

“Licensure Law Updates & Explanations”

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Objectives

- **Understand the benefits of licensure**
- **Provide history on licensure in ND**
- **Updates to ND Statute Chapter 43-44 and how it affects licensees going forward**
- **Administrative rule updates**

Benefits of Licensure

- 1. Assures the public that the professional is qualified & regulated.**
 - It provides an avenue for complaint reporting and discipline.
- 2. Some regulations and insurance coverage specifies “licensed healthcare practitioner” to perform duties.**

History of Licensure in ND

ND was the first state to license RDs and LNs in 1985

- Academic standards and accredited program requirements
- RD licensure was mandatory (few exceptions)
- LN licensure was voluntary
 - *Protected the title of using **Licensed Nutritionist** or “LN”*
- No changes were made to the statute until 2021

Background for Discussion

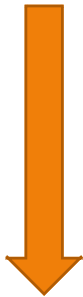
In 2019:

HB 1482 – relating to adding an exemption to the Chapter 43-44 Dietitians and Nutritionists.

The proposed legislation creates an exception from the licensure requirement for persons who provide, up to the level of the person's education and training, to an individual or group, nutrition recommendations, guidance, counseling, assessment or education, if the person does not represent that the person is a licensed registered dietitian or licensed nutritionist.

Why was ND's Licensure Law Challenged in 2019?

Excludes some individuals from licensure that are qualified to practice nutrition (provide MNT)



Certified Nutrition Specialists
Diplomates of the American
Clinical Board of Nutrition

Lack of clarity in the law re: what unlicensed individuals can do



“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.

Health coaches, nutrition therapists, fitness trainers etc.
interpreting the law as too exclusive and not allowing them to talk about nutrition, provide menu planning to clients

Overview of Licensure in Other States

27 states – license needed to practice medical nutrition therapy

18 states – title protection only

3 states – title protection but no formal state regulation

2 states – no licensure (MI and AZ)

Multiple states are working toward licensure or amending their laws.

Key Findings From Other Licensure Laws



- 1. ND was unique in LN licensure and the requirements for this licensure are less than those from other states.**
 - There are no other states that offer a license for an LN based on ND qualifications.
 - North Dakota LNs would not be eligible for licensure in other states.
 - Anyone licensed as an LN in another state is licensed to practice dietetics or MNT or have title protection

Medical Nutrition Therapy – means the provision of nutrition care services for the intended purpose of treatment or management of a diagnosed disease or medical condition.

Licensing Titles Used in Neighboring States

Montana – licensing for nutritionists (RDs only)

South Dakota – licensing for nutritionists (Meets RD requirements)

Minnesota – licensing for dietitians and nutritionists



Nutritionist includes those engaged in dietetics or nutrition practice:

- Has Master's or Doctoral Degree (specified degrees and accreditation)
- Completed a documented supervised preprofessional practice experience of 900 hrs.
- Certified Nutrition Specialists (pathway to provide MNT that is different from an RD)
- OR there is a petition process to the board for equivalent course of study and experiential requirements of the board

Key Findings From Other Licensure Laws



2. Licensure titles vary for practicing of dietetics or nutrition.

Licensed registered dietitian (unique to ND)

Licensed dietitian

Licensed dietitian nutritionist

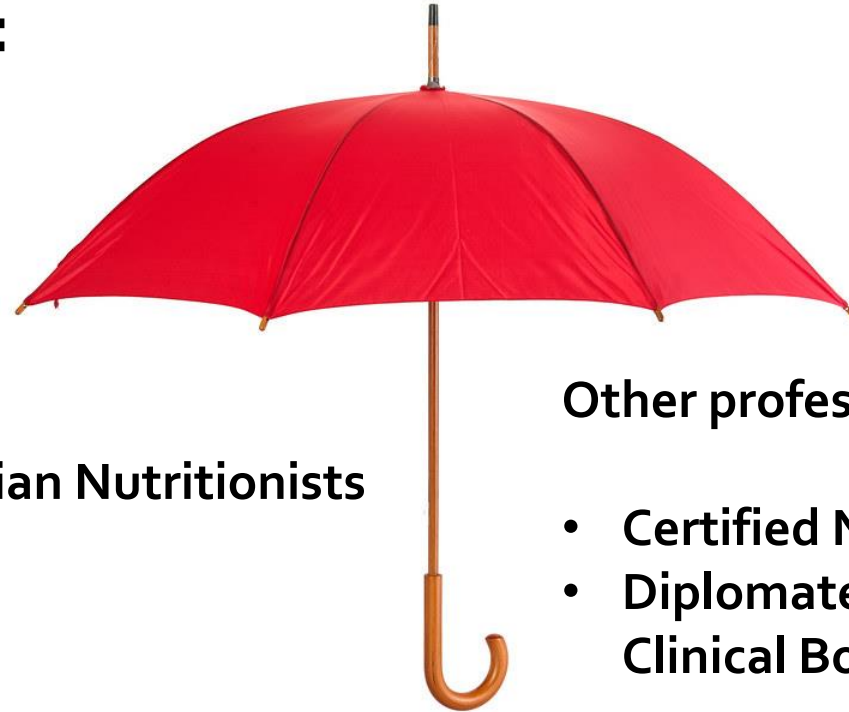
Licensed nutritionist

Certified nutritionist (used interchangeably with licensed dietitian)

Key Findings From Other Licensure Laws



3. Recently revised or new licensure laws license individuals to provide MNT:



Registered Dietitian Nutritionists

Other professions trained in MNT:

- **Certified Nutrition Specialists**
- **Diplomates of the American Clinical Board of Nutrition**

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Key Findings From Other Licensure Laws

4. Protection of Medical Nutrition Therapy not General Nutrition Services

“Medical nutrition therapy” means the provision of nutrition care services for the intended purpose of treatment or management of a diagnosed disease or medical condition.

“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.

- Chapter 43-44 doesn't prohibit unlicensed individuals from providing general nutrition services

Key Findings From Other Licensure Laws

5. Including exemptions to allow other individuals to provide general non-medical information as long as it does not constitute MNT.

General nonmedical nutrition information means information on any of the following:

- Principles of good nutrition, menu planning and food preparation
- Food that should be included in the normal daily diet
- The essential nutrients needed by the human body
- The recommended amounts of essential nutrients for the human body
- The actions of nutrients in the human body
- Food and supplements that are good sources of essential nutrients in the body.

Summary of Statute Changes in Other States:

- 1) **Protect the public from harm by assuring that qualified individuals provide MNT. (We need to add MNT definition in the law).**
- 1) **Provide the ability for other qualified nutrition professionals to be licensed to provide MNT. (i.e. C.N.S. or D.A.C.B.N. that meet qualifications).**
Other states license as LNs
- 3) **Broaden exemptions to clarify and allow other unlicensed individuals to give general nonmedical nutrition information as long as they are not providing MNT or calling themselves nutritionists or dietitians.**
- 4) **Protect the titles of dietitian and nutritionist, LN, LD, etc. (currently nutritionist is not a protected title)**

NDBODP presented the bill to the 2021 ND legislature, and with minor amendments, SB 2187 was passed by the house and senate and signed by Governor Burgum.



State of North Dakota
Office of the Governor
Doug Burgum
Governor



Changes to Chapter 43-44 effect August 1, 2021

Full text of statute changes found at ndbodp.com

- Defined terms
- Added scope of practice
- Redefined qualifications for licensed nutritionists
- Expanded exemptions
- Added telehealth
- Added a section on title protections
- Ability to do background checks

Definitions

Added (24)

Accreditation council for education in nutrition and dietetics
Board for certification of nutrition specialists
Certified nutrition specialist
Commission on dietetic registration
Degree
Diplomate of the American clinical board of nutrition
Evidence based practice
Foreign practitioner
General nonmedical nutrition information
General supervision
Medical nutrition therapy
Medical weight control
Nonmedical weight control
Nutrition
Nutrition counseling
Nutrition diagnosis
Nutrition intervention
Nutrition monitoring and evaluation
Onsite supervision
Practice of nutrition and dietetics
Qualified supervisor
Registered dietitian
Telehealth
Therapeutic diet

Changed (5)

Dietetics
Licensed nutritionist
Licensed registered dietitian
Nutrition assessment
Nutrition care services

Same (1)

Board

Eliminated (2)

Dietitian
General nutrition services

Added Scope of Practice

- LRDs and LNs are qualified to provide MNT
- 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.
- May order therapeutic diets. LNs cannot order TPN or TF unless they are certified to do so.
- May order medical laboratory tests related to nutritional therapeutic treatments.
- 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, 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.
- May be authorized to prescribe vitamin and mineral supplements or discontinue unnecessary vitamins and minerals.

New LN Requirements

- Master's or Doctoral Nutrition degree or Validated Foreign Equivalent

Coursework leading to competence in MNT

- 15 semester hours of clinical or life sciences (at least 3 semester hours in human anatomy and physiology)
 - 15 semester hours of nutrition and metabolism (at least 6 hours must be in biochemistry or equivalent)
- Board Approved Internship or Supervised Practice Experience of 1000 hours
 - Passed an exam (certified nutrition specialists or diplomate examination)
 - Valid current certification as a CNS or DACBN.

LN's who were licensed at the time of the statute update were grandfathered in.

Key Exemptions in the Law (changed)

~~Persons licensed to practice medicine, nursing, pharmacy, or dentistry~~ A licensed health care practitioner duly licensed in accordance with title 43 of the century code who is acting within the scope of the individual's licensed profession, consistent with the accepted standards of their profession, if the persons do not represent themselves as licensed registered dietitians or licensed nutritionists.

Key Exemptions in the Law (changed)

A person who markets or distributes food, food materials, herbs, or dietary supplements, or any person 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 does not represent that that person is a licensed registered dietitian, nutritionist, or licensed nutritionist.

Key Exemptions in the Law (added)

Any 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 provided they do not constitute medical nutrition therapy as defined in 43-44-01 provided that the individual does not hold himself or herself 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.

Key Exemptions in the Law (added)

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: a licensed registered dietitian or licensed nutritionist in this state; 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; a registered dietitian nutritionist; or a certified nutrition specialist; or
- b. as part of a plan of care overseen by a North Dakota licensed health care practitioner who is acting within the scope of the individual's licensed profession, consistent with the accepted standards of their profession to provide nutrition care services for the purpose of treatment or management of a disease or medical condition.

Telehealth

- Laid out guidelines for offering telehealth including protecting personal information.
- Added a section on limited practice WITHOUT a license.
 - For anyone providing nutrition services in ND or to a ND resident without a license as long as it is less than 30 full or partial days per year.
 - Need to submit application and pay \$25 annually.

Title Protection

Unlicensed individuals cannot use the following titles:

1. Dietitian or dietician, dietitian nutritionist, or nutritionist
2. Nutrition counselor or nutrition specialist
3. Licensed dietitian nutritionist, licensed registered dietitian, or licensed nutritionist (or LRD, LDN, or LN)
4. Nutritional therapy practitioner or nutritional therapy consultant
5. Certified nutrition therapy practitioner
6. Master nutrition therapist
7. Any other designation, words, letters, or insignia in connection with a name indicating an offer or eligibility to provide medical nutrition therapy

Administrative Rule Proposed Changes

Summary of changes:

- LN supervised practice requirements and documentation
- LN and Provisional license application requirements
- Moving renewal date to August 1st each year
- Changing initial fee to \$75 and renewal fee to \$50 annually
- Changing late fee to 50% of initial fee (rather than \$10/month)
- Added fee for limited practice without a license (telehealth)
- Specified CEU requirements for LNs
- Added Code of Ethics

Administrative Rule Public Hearing

TAKE NOTICE that the North Dakota Board of Dietetic Practice will hold a public hearing to address proposed changes to the N.D. Admin. Code at **9:00 a.m. CST on Wednesday, March 16, 2022** at <https://us02web.zoom.us/j/81276601849> .

A copy of the proposed rules may be obtained by emailing the North Dakota Board of Dietetic Practice at ndbodp@gmail.com or calling 701-253-0700. Also, written comments may be submitted to 603 Foster Ave NW, Cooperstown, ND 58425 until March 28, 2022. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the NDBODP at the above telephone number or address at least seven days prior to the public hearing.

Administrative Rule Timeline

March 16th – Public hearing + 10 days of written comment

April 4th – NDBODP meeting to review comments & finalize rule

April 15th – Submit documents to Office of Attorney General

May 1st – Approved OAG draft goes to Legislative Council

June – Legislative Rules Committee hearing

July 2nd – Administrative Rules go into effect



North Dakota Board of Dietetic Practice

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