

Introduced by the North Dakota Board of Dietetic Practice

A BILL for an Act to create and enact sections 43-44-09.1, 43-44-09.2, 43-44-18, 43-44-19, 43-44-20, 43-44-21, relating to licensure and regulation of nutritionists and dietitians; to amend and reenact subsection 2 of section 12-60-24, 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, 43-44-17, relating to allow the board of dietetic practices to receive criminal history background check information and to the regulation and licensure of nutritionists and dietitians.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

2. The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter:
  - a. The governing body of a city or a county, by ordinance or resolution, for a final applicant for a specified occupation with the city or county.
  - b. The agriculture commissioner for each applicant for a license to grow or process hemp under section 4.1-18.1-02.

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- c. The education standards and practices board for initial, re-entry, and reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and counseling services under section 15.1-13-23.
- d. The North Dakota board of medicine for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.
- e. The private investigative and security board for licenses or registrations under section 43-30-06.
- f. The department of human services for foster care licenses, approvals, and identified relatives under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two chapters.
- g. The department of human services for criminal history record checks authorized under section 50-06-01.9.
- h. The chief information officer of the information technology department for certain individuals under section 54-59-20.
- i. A public peace officer training school that has been approved by the peace officer standards and training board for enrollees in the school. The school may only disclose the criminal history

record information as authorized by law. The school shall pay the costs for securing the fingerprints, any criminal history record information made available under this chapter, and for the nationwide criminal history record check. This subdivision does not apply to the highway patrol law enforcement training center and enrollees who have a limited license under section 12-63-09.

- j. The North Dakota public employees retirement board for individuals first employed by the public employees retirement board after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- k. The executive director of the retirement and investment office for individuals first employed by the retirement and investment office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
- l. The Bank of North Dakota for a final applicant for a specified occupation with the Bank as designated by the president.
- m. Job service North Dakota for all employees, final applicants for employment with job service, and contractors with access to federal tax information.
- n. The state department of health for a final applicant for or an employee in a specified occupation with the department as designated by the state health officer; an individual being investigated by the department; or, when requested by the

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department, an applicant for registration, certification, or licensure by the department.

- o. The state board of nursing for applicants, licensees, registrants, or disciplinary investigations under chapter 43-12.1, except that criminal history record checks need not be made unless required by the board.
- p. The state board of pharmacy for applicants or disciplinary investigations under chapter 43-15 and registrations, or revocation or suspension of registrations, under chapter 19-03.1, except that criminal history record checks need not be made unless required by the board.
- q. The state real estate commission for applicants, licensees, or investigations under chapter 43-23, except that criminal history record checks need not be made unless required by the commission.
- r. The North Dakota board of social work examiners for applicants for initial licensure or licensees under chapter 43-41, except that criminal history record checks for licensees need not be made unless required by the board.
- s. All agencies, departments, bureaus, boards, commissions, or institutions of the state, including the North Dakota university system, for all employees or final applicants for employment as a security guard or to otherwise provide security.
- t. The office of management and budget for each individual who has access to personal information as designated by the director.

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- u. The department of corrections and rehabilitation for all agents and employees and a final applicant for employment designated by the director and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the department who exercises direct authority over juveniles, inmates, probationers, or parolees.
- v. A city, county, or combination of cities or counties that operates a correctional facility subject to chapter 12-44.1, for each agent and employee and a final applicant for employment of the correctional facility who has direct contact with or exercises direct authority over any juvenile or inmate of the correctional facility, and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the correctional facility who exercises direct authority over juveniles, inmates, probationers, or parolees.
- w. The North Dakota university system for a final applicant for or employee in a specified position in the university system or a university system institution or for each student applying for or admitted to a specified program of study, as designated by the chancellor.
- x. (1) The board of a school district, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

- (2) The board of a multidistrict special education unit, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
  - (3) The board of an area career and technology center, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
  - (4) The board of a regional education association, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
  - (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for employees designated by the nonpublic or state school, provided the nonpublic or state school is responsible for paying the costs associated with obtaining a criminal history record check.
- y. (1) The board of a school district, for a final applicant seeking employment with the district or otherwise providing services to the district, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

- (2) The board of a multidistrict special education unit, for a final applicant seeking employment with the unit or otherwise providing services to the unit, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
- (3) The board of an area career and technology center, for a final applicant seeking employment with the center or otherwise providing services to the center, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
- (4) The board of a regional education association, for a final applicant seeking employment with the association or otherwise providing services to the association if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;  
and
- (5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for a final applicant seeking employment with the school or otherwise providing services to the school, if that individual has unsupervised contact with students,

provided the board is responsible for paying the costs associated with obtaining a criminal history record check.

- (6) For purposes of this subdivision, "unsupervised contact" with students means being in proximity to one or more students, on school grounds or at school functions, outside the presence of an individual who has been subject to a criminal history record check.
- z. The racing commission for applicants for licenses under chapter 53-06.2, except that criminal history record checks need not be made unless required by the commission.
  - aa. A district court for a petition to change a name under chapter 32-28.
  - bb. The state board of pharmacy for a wholesale drug distributor seeking licensure under chapter 43-15.3.
  - cc. The board of dental examiners for investigations of applicants or dentists under section 43-28-11.2, except that criminal history record checks need not be made unless required by the board.
  - dd. The department of financial institutions for each applicant for a specified occupation with the department as specified by the commissioner and principal owners and managing officers of applicants for a license from the department of financial institutions.
  - ee. The office of tax commissioner for all employees, final applicants for employment with the tax commissioner, and contractors with access to federal tax information.



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- ff. The state board of examiners for nursing home administrators for applicants for licensure or licensees under chapter 43-34, except that criminal history record checks for licensees need not be made unless required by the board.
- gg. The marriage and family therapy licensure board for applicants, licensees, or investigations under chapter 43-53, except that criminal history record checks need not be made unless required by the board.
- hh. The state board of chiropractic examiners for applicants, licensees, certificates, or investigations under chapter 43-06, except that criminal history record checks need not be made unless required by the board.
- ii. Workforce safety and insurance for a final applicant for a specified occupation with workforce safety and insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director.
- jj. The board of counselor examiners for applicants for licensure or licensees under chapter 43-47, except that criminal history record checks for licensees need not be made unless required by the board.
- kk. The state board of respiratory care for applicants, licensees, or investigations under chapter 43-42, except that criminal history record checks need not be made unless required by the board.
- ll. The North Dakota real estate appraiser qualifications and ethics board for applicants for permits or registration or permittees, registrants, owners, or controlling persons under chapters 43-

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23.3 and 43-23.5, except that criminal history record checks for permittees, registrants, owners, or controlling persons need not be made unless required by the board.

- mm. The insurance department for criminal history record checks authorized under chapters 26.1-26 and 26.1-26.8.
- nn. The office of the adjutant general for employees and volunteers working with the recruiting and retention, sexual assault, and youth programs.
- oo. The parks and recreation department for volunteers and final applicants for employment, as determined by the director of the parks and recreation department.
- pp. The North Dakota medical imaging and radiation therapy board of examiners for licensure and licensees under chapter 43-62, except that criminal history record checks for licensees need not be made unless required by the board.
- qq. The game and fish department for volunteers and final applicants for employment, as determined by the director of the game and fish department.
- rr. The North Dakota board of massage for applicants, licensees, or investigations under chapter 43-25.
- ss. The North Dakota board of physical therapy for physical therapist and physical therapist assistant applicants and for licensees under investigation, except that criminal history record checks need not be made unless required by the board.

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- tt. The department of commerce for volunteers and employees providing services through eligible organizations, as determined by the commissioner of commerce.
- uu. The state court administrator for a guardian ad litem who provides direct services to youth.
- vv. The department of environmental quality for a final applicant for or an employee specified in occupation with the department; an individual being investigated by the department; or, when requested by the department, an applicant for registration, certification, or licensure by the department.
- ww. The housing finance agency for criminal history record checks authorized under section 54-17-07.13.
- xx. The office of state treasurer for each individual who has access to federal tax information.
- yy. 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. “Accreditation council for education in nutrition and dietetics” means the autonomous accrediting agency for education programs that prepares students to begin careers as registered dietitians or registered dietitian nutritionists.

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2. "Board" means the board of dietetic practice.
- ~~2.3.~~ "Board for certification of nutrition specialists" means the entity that serves as the credentialing agency for certified nutrition specialists.
4. "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 "C.N.S." to indicate that the individual is a certified nutrition specialist.
5. "Commission on dietetic registration or (CDR)" means the credentialing agency for the academy of nutrition and dietetics.
6. "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.
7. "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 nutrition assessment and nutrition care services optimal nutrition 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.~~

8. "Diplomate of the American clinical board of nutrition" means an individual certified as a diplomate by the American clinical board of nutrition that authorizes the individual to use the title "diplomate of the American clinical board of nutrition" and the abbreviation "D.A.C.B.N."
9. "Evidence-based" or "evidence-based practice" means an approach to health care wherein health practitioners use the best evidence available, to make decisions for individuals, groups, and populations.
10. "Foreign practitioner" means an individual who currently 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.
11. "General nonmedical nutrition information" may include information on any of the following:
  - a. Principles of good nutrition, menu planning and food preparation.
  - b. Food that should be included in the normal daily diet.
  - c. The essential nutrients needed by the human body.
  - d. The recommended amounts of essential nutrients in the human body.
  - e. The actions of nutrients in the human body.
  - f. The effects of deficiencies or excesses of nutrients in the human body.

g. Foods, herbs, and supplements that are good sources of essential nutrients in the human body.

It does not include the provision of medical nutrition therapy.

12. "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.

~~5-13.~~ "Licensed nutritionist" means a person licensed to provide general nutrition services as provided in this chapter as a nutritionist under this chapter who may be referred to or hold themselves out as a nutritionist.

~~6-14.~~ "Licensed registered dietitian" means a person licensed to practice dietetics as provided in this chapter as a dietitian under this chapter who may be referred to or hold themselves out as a dietitian, dietitian nutritionist, nutritionist, or a dietician.

15. "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, but not limited to, 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.
16. "Medical weight control" means medical nutrition therapy for the purpose of reducing, maintaining or gaining weight.
17. "Nonmedical weight control" means the provision of services for the purpose of reducing, maintaining or gaining weight that does not constitute the treatment of a disease or medical condition. It includes weight control services for healthy population groups to achieve or maintain a healthy weight.
18. "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.
- ~~7.19.~~ "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 in order 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.

~~8.20.~~ "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:
  - a. 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 thereof.
  - b. Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints.
  - c. Providing nutrition counseling in health and disease.



- d. Developing, implementing, and managing nutrition care systems.
- e. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.
- f. Ordering therapeutic diets.

The term does not prohibit the retail sale of food products or vitamins, the giving of general nonmedical nutrition advice, or the providing of nonmedical weight control by unlicensed individuals.

- 21. “Nutrition counseling” means the advice and assistance provided by licensed registered dietitians and licensed nutritionists to individuals or groups 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.
- 22. “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.
- 23. “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.
- 24. “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.

25. “Onsite supervision” means the qualified supervisor is present in the department or facility or virtual platform where 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. The board may adopt rules it considers necessary and appropriate to implement or clarify onsite supervision.

26. “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 from 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.

27. “Qualified supervisor” means,

a. When supervising the provision of medical nutrition therapy, an individual who is either:

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

(2) A licensed nutritionist who has met the education and experience qualifications under 43-44-07, a licensed dietitian nutritionist, or a licensed registered dietitian.

- (3) A health care provider licensed in any United States state or territory, including licensed or certified dietitian nutritionists and licensed nutritionists, whose scope of practice includes the provision of nutrition care services for the purpose of treating or managing a disease or medical condition.
- (4) A supervisor under this subsection shall be licensed in this state if supervising an applicant providing medical nutrition therapy to an individual in this state.
- b. When supervising the provision of nutrition care services that do not constitute medical nutrition therapy, an individual who either meets the requirements of 43-44-01-27(a)(1) or an individual with at least three years of clinical nutrition experience who holds a 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.
- c. Supervisors who obtained their doctoral degree outside the United States and its territories must have their degrees validated by the board as equivalent to the doctoral degree conferred by a United States regionally accredited college or university.

28. "Registered dietitian" or "registered dietitian nutritionist" means an individual who is registered as a dietitian or a dietitian nutritionist with the commission on dietetic registration that authorizes the individual to use the title "registered dietitian nutritionist" or "registered dietitian" and the abbreviation "RDN" or "RD."
29. "Telehealth" is 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.
30. "Therapeutic diet" means a diet intervention prescribed by a physician or other authorized nonphysician practitioner that 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 micro-nutrients and macro-nutrients 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 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

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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 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 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, 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, duties, and authority.**

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 functions. The board may:

1. Issue subpoenas, examine witnesses, administer oaths, and investigate allegations of practices violating this chapter.
2. 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.
3. Provide interpretive guidance on chapter 43-44.

**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, provisional license, initial license, renewal of license, and late renewal. 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. Initial licensure and renewal licensure fees shall be waived 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.~~

1. Use of an earned, federally trademarked nutrition credential is not prohibited, but such use does not give 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 has the right to 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 has the right to use the title “certified nutrition specialist” and the designation “CNS”.
  - c. An individual certified by the American clinical board of nutrition has the right to use the title “diplomate, American clinical board of nutrition” and use the designation “DACBN”.
2. It shall be unlawful for any person who is not licensed under this chapter to 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) L.R.D., L.D.N., or L.N.
    - (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 (i.e. nutrition therapy) unless licensed under this chapter.

3. Nothing in this section shall be construed to 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 file a written application with the board, submit any fees required by the board, be of good moral character and shall 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;~~

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- ~~e. 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.~~
- a. 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 healthcare 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 that shall 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 the or 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 shall be under the supervision of a qualified supervisor with the requisite education, training, and license or certification required pursuant to section 43-44-01. Qualified supervisors must 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 either the certification examination for nutrition specialists administered by the board for certification of nutrition specialists, the diplomate examination administered by the American clinical board of nutrition, or another examination approved by the board and meeting the requirements defined in this chapter.

(2) The applicant has either a valid current 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 current certification with the American clinical board of nutrition that gives the applicant the right to use the term "diplomate, American clinical board of nutrition" or "DACBN."

- d. The applicant must complete a background check or fingerprinting if requested by the board.
2. An applicant for renewal of a license as a nutritionist must:
  - a. Comply with subsection 1.
  - b. Have satisfactorily completed continuing education requirements as specified and approved by the board.
  - c. 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 file a written application with the board, submit any fees required by the board, be of good moral character and shall 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 dietitian 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 that 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 with subsection 1.
    - b. 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. 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**

1. An individual who meets the requirements for licensure and holds a license as a licensed nutritionist on the date of enactment of this chapter and is practicing or residing in this state on the effective date of July 31, 2021 shall be eligible to maintain and renew a license as a licensed nutritionist provided 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. Licensed registered dietitians and licensed nutritionists shall provide nutrition care services using systematic, evidence-based problem-solving methods of the nutrition care process to critically think 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, or 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 shall only be ordered 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 administrating enteral and parenteral nutrition.
4. Nothing in this chapter shall be construed to limit the ability of any other licensed health care practitioner in this state to order therapeutic diets, so long as 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 43-44-07 as revised 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 their 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 does not allow licensees to prescribe or initiate drug treatment. Licensed registered dietitians and licensed nutritionists may be authorized to prescribe vitamin and mineral supplements or discontinue unnecessary vitamins and minerals.

**SECTION 11. 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 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.
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 more than five years after the person completed the course requirements for licensure and the person is designated by a title which clearly indicates that person'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~~

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~~sections and the person is designated by a title which clearly indicates that person's status as a student or trainee. Any 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 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~~ 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 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 who is 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 does 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 having received a baccalaureate degree in home economics or family and consumer sciences, if the person does not represent that the person is a licensed registered dietitian, nutritionist or licensed nutritionist, insofar as the services and activities are within the scope of that person's education and training.
- ~~10.9.~~ 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.
10. 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.
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: 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.

12. Any individual who provides nutrition care services without remuneration to family members.

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

**43-44-12. ~~Limited permits~~ Provisional 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.~~Applicants for a provisional license must file a written application with the board, submit any fees required by

the board, be of good moral character 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 subdivision a and b of subsection 1 of 43-44-07 or subdivision a of subsection 1 of section 43-44-08. A provisional license shall be available to an applicant with the applicant's initial application for examination and the applicant may practice only under the supervision of a North Dakota licensed registered dietitian or a North Dakota licensed nutritionist that meets requirements under subsection 1 of 43-44-07. A provisional license shall expire 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 it shall automatically expire and be surrendered to the Board.

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

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

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

**SECTION 15. 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

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a licensee if the licensee or applicant has been found to have committed 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. Committing 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 any provision of 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 16. 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 make application to any appropriate court for an order enjoining violations of this chapter, and upon a showing by the board that any person has violated or is about to violate this chapter, the court may grant an injunction, restraining order, or take other appropriate action.

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

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

Any person who violates this chapter is guilty of a class B misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate offense.

**SECTION 18.** 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 article or rules adopted by the board. Costs recovered pursuant to this section shall be the property of the board.

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

**43-44-19. Telehealth**

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 as defined in 43-44-01 to an individual in this state is not prohibited under this chapter so long as:

1. it is appropriate for the individual receiving the services.



2. the level of care provided meets the required level of care for that individual
  - a. it complies with applicable regulations and laws,
  - b. personal health information is protected; and
  - c. documentation of nutrition care services are included in the medical records of the patient. An individual providing services regulated by this chapter via telehealth shall comply with, and shall be subject to, all licensing and disciplinary provisions of this chapter.

**SECTION 20.** 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 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.  
Foreign practitioners are subject to the regulatory and disciplinary provisions of 43-  
51-08 and this chapter.

**SECTION 21.** 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 the 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 applicants returning to active status as a licensed registered dietitian or licensed nutritionist.