

Protecting the Public from Unsafe Nutrition Practices – Licensure in North Carolina

Charla M. Burill, JD, RD*

Executive Director/Executive Secretary

North Carolina Board of Dietetics/Nutrition

director@ncbdn.org

www.ncbdn.org

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* *Not a licensed dietitian/nutritionist in NC*

Objectives

By the end of this talk you should have a better understanding of the:

- History & Purpose of Licensure & Duties of the NCBDN;
- Activities requiring a license;
- Education requirements for licensure; and
- Maintaining your license, standards of conduct set in the Code of Ethics and the legal implications for violations of the law.

NC General Statute
§§ 90-350 thru 90-369

The Dietetics/Nutrition Practice Act

The purpose of the law is to safeguard the public health, safety and welfare and to protect the public from being harmed by unqualified persons by providing for the licensure and regulation of persons engaged in the practice of dietetics/nutrition and by the establishment of educational standards for those persons. (1991)

http://www.ncbdn.org/laws_rules/statute/

Governing Laws & Rules

- **The Dietetics Practice Act:**
 - Chapter 90 of the N.C. General Statutes
 - Medicine and Allied Health Occupations
 - Article 25
- Ultimately the Board is governed by this statute and operates under regulations/rules.
- Both the statute and rules are available on the NCBDN web site under “Laws & Rules”.

Background

- The first NCBDN was appointed and began work in November 1991;
- Today the NCBDN licenses over 2500 dietitians/nutritionists.

Board Formation – Seven Members Representing:

- Community or Public Health Dietetics/Nutrition
- Clinical Dietetics
- Management of Nutrition Services
- Consulting in Dietetics/Nutrition
- Faculty Educator in Dietetics/Nutrition
- Public-at-Large
- Public-at-Large

Board Members are Appointed by:

1. The Governor
 - *Faculty Educator in Dietetics/Nutrition*
 - *Public-at-Large*
2. The General Assembly
 - A. Speaker of the House
 - *Community or Public Health Dietetics/Nutrition*
 - *Clinical Dietetics/Nutrition*
 - B. President Pro Tempore of the Senate
 - *Consulting/Private Practice*
 - *Management of Nutrition Services*

Members serve a three year term; may be renewed once.

Difference Between NCDA vs. NCBDN

<u>NCDA</u>	<u>NCBDN</u>
1. Professional Organization – Become a member by joining AND	1. Government Agency – Become a licensee by applying for licensure through the Board
2. Voting members elected by membership	2. Board Members - Appointed by Governor & Legislators
3. Mission – to lead the dietetics profession in NC	3. Mission – to protect the public from unsafe nutrition practices

Statutory Authority

§ 90-365. Requirement of license.

After March 31, 1992, it shall be unlawful for any person who is not currently licensed under this Article to do any of the following:

- 1) **Engage in the practice of *dietetics/nutrition***
- 2) Use the title “dietitian/nutritionist”
- 3) Use the words "dietitian," "nutritionist," or "licensed dietitian/nutritionist" alone or in combination
- 4) Use the letters "LD," "LN," or "LDN," or any facsimile or combination in any words, letters, abbreviations, or insignia
- 5) To imply orally or in writing or indicate in any way that the person is a licensed dietitian/nutritionist.

RD versus LDN

<u>RD</u>	<u>LDN</u>
1. National Credential	1. North Carolina Credential
2. Granted by the Commission on Dietetic Registration	2. Granted by the NCBDN
3. Must renew by August 31 st of each year	3. Must renew by March 31 st of each year

Note: Your RD credential and the licensing board are not “connected”; thus, to become licensed, action must be initiated by the individual. Passing the RD exam does not equate to being granted a license to practice.

Dietetics/Nutrition

Under § 90-352(2):

“Dietetics/nutrition” means the integration and application of principles derived from the science of nutrition, biochemistry, physiology, food, and management and from behavioral and social sciences to achieve and maintain a healthy status. The primary function of dietetic/nutrition practice is the provision of **nutrition care services**.

- *So what are “nutrition care services?”*

Scope of Practice – NC General Statute § 90-352(4)
– *Nutrition Care Services* means any of the following:

- Assessing the nutritional needs of individuals and groups;
- Establishing priorities, goals, and objectives that meet nutritional needs;
- Providing nutrition counseling in health and disease;
- Developing, implementing, and managing nutrition care systems; and
- Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

Order Writing – Changes in Federal Law

- Effective July 11, 2014 under the Medicare Conditions of Participation, Regulations for nutrition § 482.28(b)(1) changed.
- Old Regulations provided the following:
 - *Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the patient.*
 - *In accordance with State law and Hospital policy, a dietitian may assess a patient's nutritional needs and **provide recommendations** or consultation for patients, but the patient's diet must be prescribed by the practitioner responsible for the patient's care.*

Order Writing – Changes in Federal Law

- New Regulations Provide:
 - *Individual patient nutritional needs must be met in accordance with recognized dietary practices.*
 - *All patients' diets, including therapeutic diets, must be ordered by a practitioner responsible for the care of the patient, or by a qualified dietitian or qualified nutrition professional as authorized by the medical staff in accordance with State law governing dietitian and nutrition professionals.*

Order Writing – NC Position

- **NCBDN's Position**

- *Currently the NC Dietetics Practice Act does not clearly address independent order writing authority.*
- *No law specifically prohibits dietitians/nutritionists from writing diet orders; however, no NC law specifically grants such authority either.*

Order Writing – NC Position

- **NCBDN's Position**

- If you are asked to write nutrition orders, you should ensure the following:
 - You are competent to do so and if required, you gain privileges in your facility;
 - Writing such orders is addressed within a clear protocol or policy adopted by the physicians at your facility;
 - That a physician initiates the order in writing; and
 - That the order is signed off on by a physician within a reasonable timeframe either before or after the order is initiated (24-48 hours).

Code of Ethics – 21 NCAC 17.0114

- **Code of ethics for LDNs outlined in regulations – a few key requirements are:**
 - The licensee shall practice dietetics/nutrition based on scientific principles and current information;
 - The licensee shall assume responsibility and accountability for personal competence in practice;
 - The licensee shall inform the public of his/her services by using factual information and shall not advertise in a false or misleading manner;
 - The licensee shall recognize and exercise professional judgment within the limits of the licensee's qualifications and shall not accept or perform professional responsibilities which the licensee knows or has reason to know he or she is not qualified to perform; and
 - The licensee shall not exercise undue influence on a client, including the promotion or the sale of services or products.

Who Can Practice in NC Without a Dietetics/Nutrition License? Examples are:

- Students or trainees (DTRs & Dietary Managers) under direct supervision of a Licensed Dietitian/Nutritionist;
- Federal, state, and local government employees;
- Health care practitioners licensed under NC General Statute 90;
- Weight control providers; and
- A person who does not hold himself out to be a dietitian or nutritionist when that person furnishes *nutrition information* on food, food materials, or dietary supplements.

Who is Licensed Under GS 90?

- **Art. 1 – Practice of Medicine;**
- **Art. 2 – Dentistry;**
- **Art. 4A – Pharmacy;**
- **Art. 5C – Clinical Addiction Specialist;**
- **Art. 6 – Optometry;**
- **Art. 8 – Chiropractic;**
- **Art. 9 – Nurse Practice Act;**
- **Art. 10 – Midwives/Midwifery;**
- **Art. 11 – Veterinarians;**
- **Art. 12A – Podiatrists;**
- **Art. 13 – Practice of Funeral Service;**
- **Art. 16 – Dental Hygiene Act;**
- **Art. 17 – Dispensing Opticians;**
- **Art. 18A – Psychology; 18B Physical Therapy; 18C Marriage and Family Therapy; 18D Occupational Therapy;**
- **Art. 20 – Nursing Home Administrator Act;**
- **Art. 22 - Speech and Language Pathologists and Audiologists;**
- **Art. 24 – Licensed Professional Counselors;**
- **Art. 25 – Dietetics/Nutrition;**
- **Art. 30 - Acupuncture;**
- **Art. 32 – Employee Assistance Professionals;**
- **Art. 34 – Athletic Trainers;**
- **Art. 36 – Massage and Bodywork Therapy;**
- **Art. 38 – Respiratory Care;**
- **Art. 40 – Perfusionist; and**
- **Art. 42 - Polysomnography**

Law & Regulations – Take Away

1. Even before you become licensed you should become familiar with the law and regulations – if hired upon graduation or asked to perform a service, question if your title or the service you are performing requires you to be licensed;
2. Statute outlines scope of practice & Code of Ethics defines standard licensee must uphold;
3. For people exempted from the requirements of the Dietetics Practice Act question . . .
 - Do they meet the exemption?
 - Are they safely providing the nutrition services they are providing?

Educational Standards

- **Category A:** Registered Dietitian
- **Category B:** Provisionally Licensed
- **Category C:** Bachelors or Masters
 - Internship which meets the standards of an AND-accredited supervised practice program;
 - Pass Board approved exam (CDR exam).
- **Category D:** Reciprocity
- **Category E:** Doctorate or a Doctor of Medicine.

Provisional Licensure

- Provisional licensees are allowed to practice as a dietitian/nutritionist under the supervision of a licensed dietitian/nutritionist.
- Applicants for a provisional license shall provide evidence of:
 - Completing academic requirements;
 - Completing supervised practice program; and
 - Making application to take the exam.

Provisional Licensure

- Provisional license may be issued for a period not exceeding one year;
- Following the successful completion of the licensing examination, the provisionally licensed dietitian/nutritionist shall remit completed application for upgrading license, payment of fees, and evidence of passing exam.

Educational Standards

For all categories:

The statute and regulations require at least a bachelors from a regionally accredited college or university with a major course of study in human nutrition, foods and nutrition, dietetics, community nutrition, public health nutrition or an equivalent major course of study (in addition to other requirements).

Licensure Renewal

- **Renewal**

- All LDN licenses expire on March 31st of the current year; Dietitian/Nutritionists must renew their license annually in North Carolina;
- Renewal season opens January 1st of the current year through March 31st;
- You may renew late by paying an additional \$75.00 late fee from April 1st – May 31st; after May 31st your license is lapsed and you may no longer practice dietetics/nutrition in NC.

Licensure Renewal

- **Renewal**

- If you become licensed before January 1st you will be required to pay the renewal fee in the following year;
- If you become licensed between January 1st & March 31st, you will not be required to pay the renewal fee until the following year.

Licensee Contact Information

- Licensees must notify the Board of any change in their personal or professional address within 30 days of that change;
- Licensees must also submit a written request within 30 days of a name change;
- Failure to receive renewal notice is not justification for late renewal.

What if I move or no longer will be practicing in North Carolina?

- You may:
 - Continue to maintain your licensure;
 - Go Inactive; or
 - Relinquish your license.
- Regardless of which action you choose to take, you must take some sort of action – you cannot just walk away from your license.

Inactive Status

- **What is it?**

- Inactive status is applicable to licensees not planning to renew their license, but who may want to practice dietetics/nutrition in NC in the future.
- A licensee can only go inactive while his/her license is still active **before** the March 31st expiration date.
- While on *Inactive Status*, you will not be subject to the yearly renewal fees, and when you want to reactivate, you will only pay the current renewal fee. You will be required, however, to maintain your registration with CDR and/or the necessary CEU's, dependent on your category of licensure, while you are inactive.

How do you go Inactive?

- Complete the Inactive Status Request form, found on the NCBDN website, and return your original certificate. If you no longer have your certificate you may complete the Affidavit of Lost/Stolen Property, which is also found on the NCBDN website.
- You must do this **before** your license expires on March 31st of the current year.

How do I Relinquish My License?

- Under §90-362 a license is the property of the Board, and must be surrendered upon demand;
- If you are sure you will no longer be working as a licensed Dietitian/Nutritionist in North Carolina, you complete the Relinquish form, found on our website, and return your original licensure certificate or provide an Affidavit of Lost/Stolen Property, also found on our website.

License Verification

- Should you become licensed, an employer or other licensure board may require licensure verification;
- Your licensure status can always be verified online by visiting our website;
- If the entity requires verification in writing, you may complete and return to the NCBDN office the license verification form found on our website;
- There is no fee for licensure verification.

Name Change

- It is your duty to update the board if you have a name change.
- To complete a name change, just complete the Name Change form found on our website, and submit it along with:
 - A copy of your marriage certificate, divorce papers, or a copy of your social security card; and
 - Your original licensure certificate.
- Once received, the NCBDN will process the change and issue you a new licensure card and certificate.
- No fee at this time to process a name change.

Complaints

- **Once you become licensed:**
 - You should be prepared to educate the public as to the law and its requirements. You have an ethical duty to report suspected violations – thus you must understand the law.
 - Always keep in mind, the duty of the NCBDN is to protect the public from unsafe nutrition practices.

Guideline A's Purpose

The NCBDN has developed this guideline for unlicensed persons, who are not otherwise exempt, to better understand the Dietetics/Nutrition Practice Act. This guideline is intended to assist unlicensed persons, who are not otherwise exempt, maintain compliance with North Carolina's licensure laws.

Available at www.ncbdn.org under "Forms & Resources"

Guideline A

Individuals are permitted to express information, guidance or encouragement about food, lifestyle or dietary practices to the public generally and to any willing and competent adult listener directly without first obtaining a license so long as:

- 1) They do not hold themselves out as a dietitian/nutritionist; and
- 2) They do not provide such information, guidance or encouragement (for free or for compensation) as part of a professional-client relationship formed to assess individual nutritional needs and then develop and achieve a specific nutrition-related goal, objective or outcome.

Guideline A

Professional-Client Relationship:

- *The person takes the nutritional affairs of an individual or group personally in hand and purports to exercise judgment on behalf of that individual or group in light of that individual's or group's particular needs and circumstances.*

Guideline A

- By way of example, a license is not required for any of the following:
 - *Demonstrating how to cook food;*
 - *Sharing information regarding personal experience with dietary and nutritional choices;*
 - *Providing information addressing the recommended amounts of essential nutrients;*
 - *Providing information on healthy eating and healthy snacks;*
 - *Discussing carbohydrates, proteins, fats, vitamins, minerals and water as essential nutrients required by the body;*
 - *Providing non-fraudulent information about nutrients contained in foods or supplements.*

Should I submit a complaint?

Examples of questions the Complaint Committee asks as part of its intake and assessment include:

- *Did the provider disclaim a lack of credentials?*
- *Did the person charge or receive a fee ?*
- *Did the person provide guidance tailored to the recipient based on his/her individual needs?*
- *Is the provider a licensed health professional?*
- *Is the person working with a healthy population?*
- *Is the provider holding him/herself out as having an advanced level of expertise, education or training in dietetics/nutrition?*
- *Is enforcement reasonably necessary to protect the citizens of NC?*

What can you do to ensure the safe provision of nutrition care services in NC?

- **Make sure you are licensed if you are in a position that requires licensure and maintain your licensure;**
- Become more familiar with the Dietetics Practice Act and its requirements;
- Maintain awareness of the nutrition services being offered in your community;
- Educate others on the licensure requirements, and what services unlicensed persons can and cannot provide; and
- If necessary, submit a complaint to the NCBDN to investigate.

Examples of Frequently Asked Questions

- What nutrition care services can unlicensed assistive personnel such as dietary managers or dietetic technicians registered provide?
- I've seen academic and online programs advertising "certified nutritionist" degrees. What can I do with this?
- What areas of nutrition and dietetics require licensure?
- Who can become licensed as a dietitian?
- What titles are restricted by the law?
- How does licensure impact my Registered Dietitian (R.D.) title?

<http://www.ncbdn.org/faqs/>

NCBDN Staff – Contact with Questions

Charla Burill

Executive Director/Executive Secretary

director@ncbdn.org

&

Marnie Jones

Administrative Specialist

info@ncbdn.org

Address:

North Carolina Board of Dietetics/Nutrition

140 Preston Executive Drive, Suite 205-C

Cary, NC 27513

Phone: (919) 388-1931

Fax: (919) 882-1776

*On behalf of the NCBDN,
thank you!*

