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HOUSE BILL 444

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Elizabeth "Liz" Thomson

AN ACT

RELATING TO LICENSING; AMENDING AND ENACTING SECTIONS OF THE NUTRITION AND DIETETICS PRACTICE ACT TO CLARIFY DIETITIAN NUTRITIONIST AND NUTRITIONIST LICENSURE REQUIREMENTS; CHANGING THE COMPOSITION AND DUTIES OF THE NUTRITION AND DIETETICS PRACTICE BOARD; PROVIDING A BIENNIAL LICENSURE FEE; EXEMPTING ACTIVE DUTY MILITARY SERVICE PERSONNEL AND SPOUSES FROM THE INITIAL APPLICATION FEE; EXPANDING REASONS FOR DENIAL, SUSPENSION OR REVOCATION OF A LICENSE; CREATING A SCOPE OF PRACTICE; PROVIDING A GRANDFATHER CLAUSE FOR CURRENT LICENSEES; PROVIDING FOR PENALTIES.

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

SECTION 1. Section 61-7A-1 NMSA 1978 (being Laws 1989, Chapter 387, Section 1) is amended to read:

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

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

5 "61-7A-3. DEFINITIONS.--As used in the Nutrition and
6 Dietetics Practice Act:

7 ~~[A. "association" means the American dietetic~~
8 ~~association;~~

9 ~~B.]~~ A. "board" means the nutrition and dietetics
10 practice board;

11 B. "board for certification of nutrition
12 specialists" means the board for certification of nutrition
13 specialists, a private entity that certifies nutrition
14 specialists;

15 C. "commission on dietetic registration" means the
16 commission on dietetic registration, ~~[that is a member of the~~
17 ~~national commission on health certifying agencies, which~~
18 ~~national commission establishes national standards of~~
19 ~~competence for individuals participating in the health care~~
20 ~~delivery system]~~ a private entity that registers nutritionists
21 and dietitian nutritionists;

22 D. "licensed dietitian nutritionist" means a health
23 care professional ~~[who engages]~~ licensed as such by the board
24 to engage in the practice of nutrition ~~[or]~~ and dietetics
25 ~~[practice]~~ and uses the title dietitian or dietitian

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1 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 E. "licensed nutritionist" means a health care
9 professional licensed as such by the board to engage in the
10 practice of nutrition and dietetics and uses the title
11 nutritionist;

12 F. "medical nutrition therapy" means nutrition care
13 services provided for the treatment or management of a disease
14 or medical condition, including:

15 (1) recommending or ordering therapeutic diets
16 based on dietary data, including enteral and parenteral
17 nutrition, after interpreting anthropometric, biochemical,
18 clinical and dietary data in acute and chronic disease states;

19 (2) food and nutrition counseling, including
20 counseling on food and prescription drug interactions;

21 (3) developing and managing food service
22 operations to manage or treat diseases or medical conditions,
23 including operations with the primary function of nutrition
24 care or the provision of therapeutic diets and operations
25 connected with health facilities as that term is defined in

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1 Public Health Act; and

2 (4) medical weight control;

3 G. "medical weight control" means using medical
4 nutrition therapy for the purpose of reducing, maintaining or
5 gaining weight;

6 H. "national commission of certifying agencies"
7 means the national commission of certifying agencies, a private
8 credentialing entity for professional certification programs;

9 [~~F.~~] I. "nutrition care services" means:

10 (1) assessment of the nutritional needs of
11 individuals and groups and [~~determining~~] determination of
12 resources and constraints in the practice setting;

13 (2) ordering laboratory tests to check and
14 track the nutrition status of a patient;

15 (3) ordering dietary plans and monitoring the
16 effectiveness of dietary plans;

17 (4) ordering therapeutic diets;

18 [~~(2)~~] (5) establishment of priorities, goals
19 and objectives that meet nutritional needs in a manner
20 consistent with available resources and constraints;

21 [~~(3)~~] (6) provision of nutrition counseling
22 and education in health and disease;

23 [~~(4)~~] (7) development, implementation and
24 management of nutrition care systems; and

25 [~~(5)~~] (8) evaluation, adjustment and

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1 maintenance of appropriate standards of quality in food and
2 nutrition care;

3 ~~[G. "nutritional assessment" means the evaluation~~
4 ~~of the nutritional needs of individuals and groups based upon~~
5 ~~appropriate biochemical, anthropometric, physical and dietary~~
6 ~~data to determine nutrient needs and recommend appropriate~~
7 ~~nutritional intake, including enteral and parenteral nutrition;~~

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

14 I. ~~"nutrition associate" means a health care~~
15 ~~professional who engages in nutrition or dietetics practice~~
16 ~~under the supervision of a dietitian or nutritionist; and~~

17 J. ~~"nutritionist" means a health care professional~~
18 ~~who engages in nutrition or dietetics practice and uses the~~
19 ~~title nutritionist] a collaborative counselor-patient or~~
20 ~~counselor-client process with individuals or groups to~~
21 ~~establish food and nutrition priorities, goals, individualized~~
22 ~~plans and general physical activity guidance to treat an~~
23 ~~existing condition or promote health and wellness;~~

24 K. "practice of nutrition and dietetics" means the
25 integration and application of scientific principles derived

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1 from the study of food, nutrition, biochemistry, metabolism,
2 nutrigenomics, physiology and food management and from
3 behavioral and social sciences in achieving and maintaining
4 health throughout a life span and in providing nutrition care
5 services and medical nutrition therapy, in person or through
6 telehealth, as that term is defined in the New Mexico
7 Telehealth Act, for the prevention, management and treatment of
8 diseases or medical conditions, including:

9 (1) nutrition assessment, which is the
10 ongoing, dynamic and systematic process of obtaining, verifying
11 and interpreting biochemical, anthropometric, physical,
12 nutrigenomic and dietary data to make decisions about the
13 nature and cause of nutrition-related problems and provide the
14 foundation for nutrition diagnosis and nutrition interventions,
15 but does not include the mere collection of data itself;

16 (2) nutrition diagnosis, which is identifying
17 and labeling nutritional problems but does not include the
18 medical differential diagnosis of the health status of an
19 individual;

20 (3) nutrition intervention, which is the
21 planned actions and nutrition counseling intended to positively
22 change a nutrition-related behavior, risk factor, environmental
23 condition or aspect of the health status of a patient;

24 (4) nutrition monitoring and evaluation, which
25 is identifying patient outcomes relevant to a nutrition

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1 diagnosis and comparing the outcomes with the patient's
2 previous health status; intervention goals or reference
3 standards to determine the progress made in achieving desired
4 outcomes of care; and whether planned interventions should be
5 continued or revised; and

6 (5) the development and administration of
7 nutrition care standards and systems; and

8 L. "therapeutic diet" means a nutrition
9 intervention prescribed by a physician or other authorized
10 nonphysician practitioner that provides food or nutrients
11 through oral, enteral and parenteral routes as part of
12 treatment of disease or clinical conditions to modify,
13 eliminate, decrease or increase identified micronutrients and
14 macronutrients in the diet, or to provide mechanically altered
15 food when indicated."

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

18 "61-7A-4. LICENSE REQUIRED--EXEMPTIONS.--

19 A. After April 1, 1990, no person shall ~~[engage in~~
20 ~~nutrition or dietetics practice or use]~~ provide, offer to
21 provide or represent to the public that the person is qualified
22 to provide medical nutrition therapy or include the titles or
23 ~~[represent himself to be]~~ make any representation as being a
24 licensed dietitian, licensed dietitian nutritionist or
25 ~~[nutrition associate unless he]~~ licensed nutritionist unless

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1 the person is licensed [~~under~~] pursuant to the Nutrition and
2 Dietetics Practice Act.

3 B. Nothing in the Nutrition and Dietetics Practice
4 Act is intended to:

5 (1) limit, interfere with or prevent any other
6 licensed health care professional from engaging in [~~nutrition~~
7 ~~and dietetics~~] the practice of medical nutrition therapy within
8 the limits of [~~his~~] the licensure, except that [~~he~~] the
9 licensed health care professional shall not [~~hold himself out~~
10 ~~as~~] make any representation as being a dietitian nutritionist
11 or [~~nutrition associate~~] nutritionist;

12 (2) limit, interfere with or prevent employees
13 of state or federal agencies from the practice of medical
14 nutrition therapy or using the term "dietitian" or
15 "nutritionist" as defined in state or federal personnel
16 qualifications where these terms are used in their job titles,
17 except that the ability to practice medical nutrition therapy
18 and use of these terms shall be limited to the period and
19 practice of their employment with the state or federal agency
20 establishing those qualifications;

21 (3) prevent an individual who does not [~~hold~~
22 ~~himself out as~~] make a representation as being a dietitian
23 nutritionist or [~~nutrition associate~~] nutritionist from
24 furnishing [~~oral or written nutritional information on food,~~
25 ~~food materials or dietary supplements or from engaging in the~~

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1 ~~explanation to customers about foods or food products in~~
2 ~~connection with the marketing and distribution of those~~
3 ~~products] or explaining general nonmedical nutrition~~
4 information, guidance, encouragement, individualized nutrition
5 recommendations for wellness or primary prevention of chronic
6 disease, coaching, assessments, services for nonmedical weight
7 management or other nutrition care services; provided that the
8 individual does not conduct medical nutrition therapy and that
9 the individual does not otherwise violate the provisions of the
10 Nutrition and Dietetics Practice Act;

11 (4) prevent ~~[any]~~ a person from providing
12 medical weight control services [provided the program has been
13 reviewed by, consultation is available from and no program
14 change can be initiated without prior approval by a licensed
15 dietitian or licensed nutritionist, a dietitian or nutritionist
16 licensed in another state which has licensure requirements at
17 least as stringent as the requirements for licensure under the
18 Nutrition and Dietetics Practice Act or a dietitian registered
19 by the commission] for individuals with prediabetes or obesity
20 under a program of instruction approved in writing by:

21 (a) a licensed dietitian nutritionist or
22 licensed nutritionist in New Mexico;

23 (b) a dietitian nutritionist or
24 nutritionist who holds a credential in another state that
25 authorizes the person to provide medical nutrition therapy;

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1 provided that the requirements for the credential are
2 substantially equivalent to the requirements for licensure
3 pursuant to the Nutrition and Dietetics Practice Act;

4 (c) a dietitian nutritionist registered
5 with the commission on dietetic registration;

6 (d) a nutrition specialist certified by
7 the board for certification of nutrition specialists; or

8 (e) a health care professional licensed
9 in New Mexico whose scope of practice authorizes the
10 professional to provide nutrition care services for the
11 treatment or management of a disease or medical condition for
12 which the medical weight control is being provided;

13 (5) prevent a person from providing delegated
14 medical weight control under a plan of care overseen by a
15 health care professional licensed in New Mexico whose scope of
16 practice authorizes the professional to provide and delegate
17 nutrition care services for the treatment or management of the
18 disease or medical condition for which medical weight control
19 is being provided;

20 [~~(5)~~] (6) prevent a nutrition and dietetic
21 technician [~~registered (DTR)~~] from engaging in the practice of
22 nutrition [~~or~~] and dietetics [~~practice~~] under the supervision
23 of a licensed dietitian nutritionist or licensed nutritionist;

24 [~~(6)~~] (7) apply to or affect [~~students of~~
25 ~~approved or accredited dietetics or nutrition training or~~

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1 ~~education programs who engage in nutrition or dietetics~~
2 ~~practice under the supervision of a licensed dietitian or~~
3 ~~licensed nutritionist as a part of their approved or accredited~~
4 ~~training or education program for the duration of that program;~~
5 ~~or] trainees while fulfilling an experience requirement or~~
6 ~~pursuing a course of study to meet the licensure requirements~~
7 ~~pursuant to the Nutrition and Dietetics Practice Act; provided~~
8 ~~that the person does not engage in the unrestricted practice of~~
9 ~~medical nutrition therapy, the person is designated by a title~~
10 ~~that clearly indicates the person's status as a student or~~
11 ~~trainee and a supervisor assumes full professional~~
12 ~~responsibility for the work of the person by verifying,~~
13 ~~directing and authorizing the work. As used in this paragraph,~~
14 ~~"unrestricted practice of medical nutrition therapy" means the~~
15 ~~application of nutrition and dietetics knowledge and skills by~~
16 ~~an individual who regulates and is responsible for that~~
17 ~~individual's own practice or treatment procedures;~~

18 ~~[(7)]~~ (8) interfere with or prevent persons
19 recognized in their communities as curanderos or medicine men
20 from advising or ministering to people according to traditional
21 practices, as long as ~~[they do not hold themselves out to be~~
22 ~~dietitians, nutritionists or nutrition associates]~~ the person
23 ~~does not make representation as being a dietitian nutritionist~~
24 ~~or nutritionist;~~

25 (9) prohibit a person from providing medical

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1 nutrition therapy if the person works under the direct
2 supervision of a health care professional licensed in New
3 Mexico and the person performs only support activities; or

4 (10) prevent a person from providing nutrition
5 care services to family members without consideration.

6 C. As used in this section, "general nonmedical
7 nutrition information" means information on:

8 (1) principles of nutrition and food
9 preparation;

10 (2) essential nutrients needed by the human
11 body;

12 (3) actions of nutrients in the human body;

13 (4) non-individualized effects of deficiencies
14 or excesses of nutrients in the human body;

15 (5) foods, herbs and dietary supplements that
16 are good sources of essential nutrients in the human body or
17 help maintain good health; and

18 (6) principles of self-care and healthy
19 relationships with food."

20 SECTION 4. Section 61-7A-5 NMSA 1978 (being Laws 1989,
21 Chapter 387, Section 5, as amended) is amended to read:

22 "61-7A-5. BOARD CREATED.--

23 A. There is created the "nutrition and dietetics
24 practice board", administratively attached to the regulation
25 and licensing department. The board shall consist of five

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1 members who are New Mexico residents and who are appointed by
2 the governor for staggered three-year terms. [~~Three~~] Two
3 members shall be licensed [~~dietitians or~~] dietitian
4 nutritionists [~~with at least three years of nutrition or~~
5 ~~dietetics practice~~] who have been actively engaged in the
6 practice of nutrition and dietetics and the provision of
7 medical nutrition therapy in New Mexico for the immediately
8 preceding three years; one member shall be a licensed
9 nutritionist who has been actively engaged in the practice of
10 nutrition and dietetics and the provision of medical nutrition
11 therapy in New Mexico for the immediately preceding three
12 years; and two members shall represent the public. [There
13 ~~shall be at least one dietitian and at least one nutritionist~~
14 ~~on the board at all times.]~~ The public members shall not have
15 been a licensed [~~as a~~] dietitian [~~or~~] nutritionist, a licensed
16 nutritionist or any other type of licensed health care
17 professional or a person enrolled in a program to become a
18 licensed health care professional or have any financial
19 interest, direct or indirect, in the professions regulated.

20 B. Each member shall hold office until the
21 expiration of the term for which appointed or until a successor
22 has been appointed. [~~Vacancies~~] A vacancy occurring other than
23 by expiration of a term shall be filled for the balance of the
24 unexpired term within ninety days of the vacancy by appointment
25 by the governor. Nonpublic members may be appointed from a

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1 list submitted to the governor by a generally recognized
2 professional organization for dietitian or nutritionist
3 providers.

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

6 D. The board shall elect annually a ~~[chairman]~~
7 chair and such other officers as it deems necessary. The board
8 shall meet as often as necessary for the conduct of business,
9 but no less than twice a year. Meetings shall be called by the
10 ~~[chairman]~~ chair or upon the written request of two or more
11 members of the board. Three members, at least two of whom are
12 professional members and at least one of whom is a public
13 member, shall constitute a quorum. ~~[Any]~~ A member failing to
14 attend, after proper notice, three consecutive meetings shall
15 automatically be removed as a board member.

16 E. The members of the board shall be reimbursed as
17 provided for nonsalaried public officers in the Per Diem and
18 Mileage Act and shall receive no other compensation, perquisite
19 or allowance.

20 F. In the event of a vacancy on the board, the
21 chair of the board shall immediately notify the governor, the
22 superintendent of regulation and licensing and members of the
23 board.

24 G. Minutes of meetings, upon approval by the board,
25 shall constitute the official records of board meetings. The

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1 unapproved minutes of meetings shall be recorded and posted
2 publicly to the board's website during normal business hours
3 within ten business days of their recordation."

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

6 "61-7A-7. LICENSURE--REQUIREMENTS.--

7 ~~[A. The board shall issue a license as a dietitian~~
8 ~~to any person who files a completed application, pays all~~
9 ~~required fees and certifies and furnishes evidence satisfactory~~
10 ~~to the board that the applicant has a valid current~~
11 ~~registration with the commission that gives the applicant the~~
12 ~~right to use the term "registered dietitian" or "R.D.".~~

13 ~~B. The board shall issue a license as a~~
14 ~~nutritionist to any person who files a completed application,~~
15 ~~pays all required fees and certifies and furnishes evidence~~
16 ~~satisfactory to the board that the applicant:~~

17 ~~(1) has received a master's degree or~~
18 ~~doctorate in human nutrition, nutrition education, foods and~~
19 ~~nutrition or public health nutrition from a college or~~
20 ~~university accredited by a member of the council on post-~~
21 ~~secondary accreditation; or~~

22 ~~(2) maintains membership in one of the~~
23 ~~following organizations:~~

- 24 ~~(a) the American institute of nutrition;~~
25 ~~(b) the American society for clinical~~

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1 ~~nutrition; or~~

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

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

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

12 ~~D. The board shall issue a license as a nutrition~~
13 ~~associate to any person who files a completed application, pays~~
14 ~~all required fees and certifies and furnishes evidence~~
15 ~~satisfactory to the board that the applicant:~~

16 ~~(1) has received a baccalaureate or higher~~
17 ~~degree from a college or university accredited by a member of~~
18 ~~the council on post-secondary accreditation and fulfilled~~
19 ~~minimum academic requirements in the field of dietetics and~~
20 ~~related disciplines as approved by the association; and~~

21 ~~(2) works under the supervision of a dietitian~~
22 ~~or nutritionist. Such supervision shall include a minimum of~~
23 ~~four hours on-site supervision per month plus phone~~
24 ~~consultation as needed.]~~

25 A. To be eligible for licensure, an applicant

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1 shall:

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

3 (2) submit a completed application on forms
4 and in a manner required by the board;

5 (3) submit the applicable fee as provided by
6 Section 61-7A-11 NMSA 1978;

7 (4) provide fingerprints on two fingerprint
8 cards for submission to the department of public safety to
9 conduct a statewide criminal history check and pay the cost of
10 obtaining the fingerprints and criminal history background
11 check;

12 (5) for a licensed dietitian nutritionist
13 license, provide evidence of current and valid credential as a
14 registered dietitian or registered dietitian nutritionist by
15 the commission on dietetic registration; and

16 (6) for a licensed nutritionist license:

17 (a) submit proof that the applicant has
18 received a master's degree or doctoral degree from a United
19 States regionally accredited institution of higher education
20 approved by the regulation and licensing department, in
21 consultation with the board, or a degree from an educational
22 institution in another country that the regulation and
23 licensing department, in consultation with the board,
24 determines is substantially equivalent to a doctoral degree
25 from a United States regionally accredited institution of

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1 higher education approved by the regulation and licensing
2 department or a doctoral degree or validated foreign equivalent
3 in the field of clinical health care;

4 (b) has completed: 1) a master's level
5 course of study in human nutrition, food and nutrition,
6 community nutrition, public health nutrition, nutrition
7 education, nutrition, nutrition science, clinical nutrition,
8 applied clinical nutrition, nutrition counseling, nutrition and
9 functional medicine, nutritional biochemistry, nutrition and
10 integrative health or an equivalent major course of study as
11 determined by the board; and 2) a course of study leading to
12 competence in medical nutrition therapy, including the
13 completion of fifteen semester hours of clinical or life
14 sciences course work with at least three semester hours in
15 human anatomy and physiology or the equivalent as recommended
16 by the board and approved by the regulation and licensing
17 department; fifteen semester hours of nutrition and metabolism
18 course work with at least six semester hours in biochemistry or
19 an equivalent as recommended by the board and approved by the
20 regulation and licensing department;

21 (c) has completed a board-approved,
22 continuous, planned, documented and supervised practice
23 experience under the supervision of a qualified supervisor
24 demonstrating competency in nutrition care services and the
25 provision of medical nutrition therapy for not less than one

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1 thousand hours in the following areas, involving no less than
2 two hundred hours in nutrition assessment and nutrition
3 diagnosis; nutrition intervention; and nutrition monitoring or
4 evaluation. Such experience shall prepare students to provide
5 nutrition care services for various populations of diverse
6 cultures, genders and across the life cycle; and competently
7 formulate actionable medical nutrition therapies and
8 interventions, education, counseling and ongoing care for the
9 prevention, modulation and management of a range of acute and
10 chronic medical conditions; and

11 (d) have completed a minimum of seven
12 hundred hours of the supervised practice experience provided in
13 Subparagraph (c) of this paragraph in a professional work
14 setting and have completed no more than three hundred hours in
15 alternate supervised experience, including observational client
16 and practitioner interactions, simulation, case studies and
17 role-playing.

18 B. If an applicant meets the requirements of this
19 section, the applicant shall be issued the appropriate license
20 attesting to the date and fact of licensure.

21 ~~[E.]~~ C. A valid license issued pursuant to the
22 Nutrition and Dietetics Practice Act shall be displayed at the
23 licensee's place of employment.

24 ~~[F.]~~ D. Licenses, including initial licenses, shall
25 be issued for a period of ~~[one year]~~ two years.

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1 E. As used in this section, "qualified supervisor"
2 means an individual who:

3 (1) when supervising the provision of medical
4 nutrition therapy is:

5 (a) a dietitian nutritionist registered
6 by the commission on dietetic registration or nutrition
7 specialist certified by the board for certification of
8 nutrition specialists;

9 (b) a licensed nutritionist or a
10 licensed dietitian nutritionist in New Mexico; or

11 (c) a health care professional licensed
12 pursuant to the laws of any state or territory in the United
13 States to provide nutrition care services for the purpose of
14 treating or managing a disease or medical condition;

15 (2) when supervising the provision of
16 nutrition care services that do not constitute medical
17 nutrition therapy:

18 (a) meets the requirements of Paragraph
19 (1) of this subsection; or

20 (b) has at least three years of clinical
21 nutrition experience in the immediately preceding four years
22 and holds a master's or doctoral degree from a United States
23 regionally accredited institution of higher education or a
24 degree from an educational institution in another country that
25 the board determines is substantially equivalent to the

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1 master's or doctoral degree described in this subparagraph and
2 has completed a major course of study in dietetics, human
3 nutrition, foods and nutrition, community nutrition, public
4 health nutrition, nutrition education, nutrition, nutrition
5 science, clinical nutrition, applied clinical nutrition,
6 nutrition counseling, nutrition and functional medicine,
7 nutritional biochemistry, nutrition and integrative health or
8 an equivalent course of study as approved by the board; and

9 (3) complies with the following requirements:

10 (a) develops and carries out a program
11 for advancing and optimizing the quality of care provided by
12 the person being supervised;

13 (b) with the person being supervised,
14 identifies and documents goals for supervised practice
15 experience, assigns clinical tasks as appropriate to the
16 supervisee's evolving level of competence, the supervisee's
17 relationship and access to the qualified supervisor and creates
18 a process for evaluating the supervisee's performance;

19 (c) oversees the activities of and
20 accepts responsibility for the nutrition care services rendered
21 by the supervisee;

22 (d) is physically on-site and present
23 where the supervisee is providing nutrition care services or is
24 immediately and continuously available to the supervisee by
25 means of telehealth, as that term is defined in the New Mexico

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1 Telehealth Act; provided that if the qualified supervisor
2 assigns a nutrition care service to a supervisee that is to be
3 provided in a setting where the qualified supervisor is not
4 routinely present, the qualified supervisor shall ensure that
5 the means and methods of supervision are adequate to ensure
6 appropriate patient care, which may include synchronous
7 videoconferencing or another method of communication and
8 oversight that is appropriate to the care setting and the
9 education and experience of the supervisee;

10 (e) limits the assignment of nutrition
11 care services to those services that are within the training
12 and experience of the supervisee and customary to the practice
13 of the qualified supervisor; and

14 (f) if supervising an applicant who is
15 providing medical nutrition therapy to an individual in New
16 Mexico, is licensed pursuant to the Nutrition and Dietetics
17 Practice Act."

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

20 "61-7A-8. LICENSURE BY CREDENTIALS.--The board may
21 license an applicant who is licensed as a dietitian
22 nutritionist or ~~[nutrition associate]~~ nutritionist in another
23 state, provided that in the judgment of the board the standards
24 for licensure in that state are not less stringent than those
25 provided for licensure in the Nutrition and Dietetics Practice

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1 Act."

2 SECTION 7. Section 61-7A-9 NMSA 1978 (being Laws 1989,
3 Chapter 387, Section 9) is amended to read:

4 "61-7A-9. PROVISIONAL PERMIT.--A provisional permit to
5 practice as a licensed dietitian nutritionist or a licensed
6 nutritionist may be issued by the board upon the filing of an
7 application and submission of evidence of successful completion
8 of the education and supervised practice experience
9 requirements. No fee in addition to the application and
10 license fees shall be charged for the issuance of a provisional
11 permit. The permit shall be valid only until the last day of
12 the period for which it is issued or until the provisional
13 [~~permittee's~~] permittee's application has been approved and a
14 license issued, whichever is first."

15 SECTION 8. Section 61-7A-10 NMSA 1978 (being Laws 1989,
16 Chapter 387, Section 10) is amended to read:

17 "61-7A-10. LICENSE RENEWAL--CONTINUING EDUCATION
18 REQUIREMENTS.--

19 A. Every person licensed under the Nutrition and
20 Dietetics Practice Act shall renew [~~his~~] the person's license
21 [~~annually~~] biennially on or before the expiration date of the
22 initial or renewal license.

23 B. The board shall issue a renewal license to the
24 licensee upon receipt of the renewal application, the renewal
25 fee and proof satisfactory to the board of compliance with

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1 continuing education requirements.

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

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

6 ~~(2) for nutritionists and nutrition
7 associates, at least seventy-five clock hours, or the
8 equivalent, during a five-year period shall be required to be
9 obtained in increments of fifteen clock hours annually or as
10 otherwise permitted by the board] the board shall accept as
11 valid any continuing education approved by the board for
12 certification of nutrition specialists and the commission on
13 dietetic registration or any continuing education provided by
14 an entity approved the board for certification of nutrition
15 specialists and the commission on dietetic registration.~~

16 D. ~~[Any]~~ A person who allows ~~[his]~~ the person's
17 license to lapse by failing to renew ~~[his]~~ the license within
18 thirty days of expiration may be reinstated by the board and
19 issued a renewal license upon submission of a renewal
20 application with proof satisfactory to the board of compliance
21 with the continuing education and other requirements of the
22 Nutrition and Dietetics Practice Act and payment of the
23 ~~[annual]~~ biennial renewal fee and an additional reinstatement
24 fee."

25 SECTION 9. Section 61-7A-11 NMSA 1978 (being Laws 1989,
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1 Chapter 387, Section 11, as amended) is amended to read:

2 "61-7A-11. FEES.--

3 A. Except as provided in Section 61-1-34 NMSA 1978,
4 the board shall establish a schedule of reasonable fees for
5 applications, licenses and renewal of licenses to be submitted
6 to the board. Fees shall be established based on processing
7 requirements for each category.

8 B. The initial application fee shall be set in an
9 amount not to exceed fifty dollars (\$50.00); provided that an
10 active duty member of the United States armed forces or the
11 spouse of such a member shall not be required to pay the
12 initial application fee.

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

15 D. A biennial license renewal fee shall be
16 established in an amount not to exceed [~~seventy-five dollars~~
17 ~~(\$75.00) per year~~] one hundred fifty dollars (\$150).

18 E. A license reinstatement fee shall be established
19 in an amount not to exceed fifty dollars (\$50.00)."

20 SECTION 10. Section 61-7A-13 NMSA 1978 (being Laws 1989,
21 Chapter 387, Section 13) is amended to read:

22 "61-7A-13. DENIAL, SUSPENSION, REVOCATION AND
23 REINSTATEMENT OF LICENSES.--

24 A. The board may refuse to issue or renew or may
25 deny, suspend or revoke [~~any~~] a license held or applied for

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1 under the Nutrition and Dietetics Practice Act in accordance
2 with the procedures set forth in the Uniform Licensing Act upon
3 grounds that the licensee or applicant:

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

7 (2) is subject to the imposition of ~~[any]~~
8 disciplinary action by an agency of another state ~~[which]~~ that
9 regulates ~~[dietitians]~~ dietitan nutritionists or ~~[nutrition~~
10 ~~associates]~~ nutritionists, but not to exceed the period or
11 extent of that action;

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

15 (4) is grossly negligent or incompetent in
16 ~~[his]~~ practice as a licensed dietitian nutritionist or
17 ~~[nutrition associate]~~ licensed nutritionist;

18 (5) has failed to fulfill continuing education
19 requirements;

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

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

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1 B. One year from the date of revocation of a
2 license under the Nutrition and Dietetics Practice Act,
3 application may be made to the board for restoration of the
4 license. The board shall provide by ~~[regulation]~~ rule for the
5 criteria governing application and examination for restoration
6 of a revoked license."

7 **SECTION 11.** A new section of the Nutrition and Dietetics
8 Practice Act is enacted to read:

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

10 A. Licensed dietitian nutritionists and licensed
11 nutritionists shall provide nutrition care services using
12 systematic, evidence-based problem-solving methods of the
13 nutrition care process to address nutrition-related problems
14 and provide safe, effective, quality nutrition services and
15 medical nutrition therapy for patients and clients in both
16 clinical and community settings.

17 B. A licensed dietitian nutritionist or licensed
18 nutritionist may accept or transmit verbal, delegated or
19 electronically transmitted orders from the referring provider
20 consistent with applicable laws and rules, including any
21 controlling facility or employer protocols established to
22 implement medical nutrition therapy.

23 C. A licensed dietitian nutritionist or licensed
24 nutritionist may order patient diets, including oral
25 therapeutic diets, pursuant to this section. Enteral and

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1 parenteral nutrition therapy, which consists of enteral
2 feedings or specialized intravenous solutions and associated
3 nutrition-related services as part of a therapeutic diet, shall
4 only be ordered by a dietitian nutritionist licensed pursuant
5 to the Nutrition and Dietetics Practice Act.

6 D. A licensed dietitian nutritionist or licensed
7 nutritionist may order medical laboratory tests related to
8 nutritional therapeutic treatments consistent with state law.

9 E. A licensed dietitian nutritionist or licensed
10 nutritionist may implement prescription drug dose adjustments
11 for specific disease treatment protocols within the limits of
12 the licensee's knowledge, skills, judgment and current
13 evidence-informed clinical practice guidelines as indicated in
14 a protocol approved by a facility, medical staff or medical
15 director and as approved and delegated by a licensed
16 prescribing practitioner. In an outpatient setting, the
17 licensee may implement prescription drug dose adjustments for
18 specific disease treatment protocols within the limits of the
19 licensee's knowledge, skills and judgement and as approved by
20 and under the delegation of a prescribing practitioner.

21 F. A licensed dietitian nutritionist or licensed
22 nutritionist may advise a patient or client to consume vitamin,
23 mineral and other nutritional supplements or to discontinue use
24 of vitamin and mineral supplements the licensed dietitian
25 nutritionist or licensed nutritionist finds unnecessary.

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1 G. A licensed dietitian nutritionist or licensed
2 nutritionist may develop and manage food service operations
3 that have the chief function of providing food and nutrition
4 care, including therapeutic diets, to manage or treat disease
5 states and medical conditions.

6 H. Nothing in this section shall be construed to
7 allow licensees practicing pursuant to the Nutrition and
8 Dietetics Practice Act to prescribe or initiate drug treatment
9 other than as provided in this section."

10 **SECTION 12.** A new section of the Nutrition and Dietetics
11 Practice Act is enacted to read:

12 "[NEW MATERIAL] VIOLATION AND PENALTIES.--

13 A. It is a misdemeanor:

14 (1) for any person not licensed pursuant to
15 the Nutrition and Dietetics Practice Act to practice medical
16 nutrition therapy or to make representation as a licensed
17 dietitian, dietitian nutritionist or nutritionist;

18 (2) for any person to practice medical
19 nutrition therapy during the time that the person's license as
20 a dietitian nutritionist or nutritionist is suspended, revoked
21 or lapsed; or

22 (3) for any person otherwise to violate the
23 provisions of the Nutrition and Dietetics Practice Act.

24 B. Such misdemeanor shall be punishable upon
25 conviction by imprisonment for not more than three months or by

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1 a fine of not more than one thousand dollars (\$1,000) or by
2 both such fine and imprisonment. Each violation shall be
3 deemed a separate offense.

4 C. Such misdemeanor shall be prosecuted by the
5 attorney general of the state or any district attorney the
6 attorney general designates."

7 SECTION 13. TEMPORARY PROVISION--CURRENT LICENSEES.--A
8 person who is a licensed dietitian nutritionist or licensed
9 nutritionist in New Mexico on the effective date of this act
10 shall be eligible to maintain and renew a license as a licensed
11 dietitian nutritionist or licensed nutritionist, as
12 appropriate, pursuant to the Nutrition and Dietetics Practice
13 Act without meeting any additional requirements.

14 SECTION 14. TEMPORARY PROVISION--BOARD MEMBERSHIP
15 CHANGES.--Members of the nutrition and dietetics practice board
16 serving on the effective date of this act shall continue as
17 members of the board until their terms expire.

18 SECTION 15. REPEAL.--Section 61-7A-2 NMSA 1978 (being
19 Laws 1989, Chapter 387, Section 2) is repealed.