

Modernizing the NC Dietetics/Nutrition Practice Act

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Objectives

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

- Purpose of Licensure;
- Current Regulatory Landscape;
- Changes HB357 brought to the NC Dietetics/Nutrition Practice Act;
- Impact of changes on future practice

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/

Background

- The first NCBDN was appointed and began work in November 1991;
- The Practice Act has not changed in any significant way since originally passed.
- Regulatory Landscape

Regulatory Landscape

- Need for regulation
 - 2014 PED study – Board Necessary
- State Action Immunity
 - Clearly expressed state policy that had foreseeable anticompetitive effects; and
 - Active Supervision by the State

Statutory Authority Before Passage of HB357 – Old Law

§ 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.

Dietetics/Nutrition – Old Law

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.

HB357– Focused Statute Where There is Evident Risk of Harm

§ 90-365. Requirement of license.

- (a) It shall be unlawful for any person who is not currently licensed under this Article to do any of the following:
- (1a) **Provide medical nutrition therapy.**
 - (2) Use the title “dietitian/nutritionist” or “**nutritionist.**”
 - (3) Use the words “dietitian,” “nutritionist,” “**licensed nutritionist,**” or “licensed dietitian/nutritionist” or **hold oneself out as a dietitian or nutritionist unless licensed under this Article.**
 - 1) Use the letters “LD,” “LN,” or “LDN,” or any facsimile or combination in any words, letters, abbreviations, or insignia
 - 2) To imply orally or in writing or indicate in any way that the person is a licensed dietitian/nutritionist or **licensed nutritionist.**

HB 357 Focused Statute where there is Acute Risk of Harm

• **Medical Nutrition Therapy defined as:**

The provision of nutrition care services for the purposes of managing or treating a medical condition.

With change, a license is required when providing nutrition care services:

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

HB357 – Expanded Ability of Non-licensed Practitioners to provide Non-Medical Nutrition Services

- Expanded exemptions by limiting the requirements of licensure to apply to those providing *medical nutrition therapy*.
- Provided clarification stating that unlicensed persons, like nutrition coaches, and other wellness professionals, can provide “*nutrition information, guidance, encouragement, individualized nutrition recommendations, or weight control services that do not constitute medical nutrition therapy . . .*”

Order Writing – Changes in Federal Law

- Effective July 11, 2014 under the Medicare Conditions of Participation, Regulations for order writing in hospitals, § 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

- 2014 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 – Changes in Federal Law

- 2016 Medicare Regulations for Long Term Care:
 - Physician Services
 - §483.30(e)(2) A resident's attending physician may delegate the task of writing dietary orders, consistent with § 483.60, to a qualified dietitian or other clinically qualified nutrition professional who—
 - (i) Is acting within the scope of practice as defined by State law; and
 - (ii) Is under the supervision of the physician.
 - Food and Nutrition Services
 - §483.60(e) Therapeutic diets. (1) Therapeutic diets must be prescribed by the attending physician. (2) The attending physician may delegate to a registered or licensed dietitian the task of prescribing a resident's diet, including a therapeutic diet, to the extent allowed by State law.

Order Writing – Old Law

- The NC Dietetics Practice Act did address independent order writing authority.
- Definition of Nutrition Assessment in regulation 21 NCAC 17.0101(11) allows for the determination of nutritional needs and provides that one may "recommend appropriate nutrition intake including enteral and parenteral nutrition."
- Thus, no law specifically prohibits dietitians/nutritionists from writing diet orders; however, no NC law specifically grants such authority either.

Order Writing – HB357. . .

• Addressed Nutrition Related Lab Orders & Order Writing

- By expanding the definition of *nutrition care services* to include:
 - "... ordering laboratory tests related to the practice of nutrition and dietetics," and
 - "Ordering therapeutic diets."
- Change provides clear statutory authority for NC dietitians/nutritionists to be able to write diet orders and order nutrition-related labs in NC.
 - Now need to consider regulations, policies/protocols of facilities, and credentialing

Order Writing – HB357

- § 90-365.6. Enteral and parenteral nutrition therapy.
- (a) Enteral and parenteral nutrition therapy shall consist of enteral feedings or specialized intravenous solutions and shall only be ordered by an individual licensed under this Article who meets one of the following criteria:
 - (1) The individual is a Registered Dietitian Nutritionist registered with the Commission on Dietetic Registration.
 - (2) The individual is a Certified Nutrition Support Clinician certified by the National Board of Nutrition Support Certification.
 - (3) The individual meets the requirements set forth in rules adopted by the Board.
- (b) Nothing in this Article shall be construed to limit the ability of any other licensed health care practitioner in this State to order therapeutic diets, so long as the ordering of therapeutic diets falls within the scope of the license held by the health care practitioner."

Chapter 90 Exemption

- Prior law provided that health care practitioners licensed under NC General Statute 90 are exempt from the requirements of the Dietetics/Nutrition Practice Act.

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

HB357 – Clarified Chapter 90 Exemption

- Clarified the Chapter 90 Exemption to get back to original intent by adding the following to this exemption:
 - *“A health care professional duly licensed in accordance with Chapter 90 of the General Statutes who is acting within the scope of the individual’s licensed profession, provided that the individual does not use the titles licensed dietitian/nutritionist or licensed nutritionist.”*

Old Law - 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.

HB357 - Educational Standards

- Continue to recognize licensure by endorsement for Registered Dietitians – leads to LDN credential
- Continue to maintain an alternative pathway to licensure for applicants who completed an academic program and a supervised practice equivalent to ACEND accredited programs – leads to LDN credential
- Repealed stand alone doctoral pathway to licensure
- Added additional pathway for Licensed Nutritionists

HB357 : Educational Standards

- Provides additional pathway to licensure for Licensed Nutritionists who meet the following requirements.
 - At least a Masters in Nutrition or a comparable major or a doctoral degree in a field of clinical healthcare, from a regionally accredited university, with achievement of at least 15 semester hours in clinical or life sciences and fifteen semester hours in nutrition and metabolism;
 - 1000 hours of supervised practice experience with at least 200 hours in nutrition assessment, 200 hours of nutrition intervention, education, counseling, or management, and 200 hours of nutrition monitoring or evaluation; and
 - Passage of an NCCA accredited nutrition examination (i.e. the exam administered by the Board for Certification of Nutrition Specialists or the American Clinical Board of Nutrition).
 - **Requires review by Board; not licensure by endorsement.**

Old Board Composition:

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

HB357 Changed Board Composition

1. The Governor
 - Faculty Educator in Dietetics/Nutrition
 - Public-at-Large
 - One Non-Medical Professional
 - One Licensed NC Physician
2. The General Assembly
 - A. Speaker of the House
 - Clinical LDN or LN whose primary practice is in a hospital or long-term care institution
 - LDN or LN
 - B. President Pro Tempore of the Senate
 - Consulting/Private Practice LDN or LN
 - LDN or LN

Telepractice now addressed under HB357

- § 90-352 Definitions
- (6) Telepractice. - The delivery of services under this Article by means other than in-person, including by telephone, e-mail, Internet, or other methods of electronic communication."

Telepractice HB357

- § 90-365.5. Telepractice.
- Telepractice as defined in G.S. 90-352 is not prohibited under this Article so long as (i) it is appropriate for the individual receiving the services and (ii) the level of care provided meets the required level of care for that individual. An individual providing services regulated by this Article via telepractice shall comply with, and shall be subject to, all the licensing and disciplinary provisions of this Article.

Looking Ahead

- Presently, laws regulating the practice of dietetics/nutrition vary greatly across the country
- Reevaluate laws:
 - Serving their purpose?
 - In the best interest of the public?
- Aim would be to modernize dietetics/nutrition practice acts across the country
 - Compromise – regulate nutrition services where there is a clear risk of harm
 - Consistency in regulation
 - Licensing Compact

Road to Change





Contact with Questions

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