

HOUSE BILL 147

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Karen C. Bash

AN ACT

RELATING TO LICENSING; AMENDING AND ENACTING SECTIONS OF THE
NUTRITION AND DIETETICS PRACTICE ACT TO CLARIFY DIETITIAN
NUTRITIONIST AND NUTRITIONIST LICENSURE REQUIREMENTS; PROVIDING
A SCOPE OF PRACTICE FOR DIETITIAN NUTRITIONISTS AND
NUTRITIONISTS; CHANGING THE COMPOSITION AND DUTIES OF THE
NUTRITION AND DIETETICS PRACTICE BOARD; PROVIDING A BIENNIAL
LICENSURE FEE; PROVIDING EXEMPTIONS FROM FEES FOR ACTIVE DUTY
MILITARY SERVICE PERSONNEL AND SPOUSES; CREATING FINES FOR
NUTRITION AND DIETETICS PRACTICE ACT VIOLATIONS; EXTENDING THE
SUNSET DATE OF THE NUTRITION AND DIETETICS PRACTICE BOARD;
PROVIDING FOR NO ADDITIONAL LICENSURE REQUIREMENTS FOR CURRENT
LICENSED PRACTITIONERS; CREATING TITLE PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-7A-1 NMSA 1978 (being Laws 1989,

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1 Chapter 387, Section 1) is amended to read:

2 "61-7A-1. SHORT TITLE.--~~[Sections 1 through 15 of this~~
3 ~~act]~~ Chapter 61, Article 7A NMSA 1978 may be cited as the
4 "Nutrition and Dietetics Practice Act"."

5 SECTION 2. Section 61-7A-2 NMSA 1978 (being Laws 1989,
6 Chapter 387, Section 2) is amended to read:

7 "61-7A-2. LEGISLATIVE FINDINGS--PURPOSE OF ACT.--

8 A. The legislature finds that the application of
9 scientific knowledge relating to food and nutrition plays an
10 important part in the treatment of disease and in the
11 attainment and maintenance of health. The legislature further
12 finds that the rendering of dietetics services in institutions
13 and other settings requires trained and competent
14 professionals.

15 B. The purpose of the Nutrition and Dietetics
16 Practice Act is to safeguard life and health and to promote the
17 public welfare by providing for the licensure and regulation of
18 the persons engaged in the practice of nutrition [~~and~~] or
19 dietetics in the state and by providing the consumer a means of
20 identifying those qualified to practice nutrition or
21 dietetics."

22 SECTION 3. Section 61-7A-3 NMSA 1978 (being Laws 1989,
23 Chapter 387, Section 3) is amended to read:

24 "61-7A-3. DEFINITIONS.--As used in the Nutrition and
25 Dietetics Practice Act:

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1 ~~[A. "association" means the American dietetic~~
2 ~~association;~~

3 ~~B.]~~ A. "board" means the nutrition and dietetics
4 practice board;

5 ~~[C.]~~ B. "commission" means the commission on
6 dietetic registration that is a member of the national
7 commission [on health] for certifying agencies [which national
8 commission establishes national standards of competence for
9 individuals participating in the health care delivery system]
10 and the national body that develops standards of excellence for
11 voluntary certification programs;

12 C. "degree" means a degree received from a college
13 or university that is a United States regionally accredited
14 body recognized by the council for higher education
15 accreditation and the United States department of education at
16 the time the degree was received, or a validated foreign
17 equivalent;

18 D. "dietetics" means the integration, application
19 and communication of practice principles derived from the food,
20 nutrition, social, business and basic sciences to achieve and
21 maintain the optimal nutrition status of an individual;

22 ~~[D.]~~ E. "dietitian" or "dietitian nutritionist"
23 means a health care professional who engages in [nutrition or
24 dietetics practice] the practice of dietetics and nutrition and
25 uses the title dietitian or dietitian nutritionist and meets

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1 the qualifications to be licensed as a dietitian nutritionist;

2 ~~[E. "nutrition or dietetics practice" means the~~
3 ~~integration and application of principles derived from the~~
4 ~~sciences of nutrition, biochemistry, physiology, food~~
5 ~~management and behavioral and social sciences to achieve and~~
6 ~~maintain human health through the provision of nutrition care~~
7 ~~services;]~~

8 F. "evidence-based" or "evidence-based practice"
9 means an approach to health care wherein health practitioners
10 use the best evidence possible to make decisions for
11 individuals, groups and populations;

12 G. "diplomate of the American clinical board of
13 nutrition" means a person certified as a diplomate by the
14 American clinical board of nutrition that authorizes the
15 individual to use the title "diplomate of the American clinical
16 board of nutrition" and the abbreviation "D.A.C.B.N.";

17 H. "general nonmedical nutrition information"
18 means:

19 (1) principles of good nutrition and food
20 preparation;

21 (2) foods that should be included in the
22 normal daily diet;

23 (3) essential nutrients needed by the human
24 body;

25 (4) recommended amounts of essential nutrients

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1 in the human body;

2 (5) actions of nutrients in the human body;

3 (6) effects of deficiencies or excesses of
4 nutrients in the human body;

5 (7) foods, herbs and dietary supplements that
6 are good sources of essential nutrients in the human body; and

7 (8) principles of self-care and healthy
8 relationships with food;

9 I. "general supervision" means a qualified
10 supervisor is on-site and present where nutrition care services
11 are provided or is immediately available to the person being
12 supervised by means of electronic communications and maintains
13 continual involvement in the appropriate aspects of patient
14 care and has primary responsibility for all nutrition care
15 services rendered by a person under supervision;

16 J. "licensed dietitian nutritionist" means a person
17 who is licensed as a dietitian nutritionist;

18 K. "licensed nutritionist" means a person who is
19 licensed as a nutritionist;

20 L. "medical nutrition therapy" means nutrition care
21 services provided for the treatment or management of a disease
22 or medical condition and includes:

23 (1) interpreting anthropometric, biochemical,
24 clinical and dietary data in acute and chronic disease states
25 and recommending or ordering nutrient needs based on dietary

1 data, including tube feedings and parenteral nutrition;

2 (2) food and nutrition counseling, including
3 prescription drug interactions;

4 (3) developing and managing food service
5 operations, including operations for the management or
6 treatment of disease or medical conditions, with the primary
7 function of nutrition care or recommending or ordering
8 therapeutic diets; and

9 (4) medical weight control;

10 M. "medical weight control" means medical nutrition
11 therapy for the purpose of reducing, maintaining or gaining
12 weight;

13 N. "nutrition" means the science of food and
14 nutrients, including the action, interaction and balance of
15 food and nutrients in relation to health and disease and the
16 process by which humans ingest, absorb, transport, utilize and
17 excrete food substances;

18 O. "nutrition assessment" means the systematic
19 process of obtaining, verifying and interpreting biochemical,
20 anthropometric, physical, nutrigenomic and dietary data to make
21 decisions about the nature and cause of nutrition-related
22 problems. The mere collection of data itself does not
23 constitute nutrition assessment. The term includes an ongoing,
24 dynamic process that:

25 (1) involves an initial data collection and a

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1 reassessment and analysis of client or community needs; and

2 (2) provides the foundation for nutrition
3 diagnosis and nutritional recommendations, including enteral
4 and parenteral nutrition;

5 ~~[F.]~~ P. "nutrition care services" means:

6 (1) ~~[assessment of]~~ assessing and evaluating
7 the nutritional needs of individuals and groups and
8 ~~[determining]~~ a determination of resources and constraints in
9 the practice setting, including ordering laboratory tests to
10 check and track nutrition status, creating dietary plans and
11 orders and monitoring the effectiveness of a dietary plan;

12 (2) ~~[establishment of]~~ establishing
13 priorities, goals and objectives that meet nutritional needs in
14 a manner consistent with available resources and constraints;

15 (3) ~~[provision of]~~ providing nutrition
16 counseling in health and disease;

17 (4) ~~[development, implementation and~~
18 ~~management of]~~ developing, implementing and managing nutrition
19 care systems; ~~[and]~~

20 (5) ~~[evaluation, adjustment and maintenance~~
21 ~~of]~~ evaluating, adjusting and maintaining appropriate standards
22 of quality in food and nutrition care; and

23 (6) ordering therapeutic diets;

24 ~~[G. "nutritional assessment" means the evaluation~~
25 ~~of the nutritional needs of individuals and groups based upon~~

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1 ~~appropriate biochemical, anthropometric, physical and dietary~~
2 ~~data to determine nutrient needs and recommend appropriate~~
3 ~~nutritional intake, including enteral and parenteral nutrition;~~

4 H.] Q. "nutrition counseling" means ~~[advising and~~
5 ~~assisting individuals or groups on appropriate nutritional~~
6 ~~intake by integrating information from the nutritional~~
7 ~~assessment with information on food and other sources of~~
8 ~~nutrients and meal preparation consistent with cultural~~
9 ~~background and socioeconomic status;~~

10 I. ~~"nutrition associate" means a health care~~
11 ~~professional who engages in nutrition or dietetics practice~~
12 ~~under the supervision of a dietitian or nutritionist; and] a~~
13 supportive process, characterized by a collaborative
14 counselor-patient or client relationship with individuals or
15 groups, to establish food, nutrition and physical activity
16 priorities, goals and individualized action plans that foster
17 responsibility for self-care to treat an existing condition or
18 promote health;

19 R. "nutrition diagnosis" means identifying and
20 labeling nutritional problems managed and treated by a
21 dietitian nutritionist or nutritionist and does not include the
22 medical differential diagnosis of the health status of an
23 individual;

24 S. "nutrition intervention" means purposefully
25 planned actions and nutrition counseling intended to positively

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1 change a nutrition-related behavior, risk factor, environmental
2 condition or aspect of health status for an individual;

3 ~~[J.]~~ T. "nutritionist" means a [health care
4 ~~professional who engages in nutrition or dietetics practice and~~
5 ~~uses the title nutritionist]~~ licensed dietitian nutritionist,
6 licensed nutritionist, dietitian or dietitian nutritionist;

7 U. "nutrition monitoring and evaluation" means
8 identifying patient outcomes relevant to a nutrition diagnosis
9 and comparing the outcomes with the patient's previous health
10 status, intervention goals or reference standards to determine
11 the progress made in achieving desired outcomes of nutrition
12 care and whether planned interventions should be continued or
13 revised;

14 V. "on-site supervision" means that a qualified
15 supervisor is on-site and present in the department or facility
16 where nutrition care services are provided, is immediately
17 available to the individual being supervised and maintains
18 continual involvement in the appropriate aspects of patient
19 care and has primary responsibility for all nutrition care
20 services rendered by that individual;

21 W. "practice of dietetics and nutrition" means the
22 integration and application of scientific principles derived
23 from the study of food, nutrition, biochemistry, metabolism,
24 nutrigenomics, physiology and food management and from
25 behavioral and social sciences in achieving and maintaining

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1 health throughout the patient's life span and in providing
2 nutrition care services in person or through telehealth for the
3 purpose of disease management or to treat or rehabilitate an
4 illness, injury or condition;

5 X. "qualified supervisor" means:

6 (1) when supervising the provision of medical
7 nutrition therapy, an individual who is either:

8 (a) a certified nutrition specialist or
9 a registered dietitian nutritionist;

10 (b) a licensed nutritionist, a licensed
11 dietitian nutritionist or a licensed registered dietitian;

12 (c) a health care provider licensed by
13 any state or territory, including licensed or certified
14 dietitian nutritionists and licensed nutritionists, whose scope
15 of practice includes the provision of nutrition care services
16 for the purpose of treating or managing a disease or medical
17 condition; or

18 (d) if supervising an applicant
19 providing medical nutrition therapy to an individual in this
20 state, a supervisor pursuant to this subparagraph shall be
21 licensed in this state; and

22 (2) when supervising the provision of
23 nutrition care services that do not constitute medical
24 nutrition therapy:

25 (a) an individual who meets the

1 requirements of Paragraph (l) of this subsection;

2 (b) an individual with at least three
3 years of clinical nutrition experience who holds a doctoral
4 degree with a major course of study in dietetics, human
5 nutrition, foods and nutrition, community nutrition, public
6 health nutrition, naturopathic medicine, nutrition education,
7 nutrition, nutrition science, clinical nutrition, applied
8 clinical nutrition, nutrition counseling, nutrition and
9 functional medicine, nutritional biochemistry, nutrition and
10 integrative health or an equivalent course of study as approved
11 by the board; or

12 (c) an individual holding a doctoral
13 degree obtained outside of the United States and its
14 territories and has that doctoral degree validated by the board
15 as equivalent to the doctoral degree conferred by a United
16 States regionally accredited college or university;

17 Y. "registered dietitian" or "registered dietitian
18 nutritionist" means an individual who is registered as a
19 dietitian or a dietitian nutritionist with the commission on
20 dietetic registration that authorizes the individual to use the
21 title "registered dietitian nutritionist" or "registered
22 dietitian" and the abbreviation "R.D.N." or "R.D.";

23 Z. "telehealth" means the use of electronic
24 information and telecommunications technologies to provide
25 services pursuant to the Nutrition and Dietetics Practice Act

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1 to support clinical health care, patient and professional
2 health-related education, public health and health
3 administration between a licensee in one location and an
4 individual in another location; and

5 AA. "therapeutic diet" means a nutrition
6 intervention prescribed by a physician or other authorized non-
7 physician practitioner that provides food or nutrients through
8 oral, enteral and parenteral routes as part of treatment of
9 disease or diagnosed clinical conditions to modify, eliminate,
10 decrease or increase identified micronutrients and
11 macronutrients in the diet."

12 SECTION 4. Section 61-7A-4 NMSA 1978 (being Laws 1989,
13 Chapter 387, Section 4) is amended to read:

14 "61-7A-4. LICENSE REQUIRED--EXEMPTIONS.--

15 A. After April 1, 1990, no person shall ~~[engage in~~
16 ~~nutrition or dietetics practice]~~ provide medical nutrition
17 therapy, represent to the public that the person is qualified
18 to provide medical nutrition therapy, whether compensated or
19 not, or use or include the titles or ~~[represent himself to be]~~
20 make any representation as being a dietitian or nutritionist
21 ~~[or nutrition associate]~~ unless ~~[he]~~ that person is licensed
22 under the Nutrition and Dietetics Practice Act.

23 B. Nothing in the Nutrition and Dietetics Practice
24 Act is intended to:

25 (1) limit, interfere with or prevent any other

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1 licensed health care professional from engaging in the practice
2 of dietetics and nutrition [~~and dietetics practice~~] within the
3 limits of [~~his~~] the licensure, except that [~~he~~] the licensed
4 health care professional shall not [~~hold himself out as~~] make
5 any representation as being a dietitian or nutritionist [~~or~~
6 ~~nutrition associate~~];

7 (2) limit, interfere with or prevent employees
8 of state, [~~or~~] federal agencies or an individual serving in the
9 United States armed forces from practicing dietetics and
10 nutrition or using the term "dietitian" or "nutritionist" as
11 defined in state or federal personnel qualifications where
12 these terms are used in their job titles, except that the use
13 of these terms and the ability to practice dietetics and
14 nutrition without limit under this paragraph shall be limited
15 to the period and practice of their employment with the state
16 or federal agency establishing those qualifications;

17 (3) prevent an individual who does not [~~hold~~
18 ~~himself out as~~] make any representation as being a licensed
19 dietitian nutritionist or [~~nutrition associate~~] a licensed
20 nutritionist from furnishing [~~oral or written nutritional~~
21 ~~information on food, food materials or dietary supplements or~~
22 ~~from engaging in the explanation to customers about foods or~~
23 ~~food products in connection with the marketing and distribution~~
24 ~~of those products~~] or explaining general, nonmedical nutrition
25 information regarding the use of food, food materials, herbs or

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1 dietary supplements, provided that the individual does not
2 violate the provisions of the Nutrition and Dietetics Practice
3 Act;

4 (4) prevent ~~[any person]~~ a person from
5 providing medical weight control services ~~[provided the program~~
6 ~~has been reviewed by, consultation is available from and no~~
7 ~~program change can be initiated without prior approval by a~~
8 ~~licensed dietitian or licensed nutritionist, a dietitian or~~
9 ~~nutritionist licensed in another state which has licensure~~
10 ~~requirements at least as stringent as the requirements for~~
11 ~~licensure under the Nutrition and Dietetics Practice Act or a~~
12 ~~dietitian registered by the commission]~~ for individuals with
13 prediabetes or obesity:

14 (a) under a program of instruction
15 approved in writing by: 1) a licensed dietitian nutritionist
16 or licensed nutritionist in this state; 2) a dietitian
17 nutritionist or nutritionist certified or licensed in another
18 state that has requirements no less stringent to the licensure
19 requirements for licensed dietitian nutritionists or licensed
20 nutritionists under the Nutrition and Dietetics Practice Act,
21 as determined by the board; 3) a registered dietitian
22 nutritionist; or 4) a certified nutrition specialist; or

23 (b) as part of a plan of care overseen
24 by a health care practitioner licensed in this state who is
25 acting within the scope of that health care practitioner's

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1 licensed profession, consistent with the accepted standards of
2 that profession to provide nutrition care services for the
3 purpose of treatment or management of a disease or medical
4 condition;

5 (5) prevent a nutrition and dietetic
6 technician registered (DTR) or (NDTR) from engaging in the
7 practice of dietetics and nutrition [~~or dietetics practice~~]
8 under the supervision of a licensed dietitian nutritionist or
9 licensed nutritionist;

10 (6) apply to or affect students [~~of approved~~
11 ~~or accredited dietetics or nutrition training or education~~
12 ~~programs who engage in nutrition or dietetics practice under~~
13 ~~the supervision of a licensed dietitian or licensed~~
14 ~~nutritionist as a part of their approved or accredited training~~
15 ~~or education program for the duration of that program] or
16 trainees working under the on-site supervision of a qualified
17 supervisor while fulfilling an experience requirement or
18 pursuing a course of study to meet the licensure requirements
19 pursuant to the Nutrition and Dietetics Practice Act, for a
20 time period of no more than five years after the person
21 completes the course requirements for licensure and the person
22 is designated by a title that clearly indicates that person's
23 status as a student or trainee;~~

24 (7) interfere with or prevent persons
25 recognized in their communities as curanderos or medicine men

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1 from advising or ministering to people according to traditional
2 practices, as long as they do not hold themselves out to be
3 dietitians or nutritionists [~~or nutrition associates~~];

4 (8) prohibit a person from providing medical
5 nutrition therapy if that person works under the direct
6 supervision of a health care provider licensed to provide
7 nutrition care services for the purpose of treatment or
8 management of a disease or medical condition and the individual
9 performs only support activities;

10 (9) prevent an individual from providing
11 nutrition information, nutrition recommendations, holistic and
12 wellness education, guidance, encouragement, behavior change
13 management, coaching, assessments, weight control services or
14 other nutrition care services that do not constitute medical
15 nutrition therapy pursuant to Subsection L of Section 61-7A-3
16 NMSA 1978; provided that the individual does not claim to be
17 licensed or qualified to practice dietetics and nutrition or
18 medical nutrition therapy or a licensed dietitian nutritionist
19 or licensed nutritionist or otherwise violate provisions of the
20 Nutrition and Dietetics Practice Act;

21 (10) prevent a person licensed to practice a
22 profession pursuant to Chapter 61 NMSA 1978 from engaging in
23 the practice or teaching of dietetics and nutrition within the
24 scope of that person's license, or any other person licensed to
25 practice or certified to teach in this state under any other

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1 law, from engaging in the practice or teaching for which that
2 person is licensed, regulated or certified; or

3 (1) prevent a person from providing nutrition
4 care services without remuneration to family members."

5 SECTION 5. A new section of the Nutrition and Dietetics
6 Practice Act is enacted to read:

7 "[NEW MATERIAL] SCOPE OF PRACTICE.--

8 A. Unless provided pursuant to the Nutrition and
9 Dietetics Practice Act, only a licensed dietitian nutritionist
10 or licensed nutritionist shall provide medical nutrition
11 therapy, including:

12 (1) assessing the nutrition needs of
13 individuals and groups and determining resources and
14 constraints in the practice setting;

15 (2) establishing priorities and objectives
16 that meet nutritive needs and are consistent with available
17 resources and constraints;

18 (3) providing nutrition counseling;

19 (4) developing, implementing and managing
20 nutrition care systems; and

21 (5) evaluating, adjusting and maintaining
22 appropriate standards of quality in food and nutrition
23 services.

24 B. Licensed dietitian nutritionists and licensed
25 nutritionists shall provide nutrition care services using

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1 systematic, evidence-based problem-solving methods of the
2 nutrition care process to address nutrition-related problems
3 and provide safe, effective, quality nutrition services and
4 medical nutrition therapy for patients and clients in both
5 clinical and community settings.

6 C. A licensed dietitian nutritionist or licensed
7 nutritionist may accept or transmit oral, verbal or delegated
8 or electronically transmitted orders from the referring
9 provider consistent with applicable laws and rules, including
10 any protocols established to implement medical nutrition
11 therapy.

12 D. A licensed dietitian nutritionist or licensed
13 nutritionist may order patient diets, including therapeutic
14 diets, pursuant to this section. Oral therapeutic diets may be
15 ordered by either a licensed dietitian nutritionist or licensed
16 nutritionist. Therapeutic diets include enteral and parenteral
17 nutrition therapy that consist of specialized enteral or
18 intravenous solutions and shall only be ordered by an
19 individual licensed pursuant to the Nutrition and Dietetics
20 Practice Act who also meets one of the following criteria:

21 (1) the individual is a registered dietitian
22 nutritionist registered with the commission on dietetic
23 registration;

24 (2) the individual is a certified nutrition
25 support clinician certified by the national board of nutrition

1 support certification; or

2 (3) the individual meets other requirements as
3 determined by the board, consistent with competencies necessary
4 for evaluating, ordering and administrating enteral and
5 parenteral nutrition.

6 E. Nothing in this section shall be construed to
7 limit the ability of any other licensed health care provider in
8 this state to order therapeutic diets, so long as the ordering
9 of therapeutic diets falls within the scope of the license held
10 by the health care provider.

11 F. A licensed dietitian nutritionist or licensed
12 nutritionist may order medical laboratory tests related to
13 nutritional therapeutic treatments consistent with state law.

14 G. A licensed dietitian nutritionist or licensed
15 nutritionist may implement prescription drug dose adjustments
16 for specific disease treatment protocols within the limits of
17 their knowledge, skills, judgment and current evidence-informed
18 clinical practice guidelines as indicated in a facility-
19 approved protocol and as approved and delegated by a licensed
20 prescribing physician.

21 H. Licensed dietitian nutritionists and licensed
22 nutritionists may advise a patient or client under the care of
23 that licensed dietitian nutritionist or licensed nutritionist
24 to consume vitamin, mineral and other nutritional supplements
25 or discontinue use of unnecessary vitamin and mineral

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1 supplements.

2 I. Nothing in this section shall be construed to
3 licensees practicing pursuant to the Nutrition and Dietetics
4 Practice Act to prescribe or initiate drug treatment."

5 SECTION 6. Section 61-7A-5 NMSA 1978 (being Laws 1989,
6 Chapter 387, Section 5, as amended) is amended to read:

7 "61-7A-5. BOARD CREATED.--

8 A. There is created the "nutrition and dietetics
9 practice board", administratively attached to the regulation
10 and licensing department. The board shall consist of five
11 members who are New Mexico residents and who are appointed by
12 the ~~[governor]~~ superintendent for staggered three-year terms.
13 ~~[Three]~~ Two members shall be licensed dietitians or
14 nutritionists ~~[with at least three years of nutrition or~~
15 ~~dietetics practice]~~ who have been actively engaged in the
16 practice of dietetics and nutrition and the provision of
17 medical nutrition therapy for the past three years in New
18 Mexico, one member shall be a licensed nutritionist who has
19 been actively engaged in the practice of dietetics and
20 nutrition and the provision of medical nutrition therapy for
21 the past three years in New Mexico and two members shall
22 represent the public. There shall be at least one licensed
23 dietitian nutritionist and at least one licensed nutritionist
24 on the board at all times. The public members shall not have
25 been licensed as a dietitian ~~[or]~~ nutritionist or nutritionist,

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1 an agent or employee of a person engaged in the profession of
2 dietetics or nutrition, a licensed health care professional or
3 enrolled in a program to become a licensed health care
4 professional, an agent or employee of a health care
5 institution, a health care insurer, a health care professional
6 school or the spouse or first degree relative, such as a
7 parent, child or sibling, of an individual not eligible to
8 serve as a public member of the board, or have any financial
9 interest, direct or indirect, in the professions regulated.

10 B. Each member shall hold office until the
11 expiration of the term for which appointed or until a successor
12 has been appointed. ~~[Vacancies]~~ A vacancy shall be filled for
13 the balance of the unexpired term within ninety days of the
14 vacancy by appointment by the ~~[governor]~~ superintendent of
15 regulation and licensing. Professional members may be
16 appointed from lists submitted to the superintendent of
17 regulation and licensing by any generally recognized
18 professional organization.

19 C. ~~[No]~~ A board member shall not serve more than
20 two full terms.

21 D. The board shall elect annually a ~~[chairman]~~
22 chair and such other officers as it deems necessary. The board
23 shall meet as often as necessary for the conduct of business,
24 but no less than twice a year. Meetings shall be called by the
25 ~~[chairman]~~ chair or upon the written request of two or more

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1 members of the board. Three members, at least two of whom are
2 professional members and at least one of whom is a public
3 member, shall constitute a quorum. [~~Any~~] A member failing to
4 attend, after proper notice, three consecutive meetings shall
5 automatically be removed as a board member.

6 E. The members of the board shall be reimbursed as
7 provided for nonsalaried public officers in the Per Diem and
8 Mileage Act and shall receive no other compensation, perquisite
9 or allowance.

10 F. In the event of a vacancy on the board for any
11 reason, the secretary of the board shall immediately notify the
12 superintendent of regulation and licensing, the board members
13 and any generally recognized professional organization of the
14 vacancy, the reason for its occurrence and the action taken by
15 the board to expedite the appointment of a new board member.

16 G. The minutes of meetings, upon approval of the
17 board, shall constitute the official records of board meetings.
18 The unapproved minutes of meetings shall be recorded and posted
19 publicly to the board website during normal business hours
20 within ten business days of their recordation."

21 SECTION 7. Section 61-7A-6 NMSA 1978 (being Laws 1989,
22 Chapter 387, Section 6, as amended) is amended to read:

23 "61-7A-6. BOARD--DUTIES.--

24 A. The board shall:

25 (1) develop and administer an appropriate

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1 examination for qualified applicants;

2 ~~[(2) evaluate the qualifications of applicants~~
3 ~~for licensure under the Nutrition and Dietetics Practice Act;~~

4 ~~(3) issue licenses to applicants who meet the~~
5 ~~requirements of the Nutrition and Dietetics Practice Act;~~

6 ~~(4) investigate persons engaging in practices~~
7 ~~that may violate the provisions of the Nutrition and Dietetics~~
8 ~~Practice Act;~~

9 ~~(5)]~~ (2) revoke, suspend or deny a license in
10 accordance with the provisions of the Uniform Licensing Act;

11 ~~[(6)]~~ (3) adopt an annual budget;

12 ~~[(7)]~~ (4) adopt a code of ethics to include
13 requirements for practice during a public health order; and

14 ~~[(8)]~~ (5) adopt in accordance with the Uniform
15 Licensing Act and file in accordance with the State Rules Act
16 rules ~~[and regulations]~~ necessary to carry out the provisions
17 of the Nutrition and Dietetics Practice Act; provided that no
18 rule ~~[or regulation]~~ may be adopted, amended or repealed except
19 by a vote of three-fifths of the board members.

20 B. The board may contract with the regulation and
21 licensing department for office space and administrative
22 support.

23 C. The regulation and licensing department shall:

24 (1) evaluate the qualifications of applicants
25 for licensure pursuant to the provisions of the Nutrition and

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1 Dietetics Practice Act;

2 (2) issue licenses to applicants who meet the
3 requirements of the Nutrition and Dietetics Practice Act and
4 rules promulgated under that act;

5 (3) investigate persons engaging in practices
6 that may violate the provisions of the Nutrition and Dietetics
7 Practice Act;

8 (4) approve the selection of primary staff
9 assigned to the board;

10 (5) perform the administrative tasks of the
11 board and manage the board budget;

12 (6) maintain records for the board; and

13 (7) maintain a current register of licenses as
14 a matter of public record."

15 SECTION 8. Section 61-7A-7 NMSA 1978 (being Laws 1989,
16 Chapter 387, Section 7, as amended) is amended to read:

17 "61-7A-7. LICENSURE--REQUIREMENTS.--

18 ~~[A. The board shall issue a license as a dietitian~~
19 ~~to any person who files a completed application, pays all~~
20 ~~required fees and certifies and furnishes evidence satisfactory~~
21 ~~to the board that the applicant has a valid current~~
22 ~~registration with the commission that gives the applicant the~~
23 ~~right to use the term "registered dietitian" or "R.D.".~~

24 ~~B. The board shall issue a license as a~~
25 ~~nutritionist to any person who files a completed application,~~

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1 ~~pays all required fees and certifies and furnishes evidence~~
2 ~~satisfactory to the board that the applicant:~~

3 ~~(1) has received a master's degree or~~
4 ~~doctorate in human nutrition, nutrition education, foods and~~
5 ~~nutrition or public health nutrition from a college or~~
6 ~~university accredited by a member of the council on post-~~
7 ~~secondary accreditation; or~~

8 ~~(2) maintains membership in one of the~~
9 ~~following organizations:~~

10 ~~(a) the American institute of nutrition;~~

11 ~~(b) the American society for clinical~~
12 ~~nutrition; or~~

13 ~~(c) the American board of nutrition; and~~

14 ~~(3) has successfully completed any training or~~
15 ~~educational programs and other requirements set out in the~~
16 ~~rules and regulations adopted pursuant to the Nutrition and~~
17 ~~Dietetics Practice Act.~~

18 ~~C. Notwithstanding the provisions of Subsections A~~
19 ~~and B of this section, the board shall issue a license to an~~
20 ~~applicant who pays all required fees and who successfully~~
21 ~~passes a state examination, as established in Subsection A of~~
22 ~~Section 61-7A-6 NMSA 1978.~~

23 ~~D. The board shall issue a license as a nutrition~~
24 ~~associate to any person who files a completed application, pays~~
25 ~~all required fees and certifies and furnishes evidence~~

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1 ~~satisfactory to the board that the applicant:~~

2 ~~(1) has received a baccalaureate or higher~~
3 ~~degree from a college or university accredited by a member of~~
4 ~~the council on post-secondary accreditation and fulfilled~~
5 ~~minimum academic requirements in the field of dietetics and~~
6 ~~related disciplines as approved by the association; and~~

7 ~~(2) works under the supervision of a dietitian~~
8 ~~or nutritionist. Such supervision shall include a minimum of~~
9 ~~four hours on-site supervision per month plus phone~~
10 ~~consultation as needed.]~~

11 A. To be eligible for licensure as a dietitian
12 nutritionist, an applicant shall:

13 (1) be at least eighteen years of age;

14 (2) be of good moral character;

15 (3) submit a completed application, as
16 required by the Nutrition and Dietetics Practice Act and rules
17 promulgated pursuant to that act;

18 (4) pay any fees as required by the board;

19 (5) provide evidence of current and valid
20 registration as a registered dietitian or registered dietitian
21 nutritionist with the commission on dietetic registration; or

22 (6) submit proof of completion of:

23 (a) a baccalaureate degree, master's
24 degree or doctoral degree with a major course of study in human
25 nutrition, foods and nutrition, dietetics, food systems

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1 management, nutrition education, nutrition, nutrition science,
2 clinical nutrition, applied clinical nutrition, nutrition
3 counseling, nutrition and functional medicine, nutritional
4 biochemistry, nutrition and integrative health or an equivalent
5 course of study, from a regionally accredited college or
6 university or an academic degree from a college or university
7 in a foreign country validated as an equivalent by the board as
8 meeting the competency requirements of a program accredited by
9 the accreditation council for education in nutrition and
10 dietetics; and

11 (b) a planned clinical program in the
12 practice of dietetics and nutrition that meets the competency
13 requirements of a supervised practice accredited by the
14 accreditation council for education in nutrition and dietetics
15 as approved by the board, with no less than one thousand hours
16 under the supervision of: 1) a dietitian nutritionist licensed
17 by this state; 2) a dietitian nutritionist registered,
18 certified or licensed by another state with requirements no
19 less stringent than the licensure requirements under the
20 Nutrition and Dietetics Practice Act as approved by the board;
21 or 3) a dietitian nutritionist registered with the commission
22 on dietetic registration; and

23 (7) at the applicant's cost, submit a full set
24 of the applicant's fingerprints to the board to facilitate a
25 fingerprint-based criminal record background check by the

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1 state.

2 B. To be eligible for licensure as a nutritionist,
3 an applicant shall:

4 (1) be at least eighteen years of age;

5 (2) be of good moral character;

6 (3) submit a completed application as required
7 by the board;

8 (4) pay any fees as required by the board;

9 (5) at the applicant's cost, submit a full set
10 of the applicant's fingerprints to the board to facilitate a
11 fingerprint-based criminal record background check by the
12 state;

13 (6) submit proof that the applicant has
14 received a master's degree or doctoral degree from a regionally
15 accredited college or university or has an academic degree from
16 a college or university in a foreign country that has been
17 validated as equivalent by the board, with:

18 (a) a major course of study in human
19 nutrition, food and nutrition, community nutrition, public
20 health nutrition, nutrition education, nutrition, nutrition
21 science, clinical nutrition, applied clinical nutrition,
22 nutrition counseling, nutrition and functional medicine,
23 nutritional biochemistry, nutrition and integrative health or a
24 comparable major course of study in a field of clinical health
25 care as determined by the board, or doctoral degree or

1 validated foreign equivalent in the field of clinical health
2 care; and

3 (b) a course of study leading to
4 competence in medical nutrition therapy, including the
5 completion of: 1) fifteen semester hours of clinical or life
6 sciences course work with at least three semester hours in
7 human anatomy and physiology or the equivalent subjects, as
8 approved by the board; and 2) fifteen semester hours of
9 nutrition and metabolism coursework with at least six semester
10 hours in biochemistry or equivalent as approved by the board;

11 (7) complete a board-approved internship or a
12 documented, supervised practice experience demonstrating
13 competency in nutrition care services and the provision of
14 medical nutrition therapy for not less than one thousand hours
15 involving no less than two hundred hours of:

16 (a) nutrition assessment;

17 (b) nutrition intervention, education,
18 counseling or management;

19 (c) nutrition monitoring or evaluation;

20 and

21 (d) a minimum of seven hundred hours of
22 the supervised practice experience in a professional work
23 setting and no more than three hundred hours in alternate
24 supervised experiences including observational client and
25 practitioner interactions, simulation, case studies and role

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1 playing, under the supervision of a qualified supervisor
2 pursuant to Subsection X of Section 61-7A-3 NMSA 1978.
3 Pursuant to this subparagraph, qualified supervisors shall
4 provide on-site supervision of an applicant's practice
5 experience of medical nutrition therapy and provide general
6 supervision of an applicant's provision of other nutrition care
7 services that do not constitute medical nutrition therapy; and

8 (8) successfully pass an examination
9 administered by the board for certification of nutrition
10 specialists or the diplomate of the American clinical board of
11 nutrition examination administered by the American clinical
12 board of nutrition; or

13 (9) hold a valid current certification with
14 the board for certification of nutrition specialists that
15 authorizes the applicant to use the title "certified nutrition
16 specialist" or the abbreviation "C.N.S." or a valid current
17 certification with the American clinical board of nutrition
18 that authorizes the applicant to use the title "diplomate,
19 American clinical board of nutrition" or the abbreviation
20 "D.A.C.B.N.".

21 C. Upon successful completion of the requirements
22 listed pursuant to Subsection A or B of this section, an
23 applicant shall be issued a license attesting to the date and
24 fact of licensure.

25 ~~[E.]~~ D. A valid license issued pursuant to the

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1 Nutrition and Dietetics Practice Act shall be displayed at the
2 licensee's place of employment.

3 ~~[F-]~~ E. Licenses, including initial licenses, shall
4 be issued for a period of ~~[one year]~~ two years."

5 **SECTION 9.** Section 61-7A-8 NMSA 1978 (being Laws 1989,
6 Chapter 387, Section 8) is amended to read:

7 "61-7A-8. LICENSURE BY CREDENTIALS.--The board may
8 license an applicant who is licensed as a dietitian
9 nutritionist ~~[or nutrition associate]~~ or a nutritionist in
10 another state, provided that in the judgment of the board the
11 standards for licensure in that state are not less stringent
12 than those provided for licensure in the Nutrition and
13 Dietetics Practice Act."

14 **SECTION 10.** Section 61-7A-9 NMSA 1978 (being Laws 1989,
15 Chapter 387, Section 9) is amended to read:

16 "61-7A-9. PROVISIONAL PERMIT.--A provisional permit to
17 practice as a dietitian nutritionist or nutritionist may be
18 issued by the board upon the filing of an application and
19 submission of evidence of successful completion of the
20 education and supervised experience requirements. No fee in
21 addition to the application and license fees shall be charged
22 for the issuance of a provisional permit. The permit shall be
23 valid only until the last day of the period for which it is
24 issued or until the provisional ~~[permittee's]~~ permittee's
25 application has been approved and a license issued, whichever

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1 is first."

2 SECTION 11. Section 61-7A-10 NMSA 1978 (being Laws 1989,
3 Chapter 387, Section 10) is amended to read:

4 "61-7A-10. LICENSE RENEWAL--CONTINUING EDUCATION
5 REQUIREMENTS.--

6 A. Every person licensed under the Nutrition and
7 Dietetics Practice Act shall renew ~~[his]~~ the person's license
8 ~~[annually]~~ biennially on or before the expiration date of the
9 initial or renewal license.

10 B. The board shall issue a renewal license to the
11 licensee upon receipt of the renewal application, the renewal
12 fee and proof satisfactory to the board of compliance with
13 continuing education requirements.

14 C. Continuing education requirements for licensees
15 shall be established by the board; provided that

16 ~~[(1) for dietitians, the requirements shall be
17 those established by the commission; and~~

18 ~~(2) for nutritionists and nutrition
19 associates, at least seventy-five clock hours, or the
20 equivalent, during a five-year period shall be required to be
21 obtained in increments of fifteen clock hours annually or as
22 otherwise permitted by the board]~~ the board shall at a minimum
23 accept as valid any continuing education approved by the
24 American clinical board of nutrition, the board for
25 certification of nutrition specialists and the commission on

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1 dietetic registration.

2 D. ~~[Any]~~ A person who allows ~~[his]~~ the person's
3 license to lapse by failing to renew ~~[his]~~ the license within
4 thirty days of expiration may be reinstated by the board and
5 issued a renewal license upon submission of a renewal
6 application with proof satisfactory to the board of compliance
7 with the continuing education and other requirements of the
8 Nutrition and Dietetics Practice Act and payment of the
9 ~~[annual]~~ biennial renewal fee and an additional reinstatement
10 fee."

11 SECTION 12. Section 61-7A-11 NMSA 1978 (being Laws 1989,
12 Chapter 387, Section 11, as amended) is amended to read:

13 "61-7A-11. FEES.--

14 A. Except as provided in Section 61-1-34 NMSA 1978,
15 the board shall establish a schedule of reasonable fees for
16 applications, licenses and renewal of licenses. Fees shall be
17 established based on processing requirements for each category.

18 B. The initial application fee shall be set in an
19 amount not to exceed fifty dollars (\$50.00).

20 C. The initial license fee shall be set in an
21 amount not to exceed one hundred fifty dollars (\$150).

22 D. A biennial license renewal fee shall be
23 established in an amount not to exceed ~~[seventy-five dollars~~
24 ~~(\$75.00) per year]~~ one hundred fifty dollars (\$150).

25 E. A license reinstatement fee shall be established

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1 in an amount not to exceed fifty dollars (\$50.00)."

2 SECTION 13. A new section of the Nutrition and Dietetics
3 Practice Act is enacted to read:

4 "[NEW MATERIAL] ACTIVE DUTY MILITARY AND SPOUSES.--

5 A. An active duty member of the United States armed
6 forces or a spouse of an active duty member of the United
7 States armed forces who is certified or licensed as a dietitian
8 nutritionist or nutritionist by another state with
9 certification or licensure requirements no less stringent than
10 the licensure requirements under the Nutrition and Dietetics
11 Practice Act may be licensed as a dietitian nutritionist or a
12 licensed nutritionist in this state by providing a proof of
13 licensure in good standing in another state in accordance with
14 regulations promulgated by the board.

15 B. An active duty member of the United States armed
16 forces or a spouse of an active duty member of the United
17 States armed forces who qualifies for licensure as a dietitian
18 nutritionist or nutritionist under this section of the
19 Nutrition and Dietetics Practice Act shall be exempt from
20 paying the initial licensure application fee.

21 C. An active duty member of the United States armed
22 forces or a spouse of an active duty member of the United
23 States armed forces not qualifying for licensure as a dietitian
24 nutritionist or a nutritionist under this section of the
25 Nutrition and Dietetics Practice Act shall apply for licensure

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1 as otherwise specified pursuant to that act and shall be exempt
2 from paying the initial licensure application fee."

3 SECTION 14. Section 61-7A-13 NMSA 1978 (being Laws 1989,
4 Chapter 387, Section 13) is amended to read:

5 "61-7A-13. DENIAL, SUSPENSION, REVOCATION AND
6 REINSTATEMENT OF LICENSES.--

7 A. The board may impose a fine or probationary
8 condition on a license holder, refuse to issue or renew or may
9 deny, suspend or revoke [~~any~~] a license held or applied for
10 under the Nutrition and Dietetics Practice Act in accordance
11 with the procedures set forth in the Uniform Licensing Act upon
12 grounds that the licensee or applicant:

13 (1) is guilty of fraud or misrepresentation or
14 concealment of material facts in the procurement of [~~any~~] a
15 license under the Nutrition and Dietetics Practice Act;

16 (2) is subject to the imposition of [~~any~~]
17 disciplinary action by an agency of another state which
18 regulates [~~dietitians~~] dietitian nutritionists or [~~nutrition~~
19 ~~associates~~] nutritionists, but not to exceed the period or
20 extent of that action;

21 (3) is convicted of a crime other than a
22 misdemeanor. The record of conviction or a certified copy of
23 it shall be conclusive evidence of the conviction;

24 (4) is grossly negligent or incompetent in
25 [~~his~~] practice as a dietitian nutritionist or [~~nutrition~~

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1 ~~associate]~~ nutritionist;

2 (5) has failed to fulfill continuing education
3 requirements;

4 (6) has violated or aided or abetted [~~any~~] a
5 person to violate [~~any of~~] the provisions of the Nutrition and
6 Dietetics Practice Act or [~~any~~] rules [~~or regulations~~] duly
7 adopted under that act; or

8 (7) has engaged in unethical or unprofessional
9 conduct as defined in the code of ethics adopted by the board.

10 B. One year from the date of revocation of a
11 license under the Nutrition and Dietetics Practice Act,
12 application may be made to the board for restoration of the
13 license. The board shall provide by [~~regulation~~] rule for the
14 criteria governing application and examination for restoration
15 of a revoked license."

16 SECTION 15. Section 61-7A-15 NMSA 1978 (being Laws 1989,
17 Chapter 387, Section 15, as amended) is amended to read:

18 "61-7A-15. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--
19 The nutrition and dietetics practice board is terminated on
20 July 1, [~~2021~~] 2026 pursuant to the Sunset Act. The board
21 shall continue to operate according to the provisions of the
22 Nutrition and Dietetics Practice Act until July 1, [~~2022~~] 2027.
23 Effective July 1, [~~2022~~] 2027, the Nutrition and Dietetics
24 Practice Act is repealed."

25 SECTION 16. A new section of the Nutrition and Dietetics

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1 Practice Act is enacted to read:

2 "[NEW MATERIAL] GRANDFATHERING.--An individual currently
3 licensed as a licensed dietitian or licensed nutritionist in
4 the state as of the effective date of this 2021 act shall be
5 eligible to maintain and renew a license as a licensed
6 dietitian nutritionist or nutritionist in the state consistent
7 with the Nutrition and Dietetics Practice Act without meeting
8 any additional requirements."

9 SECTION 17. A new section of the Nutrition and Dietetics
10 Practice Act is enacted to read:

11 "[NEW MATERIAL] TITLE PROTECTION.--

12 A. A person shall not use the abbreviation "L.D.N."
13 or "L.N." in connection with that person's name unless the
14 person is licensed as a dietitian nutritionist or nutritionist.

15 B. A person shall not use the title "registered
16 dietitian" or "registered dietitian nutritionist" and the
17 letters "R.D." or "R.D.N." in connection with the person's
18 name unless that person is a dietitian registered by the
19 commission on dietetic registration.

20 C. A person shall not use the title "certified
21 nutrition specialist" or the abbreviation "C.N.S." in
22 connection with the person's name unless that person is a
23 nutritionist certified by the board for certification of
24 nutrition specialists.

25 D. A person who is not licensed as a dietitian

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1 nutritionist or nutritionist pursuant to the Nutrition and
2 Dietetics Practice Act shall not:

3 (1) provide medical nutrition therapy with or
4 without compensation; or

5 (2) allow a business entity or a business
6 entity's employees, agents or representatives to use any other
7 title, designation, words, letters, abbreviations or insignia
8 indicating that the person is a provider of medical nutrition
9 therapy or licensed under the Nutrition and Dietetics Practice
10 Act.

11 E. Nothing in this section shall be construed to
12 prohibit an individual from using a title trademarked by the
13 United States patent and trademark office."