

## *Modernizing the NC Dietetics/Nutrition Practice Act*

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\* Not a licensed dietitian/nutritionist

### Objectives

**Participants gain a better understanding of:**

- Motivations to Change Practice Act
  - Importance of Being Proactive
- How NC went about drafting its Bill to modernize the Dietetics/Nutrition Practice Act
- Changes NE may consider
- Impact of Change on Future Practice and Lessons Learned

### 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 or nutrition and by the establishment of educational standards for those persons. (1991)

### 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

### Licensure/Title Protection/Certification

Licensure				Certification	Title Protection	No Statute
AL	KS	NV	SC	CT	CA	AZ
AK	KY	NH	SD	IN	TX	CO
AR	LA	NM	TN	NY	VA	MI
DE	ME	NC	WV	UT		NJ
DC	MD	ND	WY	VT		
FL	MA	OH		WA		
GA	MN	OK		WI		
HI	MS	OR				
ID	MO	PA				
IL	MT	PR				
IA	NE	RI				

### Timeline to Passage of SL2018\_91

- **Winter 2013**
  - Misinformation from media and citizens opposed to Dietetics/Nutrition Practice Act led to two different bills being filed to eliminate Practice Act.
  - **NCAND hired a lobby firm**
- **Spring 2014**
  - Initiated conversation with Executive Director of Board for Certification of Nutrition Specialists (BCNS);
  - Started educating representatives on ways to modernize Practice Act;
- **Summer 2014** – Medicare Changes – order writing

### Timeline to Passage of SL2018\_91

- **Fall/Winter 2014 - 2015**
  - Restarted conversations with director of BCNS;
  - PED Study Results;
  - Started drafting bill which would address licensing other qualified nutrition professionals, order writing, and provide clarity for unlicensed persons in regards to exemptions

### Drafting Bill

- **Winter 2015**
  - Considered Rule versus Statutory Change
  - Collaboration – Representatives from Below Organizations
    - NC Academy of Nutrition & Dietetics
    - NC Board of Dietetics/Nutrition
    - Board for Certification of Nutrition Specialist
    - Academy of Nutrition and Dietetics

### Timeline Continued

- **Bill Filed in House – HB 796, April 14, 2015**
  - NCAND
    - Worked with Lobbyists to educate legislators and find Bill sponsor
    - Legislative Day
    - Action Alerts
    - Participated in Committee Hearings
  - **Passed out of House - 110 - 9**

### Timeline Continued

- **HB 796**
  - Sent to Senate – held up in Rules Committee;
  - Given bill made it out of the House; could be heard in 2016 short session;
  - Need to continue to educate licensees, members, and representatives through the winter;
  - Short session – started April 25, 2016;
  - Bill did not pass in short session - died

### Timeline Continued

- **HB 357/SB 297**
  - Filed companion bills 2017 long-session;
  - House bill moved with no opposition → Sent to Senate
  - Did not pass Senate, but could be heard in 2018 short-session
  - Passed in 2018 short session unanimously
  - Signed by Governor June of 2018
  - SL 2018-91

### Bill Highlights

- Focuses licensure requirements on the provision of medical nutrition therapy
- Created clear authority for order writing;
- Created a new pathway to licensure as a licensed nutritionist – same scope of practice, but different licensure requirements and different title – **NOT LICENSURE BY ENDORSEMENT**
  - *Maintains requirement of regional accreditation, supervised practice, and the passage of an NCCA accredited exam*
- Clarified exemptions for unlicensed persons providing nutrition information, guidance, encouragement, individualized nutrition recommendations, or weight control services that do not constitute medical nutrition therapy.

### SL2018\_91– 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.**

### SL 2019-91 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.*

### Order Writing – SL2018\_91...

- **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.

### Order Writing – SL2018\_91

- § 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."

### Wishful Language – Minnesota Law

- **148.634 PRESCRIPTION PROTOCOL.**
  - A licensed dietitian or licensed nutritionist may implement a protocol that does not reference a specific patient and results in a prescription of a legend drug that has been predetermined and delegated by a licensed practitioner as defined in section 151.01, subdivision 23, when caring for a patient whose condition falls within the protocol and the protocol specifies the circumstances under which the drug is to be prescribed or administered.

### SL2018\_91 - Educational Standards

- Continue to recognize licensure by endorsement for RDNs – 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 → LN credential

### SL2018\_91 : 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.**

### SL2018-91 -Trademarked Credentials

N.C.G.S. § 90-365(b) Requirement of license

- (b) 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" or "nutritionist" unless an individual is also licensed under this Article. Notwithstanding any law to the contrary, all of the following are permissible:
  - (1) An individual registered with the Commission on Dietetic Registration has the right to use the title "Registered Dietitian" and "Registered Dietitian Nutritionist" and the designation "RD" or "RDN."
  - (2) An individual certified by the Board of Certification of Nutrition Specialists has the right to use the title "Certified Nutrition Specialist" and the designation "CNS."
  - (3) An individual certified by the American Clinical Board of Nutrition has the right to use the title "Diplomate, American Clinical Board of Nutrition" and the designation "DACBN."

### SL2018\_91 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 SL2018\_91

- **§ 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 SL2018\_91

- **§ 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
- 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

Success
Success



What people think it looks like
What it really looks like

*"It had long since come to my attention that people of accomplishment rarely sat back and let things happen to them. They went out and happened to things."*

*- Leonardo da Vinci*

## Model Practices Act (MPA) v. Modernize Dietetics/Nutrition Practices Act (HB 357)

**Robyn Smith Brown, MBA, RDN, LDN**

Public Policy Coordinator – NCAND  
Vice Chair, Legislative Public Policy Committee – AND  
Director, Food and Nutrition – WakeMed



Speaker Disclosure - interpretation of the MPA are that of my own as a representative of NCAND. They are not the express interpretation of the Academy of Nutrition and Dietetics or WakeMed.

## HB 357 v MPA

<ul style="list-style-type: none"> <li>• HB 357             <ul style="list-style-type: none"> <li>• Pro-RDN Start</li> <li>• NC Political Climate</li> <li>• Compromise</li> <li>• Key Take Away</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• MPA             <ul style="list-style-type: none"> <li>• Pro-RDN Start</li> <li>• US Political Climate</li> <li>• Compromise - ??</li> <li>• Key Take Away</li> </ul> </li> </ul>
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## Contact with Questions

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