



NORTH CAROLINA BOARD OF DIETETICS/NUTRITION
1135 Kildaire Farm Rd., Suite 200 • Cary, North Carolina 27511
Email: info@ncbdn.org • Phone: (919) 388-1931 • Fax: (919) 882-1776

GUIDELINE A

FOR UNLICENSED PERSONS WHO ARE NOT OTHERWISE EXEMPT

The North Carolina Board of Dietetics/Nutrition (the “Board”) has created this guideline for the purpose of providing unlicensed persons a summary of, and additional information regarding, the North Carolina Dietetics/Nutrition Practice Act.¹

OVERVIEW OF NORTH CAROLINA’S LICENSURE LAW

The Dietetics/Nutrition Practice Act was enacted in 1991 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 establishing educational standards for those persons.” G.S. § 90-351. Consistent with this purpose, an individual must obtain a license before he or she may legally (1) hold himself or herself out as a dietitian/nutritionist or (2) engage in the provision of medical nutrition therapy.

As discussed in greater detail below, one does not engage in the provision of medical nutrition therapy unless that person provides certain nutrition-related services in the context of a professional-client relationship. It is neither the purpose of the Dietetics/Nutrition Practice Act nor the intent of the Board to restrict the expression of general information, guidance or encouragement about food, lifestyle or dietary practices, whether through general publication—including books, television, radio, articles or website posts—or in one-on-one interactions. Thus, 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 they do not hold themselves out as a dietitian/nutritionist or nutritionist and 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 for the purpose of treating or managing a medical condition.

ACTIVITIES REQUIRING A LICENSE

Pursuant to the Dietetics/Nutrition Practice Act, a license is required to “engage in the provision of medical nutrition therapy” in North Carolina. G.S. § 90-365. “Medical nutrition therapy is the provision of nutrition care services for the purpose of managing or treating a medical condition.” G.S. § 90-352.

General Statute § 90-352 defines “nutrition care services” as any, part or all of the following:

- a. Assessing and evaluating the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting, including ordering laboratory tests related to the practice of nutrition and dietetics.
- b. Establishing priorities, goals and objectives that meet nutritional needs and are consistent with available resources and constraints.

¹ For purposes of this guideline, the term “unlicensed persons” refers to all persons not licensed under the North Carolina Dietetics/Nutrition Practice Act who are not otherwise exempt from the Act’s licensure requirements.

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

Nutrition assessment and nutrition counseling are defined in the North Carolina Administrative Code (the “Rules”). The Rules define “**nutrition assessment**” as:

- (A) the initial and ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, clinical, and dietary data to determine nutritional needs and order therapeutic diets, including enteral and parenteral nutrition;
- (B) the ordering of laboratory tests related to the practice of nutrition and dietetics; and
- (C) the conducting of a swallow screen.
- (D) The collection of data does not, by itself, constitute nutrition assessment.

“**Nutrition counseling**” is defined as:

the advice and assistance provided to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with therapeutic needs and cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs, education, and socioeconomic status.

Certain software, computer programs and websites purport to be capable of assessing and analyzing an individual’s diet based on data or information provided by the user. An individual who provides “nutrition care services” for the purposes of managing or treating a medical condition to another individual or group without first obtaining a license (or coming under an exemption) would be in violation of the Dietetics/Nutrition Practice Act regardless of whether that individual uses such software, programs, websites, or other technology when providing these services.

The Dietetics/Nutrition Practice Act further provides that a license is required to do any of the following:

- Use the title “dietitian/nutritionist” or “nutritionist”;
- Use the words “dietitian,” “nutritionist,” “licensed nutritionist,” or “licensed dietitian/nutritionist” or hold oneself as a dietitian or nutritionist;
- Use the letters “LD,” “LN,” “LDN,” or any facsimile or combination in any words, letters, abbreviations, or insignia to describe himself or herself; or
- To imply orally or in writing or indicate in any way that the person is a licensed dietitian/nutritionist or licensed nutritionist.

G.S. § 90-365. Use of an earned, trademarked nutrition credential is not prohibited, but such use does not give the right to practice dietetics or nutrition or use the general titles of “dietitian/nutritionist,” “dietitian,” or “nutritionist” unless an individual is also licensed under the Dietetics/Nutrition Practice Act. G.S. § 90-365. The terms “Nutrition Counselor,” “Nutrition Consultant,” “Nutrition Therapist” and like terms tend to indicate that a person may lawfully provide medical nutrition therapy and imply that a person is a licensed dietitian/nutritionist or a licensed nutritionist.

Similarly, advertising or offering to provide nutritional services aimed at managing or treating a medical condition, and described by the terms “Nutrition Assessment,” “Nutrition Counseling,” “Nutrition Therapy,” and like terms indicates that a person is providing medical nutrition therapy and implies that a person is a licensed dietitian/nutritionist or a licensed nutritionist. These terms should not be utilized by unlicensed persons to describe themselves or services they offer.

Under G.S. § 90-368 the Dietetics/Nutrition Practice Act provides specific exemptions to the requirements of the Act. Among other exemptions, the requirements of the Dietetics/Nutrition Practice Act do not apply to:

- A person aiding the practice of dietetics or nutrition if the person works under the direct supervision of a licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition and the person performs only support activities that do not require formal academic training in the basic food, nutrition, chemical, biological, behavioral, and social sciences that are used in the practice of dietetics or nutrition.
- Any individual who provides nutrition services without remuneration to family members; or
- Any individual who provides nutrition information, guidance, encouragement, individualized nutrition recommendations, or weight control services that do not constitute medical nutrition therapy as defined in G.S. 90-352, provided that the individual (1) does not hold himself or herself out as a licensed dietitian/nutritionist or a licensed nutritionist as prohibited under G.S. 90-365 and (2) does not seek to provide medical nutrition therapy as defined in G.S. 90-352.

Because the practice of medical nutrition therapy is regulated by the Board and requires a license to provide, a licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition (i.e. a licensed physician), should not delegate the provision of medical nutrition therapy, even if it is supervised, to an unlicensed person.

INTERPRETIVE GUIDANCE ON SCOPE OF PRACTICE OF DIETETICS/NUTRITION

While a license is required to provide medical nutrition therapy as defined in the Dietetics/Nutrition Practice Act, it is neither the purpose of the Dietetics/Nutrition Practice Act nor the intent of the Board to restrict the expression of general information, guidance or encouragement about food, lifestyle or dietary practices, whether through general publication or in one-on-one interactions. 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 individualized information on healthy eating and healthy snacks;
- Discussing carbohydrates, proteins, fats, vitamins, minerals and water as essential nutrients required by the body;
- Providing statistical, scientific information regarding the correlation between chronic disease and the excesses or deficiencies of certain nutrients;
- Providing non-fraudulent information about nutrients contained in foods or supplements; and

- Providing weight control services designed for one or more healthy population groups in order to achieve or maintain a healthy weight.

In short, individuals are permitted under G.S. § 90-368—either for free or for compensation—to express nutrition information, guidance, encouragement, individualized nutrition recommendations, or weight control services, that do not constitute medical nutrition therapy, to the public generally and directly to any willing and competent adult listener without first obtaining a license. The Board considers these activities as requiring a license pursuant to the Dietetics/Nutrition Act only where (1) there is some additional indication that the person is holding himself or herself out as a licensed dietitian/nutritionist or licensed nutritionist **or** (2) the activities occur in the context of a professional-client relationship, meaning 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 and such services are provided for the purpose of managing or treating a medical condition. The determination of whether someone has engaged in the provision of medical nutrition therapy under these criteria will depend on the facts of a particular case. The Board typically considers the following non-exclusive factors in making this determination:

- whether the person has disclaimed his or her lack of credentials or licensure in a manner consistent with the disclaimer discussed below;
- whether the person has held himself or herself out as having an advanced level of expertise, education or training on matters of dietetics/nutrition;
- any relationship between the person and the recipient of information, guidance, encouragement, individualized nutrition recommendations, or weight control services prior to the receipt of such services;
- whether the person charges or receives a fee or other consideration for the providing of information, guidance or encouragement, individualized nutrition recommendations, or weight control services;
- which party (*i.e.*, the person providing or the person receiving information, guidance, encouragement, individualized nutrition recommendations, or weight control services) sought out the relationship;
- whether the person provided information, guidance, encouragement, individualized nutrition recommendations, or weight control services to achieve a specific outcome, goal or objective aimed at managing or treating a medical condition;
- whether the information, guidance, encouragement, individualized nutrition recommendations, or weight control services are based on historical or methodological studies or research conducted by experts in the field and/or on scientific studies published in peer-reviewed medical or nutritional journals or publications;
- whether the information, guidance, encouragement, individualized nutrition recommendations, or weight control services are offered to a healthy population or to individuals with medical conditions, such as diabetes, hypertension or heart disease;

- the circumstances surrounding the interaction (*e.g.*, whether the interaction was in person, whether the interaction took place in a formal or office setting and whether the interaction was one way—like a book, article or blog entry—or two way—like a conversation); or
- whether there is a potential for North Carolina citizens to be harmed by the person’s activities.

None of these factors is dispositive, however, and the Board’s case-by-case determination is always guided by the overarching purpose of the Dietetics/Nutrition Practice Act, which 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 or nutrition” G.S. § 90-351.

Consistent with this purpose, a non-licensed person whose activities are limited to expressing nutrition information, guidance, opinions, or encouragement about food, lifestyle or dietary practices has **not** engaged in the provision of medical nutrition therapy where:

- such expression is directed to the public generally—such as through publications, websites, and other audio-visual media; or
- such expression is directed to particular individuals or groups outside of the context of a professional-client relationship (as defined on page 3 above) and the non-licensed person provides a disclosure sufficient to inform his or her audience that the person is not a licensed dietitian/nutritionist or licensed nutritionist and does not claim to possess the education, training, and experience required to become a licensed dietitian/nutritionist or a licensed nutritionist.

FITNESS AND NUTRITION CERTIFICATES

The requirements for licensure are statutorily defined. One must apply and meet the general requirements provided in G.S. § 90-357.5 in order to be granted a license to provide medical nutrition therapy in North Carolina. However, many organizations market nutrition certifications and the opportunity for fitness professionals, health coaches, and like persons to improve their nutrition knowledge through earning certificates/certification, online diplomas, or taking nutrition courses. Many of these programs advise applicants to review their state laws to determine what nutrition services can legally be offered. Under the Dietetics/Nutrition Practice Act, in order to provide medical nutrition therapy in North Carolina, one must be licensed unless otherwise exempt. A certificate or diploma, standing alone, is not enough to authorize a person to provide medical nutrition therapy in North Carolina. Therefore, upon obtaining a certification or diploma, one will not be able to provide nutrition care services for the purpose of managing or treating a medical condition or use any title indicating that one is practicing dietetics or nutrition, unless licensed or otherwise exempt from licensure.

ADDITIONAL GUIDANCE

For individuals who are unsure whether their intended or ongoing activities constitute the practice of dietetics or nutrition, the Board will provide additional guidance upon request.

This document has been reviewed and approved by the North Carolina Board of Dietetics/Nutrition for use as a guideline only. It is provided to help unlicensed persons better understand the North Carolina Dietetics/Nutrition Practice Act. It is not all inclusive or exclusive. This guideline is provided as information only and is not intended to address any specific case scenario. The Board is required to investigate all complaints reported to it, and all such

complaints will be reviewed on a case-by-case basis taking into account the particular facts of the situation. This document should not be construed to impose any requirements or limitations on unlicensed persons in addition to those set forth in the Act and Rules. Similarly, this document in no way enlarges the Board's civil liability, and alleged violations of the guidance set forth in this document shall not be considered in any proceeding against the Board. In the event of a conflict between this document and the North Carolina Dietetics/Nutrition Practice Act and associated Rules, the Act and Rules will govern.

NORTH CAROLINA BOARD OF DIETETICS/NUTRITION
1135 Kildaire Farm Rd., Suite 200 • Cary, North Carolina 27511
Email: info@ncbdn.org • Phone: (919) 338-1931 • Fax: (919) 882-1776