordance with the provisions of this chapter. Oral therapeutic

1 diets may be ordered by either a licensed registered dietitian or a licensed nutritionist.

2 Therapeutic diets include enteral and parenteral nutrition therapy, which consist of

3 specialized enteral or intravenous solutions and may be ordered only by an individual

4 licensed under this chapter who also meets one of the following criteria:

5 a. The individual is a registered dietitian nutritionist registered with the commission
6 on dietetic registration;

7 b. The individual is a certified nutrition support clinician certified by the national
8 board of nutrition support certification; or

9 c. The individual meets other requirements as determined by the board, consistent
10 with competencies necessary for evaluating, ordering, and administrating enteral
11 and parenteral nutrition.

12 4. This chapter does not limit the ability of any other licensed health care practitioner in
13 this state to order therapeutic diets if the ordering of therapeutic diets falls within the
14 scope of the license held by the health care practitioner.

15 5. A licensed registered dietitian or licensed nutritionist who has met the qualifications
16 under section 43-44-07 or 43-44-08 may order medical laboratory tests related to
17 nutritional therapeutic treatments consistent with state law.

18 6. A licensed registered dietitian or licensed nutritionist may implement prescription drug
19 dose adjustments for specific disease treatment protocols within the limits of the
20 licensed registered dietitian's or licensed nutritionist's knowledge, skills, judgment, and
21 current evidence-informed clinical practice guidelines as indicated in a facility
22 approved protocol and as approved and delegated by the licensed prescriber. This
23 subsection does not allow licensees to prescribe or initiate drug treatment. A licensed
24 registered dietitian and licensed nutritionist may be authorized to prescribe vitamin and
25 mineral supplements or discontinue unnecessary vitamins and minerals.

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

28 **43-44-10. Persons excepted from license requirement.**

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

30 1. ~~Persons licensed to practice medicine, nursing, pharmacy, or dentistry~~A licensed
31 health care practitioner duly licensed in accordance with title 43 who is acting within

- 1 the scope of the individual's licensed profession, consistent with the accepted
2 standards of the practitioner's profession, if the practitioner does not
3 represent themselves as a licensed registered dietitian,
4 nutritionist, or licensed nutritionist.
- 5 2. ~~Any person pursuing a course of study in an approved program leading to a degree in~~
6 ~~the field of dietetics from an accredited college or university, if~~ A student or trainee,
7 working under the onsite supervision of a qualified supervisor while fulfilling an
8 experience requirement or ~~pursing~~ pursuing a course of study to meet the licensure
9 requirements of section 43-44-07 or 43-44-08, for a time period of no more than five
10 years after the student or trainee completed the course requirements for licensure and
11 the person ~~student or trainee~~ is designated by a title which ~~that~~ clearly indicates that
12 ~~person's~~ individual's status as a student or trainee.
- 13 3. ~~Any person in the process of fulfilling the experience requirements of section 43-44-07~~
14 ~~or 43-44-08, if the activities and services constitute a part of the experience necessary~~
15 ~~to meet the requirements of those sections and the person is designated by a title~~
16 ~~which clearly indicates that person's status as a student or trainee~~ An individual
17 providing support activities related to medical nutrition therapy, if the individual works
18 under the general supervision of a registered dietitian licensed by this board, licensed
19 nutritionist licensed by this board, or other health care practitioner licensed by the
20 appropriate North Dakota board whose licensed scope of practice includes the
21 provision of nutrition care services for the purpose of managing a disease or medical
22 condition.
- 23 4. ~~Any person who does not meet the requirements of subdivision a, b, or c of subsection~~
24 ~~1 of section 43-44-07, and who provides nutrition care services, including weight~~
25 ~~control programs, under the supervision of a licensed registered dietitian, a dietitian~~
26 ~~licensed in another state that has licensure requirements considered by the board to~~
27 ~~be at least as stringent as the requirements for licensure under this chapter, or a~~
28 ~~dietitian registered by the commission on dietetic registration of the academy of~~
29 ~~nutrition and dietetics or its predecessor or successor organization.~~

- 1 5. ~~A person practicing dietetics or~~An individual providing general nutrition care services
2 for the purpose of treating or managing a disease or medical condition as a duty of
3 serving in the armed forces.
- 4 ~~6.5. Any person practicing dietetics in this state for no more than ten days annually, if the~~
5 ~~person has met the commonly accepted standards for the practice of dietetics~~
6 A foreign practitioner providing nutrition care services
7 for the purpose of treating or managing a disease or medical condition in this state if
8 the practitioner is acting within the scope of practice designated by the foreign
9 practitioner's license and by this title without obtaining a license if the services are
10 provided through a remote means and are a continuation of an existing relationship
11 between the foreign practitioner and the individual receiving the services which was
12 formed in the state or jurisdiction in which the foreign practitioner is currently licensed.
- 13 ~~7.6. Any person practicing dietetics~~A foreign practitioner providing nutrition care services
14 for the purpose of treating or managing a disease or medical condition in this state ~~for~~
15 ~~more than ten days annually who has pending before the board an application for~~
16 ~~licensure as a licensed registered dietitian under this chapter~~if the practitioner is acting
17 within the scope of practice designated by the foreign practitioner's license and this
18 title without obtaining a license if the services are provided in consultation with a
19 person licensed by the board and if the foreign practitioner has no direct
20 communication in this state with the individual receiving the services except in the
21 presence of the individual licensed by the board. Both the foreign practitioner and the
22 individual licensed by the board are responsible for the services provided.
- 23 ~~8.7.~~ An educator who is in the employ of a federal, state, county, or municipal agency, or
24 other political subdivision, or an elementary or secondary school, or an accredited
25 institution of higher education insofar as the activities and services are part of the
26 duties of the employee's position and do not involve provision of medical nutrition
27 therapy; or who is in the employ or service of a nonprofit organization approved by the
28 board.
- 29 ~~9.8.~~ ~~Any person~~An individual having received a baccalaureate degree in home economics
30 or family and consumer sciences, if the ~~person~~individual does not represent that the
31 ~~person~~individual is a licensed registered dietitian, nutritionist, or licensed nutritionist,

1 insofar as the services and activities are within the scope of that ~~person's~~individual's
2 education and training.

3 ~~10.9.~~ A personAn individual who markets or distributes food, food materials, herbs, or
4 dietary supplements, or any ~~person~~individual who engages in the advising of the use
5 of those products, or the preparation of those products, or the counseling of individuals
6 or groups in the selection of products to meet normal nutritional needs, if that
7 ~~person~~individual does not represent that that ~~person~~individual is a licensed registered
8 dietitian, nutritionist, or licensed nutritionist.

9 10. An individual from providing nutrition information, individualized nutrition
10 recommendations, health coaching, holistic and wellness education, guidance,
11 motivation, behavior change management, nonmedical weight control, or other
12 nutrition care services if the services do not constitute medical nutrition therapy and
13 the individual does not hold the individual out as a licensed registered dietitian,
14 nutritionist, or licensed nutritionist or as a provider of medical nutrition therapy or
15 otherwise violate provisions of this chapter.

16 11. An individual providing medical weight control services for individuals with prediabetes
17 or obesity:

18 a. Under a program of instruction approved in writing by one of the following:

19 (1) A licensed registered dietitian or licensed nutritionist in this state;

20 (2) A dietitian nutritionist or nutritionist licensed in another state that has
21 licensure requirements at least as stringent as the licensure requirements
22 under this chapter, as determined by the board;

23 (3) A registered dietitian nutritionist; or

24 (4) A certified nutrition specialist; or

25 b. As part of a plan of care overseen by a health care practitioner licensed in this
26 state and acting within the scope of the individual's licensed profession,
27 consistent with the accepted standards of the practitioner's profession to provide
28 nutrition care services for the purpose of treatment or management of a disease
29 or medical condition.

30 12. An individual who provides nutrition care services without remuneration to family
31 members.

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

3 **43-44-10.1. Qualified supervision.**

4 1. A qualified supervisor must be licensed in this state if supervising an applicant
5 providing medical nutrition therapy to an individual in this state. A qualified supervisor
6 who obtained a doctoral degree outside the United States must have a degree
7 validated by the board as equivalent to the doctoral degree conferred by a United
8 States regionally accredited college or university.

9 2. The board may adopt rules as necessary and appropriate to implement or clarify
10 onsite supervision.

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

13 **43-44-12. Limited permits**~~Provisional license.~~

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

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

3 **43-44-13. Reciprocity.**

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

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

10 **43-44-15. Suspension and revocation of license - Refusal to renew.**

- 11 1. The board may deny a license, refuse to renew a license, suspend a license, or
12 revoke a license, or may impose probationary conditions on a licensee if the licensee
13 or applicant has been found guilty of unprofessional conduct which has endangered or
14 is likely to endanger the health, welfare, or safety of the public. Unprofessional
15 conduct includes:
- 16 a. Obtaining a license by means of fraud, misrepresentation, or concealment of
17 material facts.
 - 18 b. Being guilty of unprofessional conduct as defined by rules adopted by the board,
19 or violating any code of ethics adopted by the ~~academy of nutrition and dietetics~~
20 ~~or its predecessor or successor organization~~board.
 - 21 c. Being convicted of an offense, as defined by section 12.1-01-04, that the board
22 determines has a direct bearing upon a person's ability to serve the public as a
23 licensed registered dietitian or a licensed nutritionist or, following conviction of
24 any offense, if the board determines that the person is not sufficiently
25 rehabilitated under section 12.1-33-02.1.
 - 26 d. Violating any lawful order or rule of the board.
 - 27 e. Violating this chapter.
- 28 2. A denial, refusal to renew, suspension, revocation, or imposition of probationary
29 conditions upon a licensee may be ordered by the board after a hearing pursuant to
30 rules adopted by the board. An application for reinstatement may be made to the

1 board one year from the date of the revocation of a license. The board may at its
2 discretion accept or reject an application to consider such reinstatement.

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

5 **43-44-16. Injunction.**

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

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

13 **43-44-17. Penalty.**

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

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

18 **43-44-18. Costs.**

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

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

24 **43-44-19. Telehealth.**

- 25 1. The provision of medical nutrition therapy and nutrition care services for the purpose
26 of treating or managing a disease or medical condition provided by way of telehealth
27 to an individual in this state is not prohibited under this chapter if:
- 28 a. Telehealth is appropriate for the individual receiving the services;
 - 29 b. The level of care provided meets the required level of care for that individual and:
 - 30 (1) The level of care complies with applicable regulations and laws;
 - 31 (2) Personal health information is protected; and

1 (3) Documentation of nutrition care services are included in the medical records
2 of the patient.

3 2. An individual providing services regulated by this chapter via telehealth shall comply
4 with, and is subject to, all licensing and disciplinary provisions of this chapter.

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

7 **43-44-20. Limited practice without a license.**

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

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

25 **43-44-21. Criminal history record checks.**

26 1. The board may require an applicant for licensure or renewal to submit to a statewide
27 and nationwide criminal history record check. The nationwide criminal history record
28 check must be conducted in the manner provided in section 12-60-24. Refusal to
29 consent to a criminal history record check may constitute grounds for the board to
30 deny licensure to an applicant. All costs associated with obtaining a background check
31 are the responsibility of the applicant.

- 1 2. The board may request a criminal history record check for an applicant returning to
- 2 active status as a licensed registered dietitian or licensed nutritionist.