

2021 SENATE HUMAN SERVICES

SB 2187

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Sakakawea Room, State Capitol

SB 2187
1/25/2021

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and sections 43-44-09.1, 43-44-09.2, 43-44-10.1, 43-44-18, 43-44-19, 43-44-20, and 43-44-21, relating to criminal history background checks and licensure and regulation of nutritionists and dietitians; to amend and reenact sections 43-44-01, 43-44-02, 43-44-03, 43-44-05, 43-44-06, 43-44-07, 43-44-08, 43-44-09, 43-44-10, 43-44-12, 43-44-13, 43-44-15, 43-44-16, and 43-44-17 of the North Dakota Century Code, relating to the regulation and licensure of nutritionists and dietitians; and to provide a penalty

Madam Chair Lee opened the hearing on SB 2187 at 10:20 a.m. All members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

Discussion Topics:

- Medical nutrition therapy V.S. non-medical
- Senator K. Roers proposed amendment
- New licensure process
- Requiring nutritionist licensing
- Training programs and education
- Naturopathic scope of practice

[10:21] Senator Kristin Roers, District 27. Introduced SB 2187 and provided amendment testimony #2897 with additions from Senator Anderson.

[10:22] Brooke Fredrickson, North Dakota Board of Dietetic Practice (NDBODP). Provided testimony #2624 and #2850 in favor.

[10:39] Pam Sharp, Lobbyist. Introduced Amanda Ihmels to the committee.

[10:39] Amanda Ihmels (RDN, CSO, and LRD), President, North Dakota Academy of Nutrition and Dietetics (NDAND). Provided testimony #2627 in favor.

[10:46] Amy Davis, Registered Dietitian Nutritionist. Provided testimony #2633 in favor.

[10:49] Sandra Horob, RDN, Minot, North Dakota. Provided testimony #2319 in favor.

[10:50] Traci Hobson, Director, Legislative and Regulatory Affairs, American Nutrition Association (ANA). Provided testimony #2322 in favor.

Additional written testimony: N/A

Madam Chair Lee closed the hearing on SB 2187 at 11:02 a.m.

Justin Velez, Committee Clerk

21.0420.01001
Title.

Prepared by the Legislative Council staff for
Senator K. Roers

January 18, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2187

Page 16, line 9, after the second "of" insert "no"

Renumber accordingly

P/le Line 8 replace "pursing" with "~~pursuing~~"
"pursuing"

Testimony of Brooke Fredrickson, RDN, LRD, CDCES
North Dakota Board of Dietetic Practice Board Member
In Support of SB 2187
January 25, 2021

Chair Lee and Members of the Committee:

My name is Brooke Fredrickson, and I am representing the North Dakota Board of Dietetic Practice (NDBODP) in support of SB 2187. I have been a licensed registered dietitian since 2005, and I have been serving on the dietetics board since 2014. The North Dakota Board of Dietetic Practice oversees the licensing of registered dietitians and nutritionists as enacted by North Dakota Century Code (NDCC) Chapter 43-44. This Century Code was instituted in 1985 to protect the public's health from being harmed by unqualified persons through incompetent or unethical practice of nutrition care services.

NDCC Chapter 43-44 was passed 35 years ago and has not been changed since that time. The NDBODP is proposing changes to modernize this chapter for the following reasons:

1) To update and add current industry definitions relevant to the practice of nutrition and dietetics, including medical nutrition therapy (MNT). MNT is the provision of nutrition care services for the treatment or management of a disease or medical condition. MNT plays a critical role in our healthcare system through the nutritional management of diseases such as diabetes, cardiovascular disease, obesity, cancer, high blood pressure, kidney disease, celiac disease or those with other medical conditions including food allergies, eating disorders, and pre-diabetes. The practice of MNT includes a heightened risk for harm because of its direct relationship to disease; and therefore, the NDBODP wants to ensure that those engaging in MNT are both qualified and licensed.

2) To expand who may qualify for licensure as a nutritionist. The proposed changes will eliminate licensure to provide "general nutrition services" and will expand the educational requirements and scope of practice of licensed nutritionists to include medical nutrition therapy. In doing this, the board added two new educational pathways and has established standards for Certified Nutrition Specialists and Diplomates of the American Clinical Board of Nutrition to apply for licensure to practice nutrition, including MNT. Under the current statute, these individuals are excluded from licensure in ND.

In doing this, the currently 33 licensed nutritionists will have the option to continue to be licensed under a grandfathering provision in the proposed changes.

3) To add clarity to the law regarding what licensed and unlicensed individuals may do. While a license will be required to provide medical nutrition therapy, it is neither the purpose of this bill nor the intent of the board of dietetic practice to restrict the expression

of general nutrition information, guidance or encouragement about food, lifestyle, or dietary practices, whether through general publication or in one-on-one interactions.

To assist in providing that clarity:

- The board has eliminated the definition of “general nutrition services”; as previously mentioned, the intent is to no longer license individuals to provide general nutrition services.
- The board has added the definition “general nonmedical nutrition information.” This definition explains what an unlicensed individual can do. As you will note in the definition, it allows unlicensed individuals to provide nutrition information and education if it is not for the treatment of a disease or medical condition.
- The board has also expanded the exceptions to licensure in the law that provide clarity on individuals exempt from licensure.

In addition to these primary purposes the board has added a scope of practice for licensed individuals, addressed telehealth, included the option to conduct criminal background checks, maintained reciprocity for dietitians, and waived licensure fees for active military and their spouses serving in North Dakota. Lastly, the bill gives the board the ability to provide interpretive guidance about the statute.

The NDBODP asks that you vote “yes” on the proposed changes to Chapter 43-44 as the modernized bill will protect the public from potential harm by ensuring that those who practice medical nutrition therapy are qualified and licensed to do so, without hindering the provision of nutrition services for healthy populations.

| SB 2187 | Summary of proposed changes to Chapter 43-44 by section |
|-----------|---|
| Section 1 | Added the ability to do criminal background checks if required by the board. |
| Section 2 | Added relevant and updated definitions to include current industry terms. Current statute has 8 definitions, proposed changes include 28 definitions. |
| Section 3 | Makeup of the board - Minor updates to language, including circumstances for closed board meetings that would protect privacy of patient’s testimony and medical records. |
| Section 4 | Added ability for the board to provide “interpretive guidance”. |
| Section 5 | Changed the set fee to “not to exceed” giving the board the option to change fees in the future. Also included the waiving of fees for active military and military spouses. |
| Section 6 | Updated language on the use of nutrition titles and credentials with the purpose to prevent the use of anything indicating that the unlicensed individual is able to practice dietetics and nutrition or provide MNT. Any use of the term “therapy” or “therapist” in conjunction with nutrition in a title might indicate that the person is licensed to practice medical nutrition therapy when they are not. The definition of therapist according to the Merriam-Webster Dictionary is an individual specializing in the therapeutic medical treatment of impairment, injury, disease, or disorder. |

| | |
|------------|---|
| Section 7 | Expanded requirements for licensed nutritionists – requiring minimum of Masters degree with supervised practice and exam. Added pathway for CNS and DACBN for licensure. |
| Section 8 | Updated language for licensing dietitians, including having current registration with the Commission on Dietetic Registration. |
| Section 9 | Removed language specific to 1985. |
| Section 10 | Added clause relating to the grandfathering of currently licensed nutritionists. |
| Section 11 | Added scope of practice for licensed dietitians and nutritionists. |
| Section 12 | Changed and added exceptions from licensure to provide more clarity. Updated language consistent with other statutes and new definitions. #10 - Added exception to provide nutrition information, education, guidance, health coaching, and nonmedical weight control as long as it does not constitute MNT and they do not refer to themselves a nutritionist, licensed nutritionist, licensed registered dietitian or as a provider of MNT. #11 - Added exception for providing medical weight control services (i.e. diabetes prevention program, Sanford Profile). #12 – Added exception for providing nutrition services to family. |
| Section 13 | Added section on qualified supervision and requirements for supervisors. |
| Section 14 | Changed limited permit to provisional license. Included when a provisional license is required. |
| Section 15 | Added clarifying language to the reciprocity clause and added nutritionist. |
| Section 16 | Removed third party authority of code of ethics and gave authority to the board. |
| Section 17 | Clarified board authority regarding injunction. |
| Section 18 | Added line to indicate that each act of unlawful practice is a separate offense. |
| Section 19 | Defined who is responsible for legal fees for disciplinary actions. |
| Section 20 | Added section on requirements for telehealth |
| Section 21 | Defined licensure requirements for out-of-state practitioners who provide services for ND residents up to 30 days per year. |
| Section 22 | Added clause for criminal background checks. |

This concludes my testimony, and I am happy to answer any questions.



SB 2187 Introduced to the North Dakota Legislature on January 12, 2021



Modernizing North Dakota's Dietetics/Nutrition Practice Act

§ Chapter 43-44 Dietitians and Nutritionists

Bill Purpose

It is the purpose of this chapter 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 and nutrition and by the establishment of educational standards for those persons.

What can licensed individuals do under this bill?

The primary role for qualified licensed individuals is **to provide medical nutrition therapy (MNT)**. Refer to **§ 43-44-01 and 43-44-09.2**

MNT is the provision of nutrition care services for the treatment or management of a disease or medical condition. This most commonly includes providing MNT for individuals with diseases such as diabetes, cardiovascular heart disease, obesity, cancer, high blood pressure, kidney disease, celiac disease or those with medical conditions; i.e. food allergies, eating disorders, pre-diabetes. Licensed individuals under this bill are able to translate scientific evidenced based information into layman's terms and assist individuals to positively impact disease treatment or management through provision of MNT.

Bill Highlights

- **Expands the pathways to licensure** for additional qualified nutrition professionals to provide medical nutrition therapy
- **Eliminates licensure to provide "general nutrition services"**
- **Clarifies and expands what nutrition services** can be provided by unlicensed persons, such as health coaches and trainers
- **Adds telehealth** options for practice that include full licensure, limited practice without a license, and some exceptions from licensure
- **Maintains reciprocity** for expediting licensure
- **Allows the board to provide statutory guidance** to explain what unlicensed individuals may do under this law

Who is licensed under this law?

- **SAME**—Registered Dietitians and Registered Dietitian Nutritionists
- **NEW**—Adds Certified Nutrition Specialists
- **NEW**—Adds Diplomates of the American Clinical Board of Nutrition
- **UPDATED**—Licensed nutritionist qualifications are increased to encompass MNT. Current licensees can choose to be grandfathered in. A license is not needed for current licensees to continue to provide general nutrition services.

What is different in the proposed bill from the current bill for unlicensed individuals?

The proposed bill:

- **adds an exception from licensure for:** Any individual from providing nutrition information, individualized nutrition recommendations, health coaching, holistic and wellness education, guidance, motivation, behavior change management, non-medical weight control, or other nutrition care services if the services do not constitute medical nutrition therapy and the individual does not hold out as a licensed registered dietitian, nutritionist or licensed nutritionist or as a provider of medical nutrition therapy or otherwise violate provisions of this chapter.
- **expands the exception from licensure for other health care professionals:** A licensed health care practitioner duly licensed in accordance with title 43 who is acting within the scope of the individual's licensed profession, consistent with the accepted standards of their profession, if the practitioner does not represent the practitioner as a licensed registered dietitian, nutritionist or licensed nutritionist.
- **continues the exception for selling of supplements without a license and adds, *herbs*, to that exception from licensure.**

LET US BE CLEAR — There are wide differences in education and training in nutrition



Those **Qualified** to Provide Medical Nutrition Therapy

1. Must meet stringent education requirements from U.S. regionally accredited university and/or *ACEND-accredited programs. (NDSU and UND offer accredited programs in dietetics)

- The completion of an ACEND accredited program in dietetics OR the completion of a Master of Public Health, Master of Medical Nutrition, MS of Nutrition, or master of professional studies from an accredited college or university OR
- Have received a master's or doctoral nutrition degree with completed coursework in medical nutrition therapy (requirements outlined in § 43-44-07).

**Accreditation Council for Education in Nutrition and Dietetics*

2. Must meet NDBODP approved supervised experience

- ACEND approved for dietitians
- A board approved internship or a documented, supervised practice experience in nutrition care services and the provision of medical nutrition therapy of not less than 1000 hours (requirements outlined in § 43-44-07) for nutritionists

3. Must pass a NDBODP approved examination

Registered Dietitians adhere to a professional Code of Ethics and licensing under this chapter includes a board adopted code of ethics.



Those **Unqualified** to Provide Medical Nutrition Therapy

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 (*some as little as a 4 week course*).

Many of these programs advise applicants to review their state laws to determine what nutrition services can legally be offered once the advertised credential is earned. Under Chapter 43-44, in order to practice dietetics and/or nutrition in North Dakota 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 Dakota. 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.

Statement from the North Dakota Board of Dietetic Practice

While a license is required to provide medical nutrition therapy as defined in Chapter 43-44, it is neither the purpose of this bill nor the intent of the board of dietetic practice 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.

WHY DO YOU NEED A LICENSE TO PROVIDE MEDICAL NUTRITION THERAPY?

Medical nutrition therapy (MNT) is based on ongoing evidence based scientific research to help treat disease and medical conditions. It's vastly different from nutrition education intended for the general public. Research shows improved health outcomes with MNT.

Licensure:

- **helps consumers identify who is a qualified practitioner** to provide a particular set of specified services, known as the profession's scope of practice. Some individuals are not qualified for licensure because they lack the objective accredited education, experience and examination demonstrating their competency to provide services within the regulated profession's scope of practice.
- **helps prevent harm for our communities, workplaces, families and friends.** This means protecting against unsafe or inaccurate nutrition counseling or interventions that may lead to poor or even dangerous health outcomes and unnecessary expensive products and services.

Good Morning Senator Lee and members of the committee,

I am Amanda Ihmels, RDN, CSO, LRD I am from Bismarck and the current president of the North Dakota Academy of Nutrition and Dietetics (NDAND). NDAND represents approximately 250 dietitians practicing in North Dakota. I am here today to testify in support of SB 2187. The ND Board of Dietetic Practice has been working to modernize and clarify our licensure law as it has been 35 years since it was created. This bill provides many improvements, but today I will highlight 3.

The update to this law includes consistent language with dietetic practice today. Such as medical nutrition therapy, the nutrition care process, and what general nutrition services may consist of. This provides clear guidance for licensed and unlicensed individuals for what nutrition services can and cannot be provided. Having this clarification will make it easier for North Dakotans to identify those who are practicing appropriately and quickly identify those who are not.

Additional updates include the expanded pathways to licensure. The ND Board of Dietetic Practice has defined education requirements, supervised practice and board exam requirements to practice Medical Nutrition Therapy. This allows for Registered Dietitian Nutritionists and other qualified individuals to safely practice in our state. Expanding and defining the requirements to practice medical nutrition therapy holds all practitioners to an elevated standard to ensure that clients/patients continue to receive adequate and safe nutrition information.

Lastly, the updates include expansion into telehealth for Medical Nutrition Therapy. This allows for short and long term practice abilities for those outside of our state providing medical nutrition therapy to North Dakotans.

After practicing dietetics for 11 years I have seen the harm of individuals from outside our state. A recent example is a young cancer patient being coached on an "alternative treatment" regimen where she juiced and drank 20 pounds of organic carrots per day, ate a significant amount of leafy greens and drank copious amounts of homemade broth. Preparing this consumed her day. When I saw her she was developing early signs of Vitamin A toxicity. Cancer patients experience enough emotional, financial and physical stress during treatment. They should be able to trust the individuals providing nutrition counseling to not cause additional harm.

Thank you for hearing my support of SB2187. Please consider a DO PASS for this bill.

Amanda Ihmels, RDN, CSO, LRD
North Dakota Academy of Nutrition and Dietetics President 2020-2021
aihmels@bismarckcancercenter.com
701.516.2551

Testimony of Amy Davis, RDN, LRD
In Support of SB 2187
Senate Human Services Committee

Senator Lee and Members of the Committee:

My name is Amy Davis and I am a Registered Dietitian Nutritionist. I've been a Registered Dietitian for 23 years and have been a licensed registered dietitian in North Dakota for 14 years. I chose dietetics as a career due to my passion for making a difference and to help people improve their health.

Registered Dietitian Nutritionists work in a variety of settings including health care, business, industry, community/public health, education, research, government agencies and private practice. Registered Dietitian Nutritionists educate patient/clients about nutrition and provide medical nutrition therapy as part of the health care team.

In my 23 years of experience as a Registered Dietitian Nutritionist, I have had the opportunity to work in many areas of dietetics including, acute and long-term care, outpatient medical nutrition therapy, weight management, outpatient dialysis, clinical nutrition management and food service management.

One of the changes proposed in this bill clearly identifies who is qualified to provide medical nutrition therapy. Medical nutrition therapy (MNT) is based on on-going evidenced based scientific research to help treat disease and medical conditions. It is different from nutrition education for the general public. I understand the risks and potential harm of unqualified individuals providing medical nutrition therapy. Here is a good example of that- a patient with chronic kidney disease was given weight loss advice from a personal trainer. The patient was told to eat more protein which resulted in further decline of their kidney function to the point of almost needing to start dialysis.

Modernization of North Dakota's Dietetics/Nutrition Practice Act needs to happen to continue to protect the safety and well-being of the citizens of our great state.

Please pass SB 2187. Thank you for your time.

Testimony for SB 2187

In support of the bill

Sandra Horob, RDN

Minot, ND

I have been a member of the Academy of Nutrition and Dietetics for over 40 years. I began my practice in Williston, and provided consultative services to facilities in Northeastern Montana for many years. I retired from a career at Minot Air Force Base and then Trinity Health in Minot in early 2020.

During my time in practice, there have been many improvements in the provision of nutrition services in our state. For example, when I began, there were no fitness centers in my area, no health coaches, no sports medicine trainers and no in-person weight loss centers. When our licensure bill became law in 1985, we had no Medical Nutrition Therapy, no certified programs for persons with diabetes, and no health food stores in my area. I was the sole nutrition expert, and as such, required to maintain continuing professional education to stay current. Physicians called upon me to lecture to their students, coaches, and patients, admitting they had little nutrition training in medical school. School groups, civic organizations, and weight loss groups requested my help. I was glad to provide my expertise and ensure citizens in my area were provided accurate, science-based information.

As is apparent, we have evolved significantly. The changes proposed in this bill will allow persons with appropriate education and training to perform many aspects of nutrition services. The bill also expands provision to licensed professionals working within their scopes of practice. This bill will continue to protect the public from unscrupulous and untrained persons providing advice that may actually do harm. Please support this bill and continue to provide the citizens of North Dakota with the best nutrition care possible.

Testimony on behalf of the American Nutrition Association (ANA)
to the North Dakota Human Services Committee
Hearing on Senate Bill 2187

January 25, 2021

Good morning Chair Lee, Vice Chair Roers, and members of the Human Services Committee. My name is Traci Hobson and I am the Director of Legislative and Regulatory Affairs for the American Nutrition Association (ANA).

First, I'd like to thank Vice Chair Roers for introducing Senate Bill 2187 relating to the regulation and licensure of nutritionists and dietitians. This bill will benefit the health of North Dakotans by increasing their access to qualified nutrition professionals throughout the state. If enacted, the bill would, among other improvements, create a pathway to licensure for highly qualified nutrition professionals, such as individuals who hold the Certified Nutrition Specialist credential conferred by our organization.

On that note, I would like to share some background information with members of the committee to use as you all consider SB 2187.

Our organization's affiliated credentialing body, the Board for Certification of Nutrition Specialists (BCNS), administers a nationally accredited certification of nutrition professionals: the "Certified Nutrition Specialist" (CNS) certification. CNSs must earn an advanced degree (masters or doctoral) in nutrition or clinical healthcare, complete a robust nutrition science curriculum, complete 1,000 hours of supervised nutrition practice experience, and pass our extremely rigorous certification exam. As part of their supervised practice hours, CNSs obtain robust experience in medical nutrition therapy, therapeutic diets, and other services and competencies.

The CNS certification is one of only three nutrition credentials accredited by the National Commission for Certifying Agencies (NCCA), the preeminent accrediting organization for certifying programs, which also accredits the Registered Dietitian (RD) credential. The CNS certification is listed by the US Department of Labor as an advanced nutrition credential in the definition of the "Dietitians and Nutritionists" profession in the Occupational Outlook Handbook of the Bureau of Labor and Statistics.

North Dakota is currently one of only a dozen states which still largely prohibits the practice of individualized nutrition counseling by anyone who is not an RD. Most other states either do not require a license to practice any aspect of nutrition care, or they require a license only to practice Medical Nutrition Therapy, or MNT, a specific type of nutrition service which uses nutrition to treat diagnosed medical conditions. Many states have a pathway for CNS certificants to obtain a license or certification.

We support Senate Bill 2187 and would also respectfully request two minor amendments to the bill language. Both are in Section 43-44-01 (definitions section), item 25. (Red strikethrough reflects deletions, additions are underlined, bolded, and in green.)

Section 43-44-01, item 25.

"Qualified supervisor" means:

a. ...

(3) A health care provider licensed ~~in the United States, including a licensed or certified dietitian nutritionist or licensed nutritionist, whose scope of practice includes the provision of~~ **or otherwise authorized by any U.S. state or territory to provide** nutrition care services for the purpose of treating or managing a disease or medical condition.

b. If supervising the provision of nutrition care services that do not constitute medical nutrition therapy, an individual who either meets the requirements of paragraph 1 of subdivision a or an individual with at least three years of clinical nutrition experience who holds a **masters or** doctoral degree with a major course of study in dietetics, human nutrition, foods and nutrition, community nutrition, public health nutrition, naturopathic medicine, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or an equivalent course of study as approved by the board.

Please note that we have worked with the Academy of Nutrition and Dietetics (AND) on this bill, and the language above is consistent with what both groups have agreed to support in other states. We believe these are changes that the AND will support.

In summary, we support Senate Bill 2187, as we believe it will expand access to important nutrition care for North Dakotans.

Thank you for the opportunity to provide testimony regarding this issue. I am available for questions or to provide further information as needed.

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Sakakawea Room, State Capitol

SB 2187
2/1/2021

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and sections 43-44-09.1, 43-44-09.2, 43-44-10.1, 43-44-18, 43-44-19, 43-44-20, and 43-44-21, relating to criminal history background checks and licensure and regulation of nutritionists and dietitians; to amend and reenact sections 43-44-01, 43-44-02, 43-44-03, 43-44-05, 43-44-06, 43-44-07, 43-44-08, 43-44-09, 43-44-10, 43-44-12, 43-44-13, 43-44-15, 43-44-16, and 43-44-17 of the North Dakota Century Code, relating to the regulation and licensure of nutritionists and dietitians; and to provide a penalty

Madam Chair Lee opened the discussion on SB 2187 at 3:35 p.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

Discussion Topics:

- Amendment proposal
- Nutritionists V.S. Naturopaths scope of practice
- Dietician scope of practice

[3:35] Senator K. Roers, District 27. Provided the committee with proposed amendment 21.0420.01003 (testimony #7028).

[3:41] Amanda Ehmils, President, North Dakota Academy of Nutrition and Dietetics. Provided clarification on differences of nutritionists and naturopaths.

Senator K. Roers moves to **ADOPT AMENDMENT 21.0420.01003**
Senator Hogan seconded.

Voice vote – motion passed

Senator Hogan moves **DO PASS, AS AMENDED.**
Senator Clemens seconded.

| Senators | Vote |
|---------------------------------|------|
| Senator Judy Lee | Y |
| Senator Kristin Roers | Y |
| Senator Howard C. Anderson, Jr. | Y |
| Senator David A. Clemens | Y |
| Senator Kathy Hogan | Y |
| Senator Oley Larsen | N |

The motion passed 5-0-1

Senator K. Roers will carry SB 2187.

Additional written testimony: N/A

Madam Chair Lee closed the hearing on SB 2187 at 3:49 p.m.

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2/1/2021
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Justin Velez, Committee Clerk

January 26, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2187

Page 6, line 11, remove "in the United States, including a licensed or"

Page 6, remove line 12

Page 6, line 13, replace "includes the provision of" with "or otherwise authorized under the laws of any state to provide"

Page 6, line 13, remove "for the purpose of treating or"

Page 6, line 14, replace "managing" with "to treat or manage"

Page 6, line 18, after the first "a" insert "master's or"

Page 16, line 8, replace "pursing" with "pursuing"

Page 16, line 9, after the second "of" insert "no"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2187: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2187 was placed on the Sixth order on the calendar.

Page 6, line 11, remove "in the United States, including a licensed or"

Page 6, remove line 12

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Renumber accordingly

21.0420.01003
Title.

Prepared by the Legislative Council staff for
Senator K. Roers

January 26, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2187

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Renumber accordingly

2021 HOUSE HUMAN SERVICES

SB 2187

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2187
03/10/2021 900 AM

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|---|
| Relating to criminal history background checks and licensure and regulation of nutritionists and dietitians; relating to the regulation and licensure of nutritionists and dietitians; and to provide a penalty |
|---|

Chairman Weisz opened the committee hearing at 9:00 a.m.

| Representatives | Attendance |
|-----------------------------------|-------------------|
| Representative Robin Weisz | P |
| Representative Karen M. Rohr | P |
| Representative Mike Beltz | P |
| Representative Chuck Damschen | P |
| Representative Bill Devlin | P |
| Representative Gretchen Dobervich | P |
| Representative Clayton Fegley | P |
| Representative Dwight Kiefert | P |
| Representative Todd Porter | P |
| Representative Matthew Ruby | P |
| Representative Mary Schneider | P |
| Representative Kathy Skroch | P |
| Representative Bill Tveit | P |
| Representative Greg Westlind | P |

Discussion Topics:

- Board of Dietetic Practice
- Medical nutrition therapy
- Provisional license

Sen. Kristin Roers, District 27 (9:00) introduced the bill.

Brooke Fredrickson, Board Chair North Dakota Board of Dietetic Practice (9:01) testified in favor and submitted testimony #8446 & #8535.

Amanda Ihmels, President North Dakota Academy of Nutrition & Dietetics (9:16) testified in favor and submitted testimony #8449.

Amy Davis, President elect North Dakota Academy of Nutrition & Dietetics (9:19) testified in favor and submitted testimony #8062.

House Human Services Committee
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03/10/2021
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Additional written testimony: #7702.

Vice Chair Rohr adjourned at 9:22 a.m.

Tamara Krause, Committee Clerk

Testimony of Brooke Fredrickson, RDN, LRD, CDCES
North Dakota Board of Dietetic Practice Board Member
In Support of SB 2187
March 10, 2021

Chairman Weisz and Members of the Committee:

My name is Brooke Fredrickson, and I am representing the North Dakota Board of Dietetic Practice (NDBODP) in support of SB 2187. I have been a licensed registered dietitian since 2005, and I have been serving on the dietetics board since 2014. The North Dakota Board of Dietetic Practice oversees the licensing of registered dietitians and nutritionists as enacted by North Dakota Century Code (NDCC) Chapter 43-44. This Century Code was instituted in 1985 to protect the public's health from being harmed by unqualified persons through incompetent or unethical practice of nutrition care services.

NDCC Chapter 43-44 was passed 35 years ago and has not been changed since that time. During the last legislative session, there were concerns brought forth to this committee about some of the language and limitations of this chapter. The board took these considerations into account in the drafting of the proposed changes that I am presenting to you today.

Here are the main changes that the NDBODP is proposing:

1) To update and add current industry definitions relevant to the practice of nutrition and dietetics, including medical nutrition therapy (MNT). MNT is the provision of nutrition care services for the treatment or management of a disease or medical condition. MNT plays a critical role in our healthcare system through the nutritional management of diseases such as diabetes, cardiovascular disease, obesity, cancer, high blood pressure, kidney disease, celiac disease or those with other medical conditions including food allergies, eating disorders, and pre-diabetes. The practice of MNT includes a heightened risk for harm because of its direct relationship to disease; and therefore, the NDBODP wants to ensure that those engaging in MNT are both qualified and licensed.

2) To expand who may qualify for licensure as a nutritionist. The proposed changes will eliminate licensure to provide "general nutrition services" and will expand the educational requirements and scope of practice of licensed nutritionists to include medical nutrition therapy. In doing this, the board added two new educational pathways and has established standards for Certified Nutrition Specialists and Diplomates of the American Clinical Board of Nutrition to apply for licensure to practice nutrition, including MNT. Under the current statute, these individuals are excluded from licensure in ND.

In doing this, the currently 33 licensed nutritionists will have the option to continue to be licensed under a grandfathering provision in the proposed changes.

3) To add clarity to the law regarding what licensed and unlicensed individuals may do. While a license will be required to provide medical nutrition therapy, it is neither the purpose of this bill nor the intent of the board of dietetic practice to restrict the expression of general nutrition information, guidance or encouragement about food, lifestyle, or dietary practices, whether through general publication or in one-on-one interactions.

To assist in providing that clarity:

- The board has eliminated the definition of “general nutrition services”; as previously mentioned, the intent is to no longer license individuals to provide general nutrition services.
- The board has added the definition “general nonmedical nutrition information.” This definition explains what an unlicensed individual can do. As you will note in the definition, it allows unlicensed individuals to provide nutrition information and education if it is not for the treatment of a disease or medical condition.
- The board has also expanded the exceptions to licensure in the law that provide clarity on individuals exempt from licensure.

In addition to these primary purposes the board has added a scope of practice for licensed individuals, addressed telehealth, included the option to conduct criminal background checks, maintained reciprocity for dietitians, and waived licensure fees for active military and their spouses serving in North Dakota. Lastly, the bill gives the board the ability to provide interpretive guidance about the statute.

The NDBODP asks that you vote “yes” on the proposed changes to Chapter 43-44 as the modernized bill will protect the public from potential harm by ensuring that those who practice medical nutrition therapy are qualified and licensed to do so, without hindering the provision of nutrition services for healthy populations.

| SB 2187 | Summary of proposed changes to Chapter 43-44 by section |
|-----------|---|
| Section 1 | Added the ability to do criminal background checks if required by the board. |
| Section 2 | Added relevant and updated definitions to include current industry terms. Current statute has 8 definitions, proposed changes include 28 definitions. |
| Section 3 | Makeup of the board - Minor updates to language, including circumstances for closed board meetings that would protect privacy of patient’s testimony and medical records. |
| Section 4 | Added ability for the board to provide “interpretive guidance”. |
| Section 5 | Changed the set fee to “not to exceed” giving the board the option to change fees in the future. Also included the waiving of fees for active military and military spouses. |
| Section 6 | Updated language on the use of nutrition titles and credentials with the purpose to prevent the use of anything indicating that the unlicensed individual is able to practice dietetics and nutrition or provide MNT. Any use of the term “therapy” or “therapist” in conjunction with nutrition in a title might indicate that the person is licensed to practice medical nutrition therapy when they are not. |

| | |
|------------|---|
| | The definition of therapist according to the Merriam-Webster Dictionary is an individual specializing in the therapeutic medical treatment of impairment, injury, disease, or disorder. |
| Section 7 | Expanded requirements for licensed nutritionists – requiring minimum of Masters degree with supervised practice and exam. Added pathway for CNS and DACBN for licensure. |
| Section 8 | Updated language for licensing dietitians, including having current registration with the Commission on Dietetic Registration. |
| Section 9 | Removed language specific to 1985. |
| Section 10 | Added clause relating to the grandfathering of currently licensed nutritionists. |
| Section 11 | Added scope of practice for licensed dietitians and nutritionists. |
| Section 12 | Changed and added exceptions from licensure to provide more clarity. Updated language consistent with other statutes and new definitions. #10 - Added exception to provide nutrition information, education, guidance, health coaching, and nonmedical weight control as long as it does not constitute MNT and they do not refer to themselves a nutritionist, licensed nutritionist, licensed registered dietitian or as a provider of MNT. #11 - Added exception for providing medical weight control services (i.e. diabetes prevention program, Sanford Profile). #12 – Added exception for providing nutrition services to family. |
| Section 13 | Added section on qualified supervision and requirements for supervisors. |
| Section 14 | Changed limited permit to provisional license. Included when a provisional license is required. |
| Section 15 | Added clarifying language to the reciprocity clause and added nutritionist. |
| Section 16 | Removed third party authority of code of ethics and gave authority to the board. |
| Section 17 | Clarified board authority regarding injunction. |
| Section 18 | Added line to indicate that each act of unlawful practice is a separate offense. |
| Section 19 | Defined who is responsible for legal fees for disciplinary actions. |
| Section 20 | Added section on requirements for telehealth. |
| Section 21 | Defined licensure requirements for out-of-state practitioners who provide services for ND residents up to 30 days per year. |
| Section 22 | Added clause for criminal background checks. |

After the bill was passed in the Senate, we were contacted by the North Dakota Bureau of Criminal Investigation requesting that we define the term “provisional license” for the FBI, so we would like to request two minor amendments to the bill to define this term and to replace “limited permit” with “provisional license” on page 8.

This concludes my testimony, and I am happy to answer any questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2187

Page 6, line 5, after "25." insert the following:

25. "Provisional license" means a license granted to an applicant who has submitted the information required in 43-44-12 who has applied for examination but has not yet successfully completed the examination.

Renumber accordingly

Page 8, line 28; strike "limited permit" and replace with "provisional license."



Good Morning Chairman Weisz and members of the committee,

I am Amanda Ihmels, RDN, CSO, LRD I am from Bismarck and the current president of the North Dakota Academy of Nutrition and Dietetics (NDAND). NDAND represents approximately 250 dietitians practicing in North Dakota. I am here today to testify in support of SB 2187. The ND Board of Dietetic Practice has been working to modernize and clarify our licensure law as it has been 35 years since it was created. This bill provides many improvements, but today I will highlight three.

The update to this law includes consistent language with dietetic practice today. Such as medical nutrition therapy, the nutrition care process, and what general nutrition services may consist of. This provides clear guidance for licensed and unlicensed individuals for what nutrition services can and cannot be provided. Having this clarification will make it easier for North Dakotans to identify those who are practicing appropriately and quickly identify those who are not.

Additional updates include the expanded pathways to licensure. The ND Board of Dietetic Practice has defined education requirements, supervised practice and board exam requirements to practice Medical Nutrition Therapy. This allows for Registered Dietitian Nutritionists and other qualified individuals to safely practice in our state. Expanding and defining the requirements to practice medical nutrition therapy holds all practitioners to an elevated standard to ensure that clients/patients continue to receive adequate and safe nutrition information.

Lastly, the updates include expansion into telehealth for Medical Nutrition Therapy. This allows for short- and long-term practice abilities for those outside of our state providing medical nutrition therapy to North Dakotans.

After practicing dietetics for 11 years I have seen the harm of individuals from outside our state. A recent example is a young cancer patient being coached on an "alternative treatment" regimen where she juiced and drank 20 pounds of organic carrots per day. When I saw her she was developing early signs of Vitamin A toxicity. Cancer patients experience enough emotional, financial and physical stress during treatment. They should be able to trust the individuals providing nutrition counseling to not cause additional harm.

Thank you for hearing my support of SB2187. Please consider a DO PASS for this bill.

Amanda Ihmels, RDN, CSO, LRD
North Dakota Academy of Nutrition and Dietetics President 2020-2021
aihmel@bismarckcancercenter.com
701.516.2551

Testimony of Amy Davis, RDN, LRD
In Support of SB 2187
House Human Services Committee

Chairman Weisz and Members of the House Human Services Committee:

My name is Amy Davis and I am a Registered Dietitian Nutritionist. I've been a Registered Dietitian for 23 years and have been a licensed registered dietitian in North Dakota for 14 years. I chose dietetics as a career due to my passion for making a difference and to help people improve their health.

Registered Dietitian Nutritionists work in a variety of settings including health care, business, industry, community/public health, education, research, government agencies and private practice. Registered Dietitian Nutritionists educate patient/clients about nutrition and provide medical nutrition therapy as part of the health care team.

In my 23 years of experience as a Registered Dietitian Nutritionist, I have had the opportunity to work in many areas of dietetics including, acute and long-term care, outpatient medical nutrition therapy, weight management, outpatient dialysis, clinical nutrition management and food service management.

One of the changes proposed in this bill clearly identifies who is qualified to provide medical nutrition therapy. Medical nutrition therapy (MNT) is based on on-going evidenced based scientific research to help treat disease and medical conditions. It is different from nutrition education for the general public. I understand the risks and potential harm of unqualified individuals providing medical nutrition therapy. Here is a good example of that- a patient with chronic kidney disease was given weight loss advice from a personal trainer. The patient was told to eat more protein which resulted in further decline of their kidney function to the point of almost needing to start dialysis.

Modernization of North Dakota's Dietetics/Nutrition Practice Act needs to happen to continue to protect the safety and well-being of the citizens of our great state.

Please pass SB 2187. Thank you for your time.

Testimony for SB 2187

In support of the bill

Sandra Horob, RDN

Minot, ND

I have been a member of the Academy of Nutrition and Dietetics for over 40 years. I began my practice in Williston, and provided consultative services to facilities in Northeastern Montana for many years. I retired from a career at Minot Air Force Base and then Trinity Health in Minot in early 2020.

During my time in practice, there have been many improvements in the provision of nutrition services in our state. For example, when I began, there were no fitness centers in my area, no health coaches, no sports medicine trainers and no in-person weight loss centers. When our licensure bill became law in 1985, we had no Medical Nutrition Therapy, no certified programs for persons with diabetes, and no health food stores in my area. I was the sole nutrition expert, and as such, required to maintain continuing professional education to stay current. Physicians called upon me to lecture to their students, coaches, and patients, admitting they had little nutrition training in medical school. School groups, civic organizations, and weight loss groups requested my help. I was glad to provide my expertise and ensure citizens in my area were provided accurate, science-based information.

As is apparent, we have evolved significantly. The changes proposed in this bill will allow persons with appropriate education and training to perform many aspects of nutrition services. The bill also expands provision to licensed professionals working within their scopes of practice. This bill will continue to protect the public from unscrupulous and untrained persons providing advice that may actually do harm. Please support this bill and continue to provide the citizens of North Dakota with the best nutrition care possible.

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2187
3/10/2021 930 AM

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| Relating to criminal history background checks and licensure and regulation of nutritionists and dietitians; relating to the regulation and licensure of nutritionists and dietitians; and to provide a penalty |
|---|

Chairman Weisz opened the committee meeting at 9:30 a.m.

| Representatives | Attendance |
|-----------------------------------|-------------------|
| Representative Robin Weisz | P |
| Representative Karen M. Rohr | P |
| Representative Mike Beltz | P |
| Representative Chuck Damschen | P |
| Representative Bill Devlin | P |
| Representative Gretchen Dobervich | P |
| Representative Clayton Fegley | P |
| Representative Dwight Kiefert | P |
| Representative Todd Porter | P |
| Representative Matthew Ruby | P |
| Representative Mary Schneider | P |
| Representative Kathy Skroch | P |
| Representative Bill Tveit | P |
| Representative Greg Westlind | P |

Discussion Topics:

- Committee action

Rep. Bill Devlin (9:30) moved to adopt proposed **Amendment 21.0420.02001- #10137**.

Rep. Karen Rohr (9:30) second

Voice Vote – Motion Carried

Rep. Bill Devlin (9:31) moved **Do Pass As Amended**

Rep. Karen Rohr (9:31) second

| Representatives | Vote |
|-----------------------------------|-------------|
| Representative Robin Weisz | Y |
| Representative Karen M. Rohr | Y |
| Representative Mike Beltz | Y |
| Representative Chuck Damschen | Y |
| Representative Bill Devlin | Y |
| Representative Gretchen Dobervich | Y |

| | |
|-------------------------------|---|
| Representative Clayton Fegley | Y |
| Representative Dwight Kiefert | Y |
| Representative Todd Porter | Y |
| Representative Matthew Ruby | Y |
| Representative Mary Schneider | Y |
| Representative Kathy Skroch | Y |
| Representative Bill Tveit | Y |
| Representative Greg Westlind | Y |

Motion Carried Do Pass As Amended 14-0-0

Bill Carrier: Rep. Karen Rohr

Chairman Weisz adjourned at 9:32 a.m.

Tamara Krause, Committee Clerk

March 10, 2021


3/10/21

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2187

Page 6, line 5, after "25." insert "Provisional license" means a license granted to an applicant who has submitted the information required in section 43-44-12 and applied for examination but has not completed the examination successfully yet.

26."

Page 6, line 23, replace "26." with "27."

Page 6, line 27, replace "27." with "28."

Page 7, line 1, replace "28." with "29."

Page 8, line 28, overstrike "limited permit" and insert immediately thereafter "provisional license"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2187, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2187 was placed on the Sixth order on the calendar.

Page 6, line 5, after "25." insert ""Provisional license" means a license granted to an applicant who has submitted the information required in section 43-44-12 and applied for examination but has not completed the examination successfully yet.

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Page 6, line 23, replace "26." with "27."

Page 6, line 27, replace "27." with "28."

Page 7, line 1, replace "28." with "29."

Page 8, line 28, overstrike "limited permit" and insert immediately thereafter "provisional license"

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2187

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