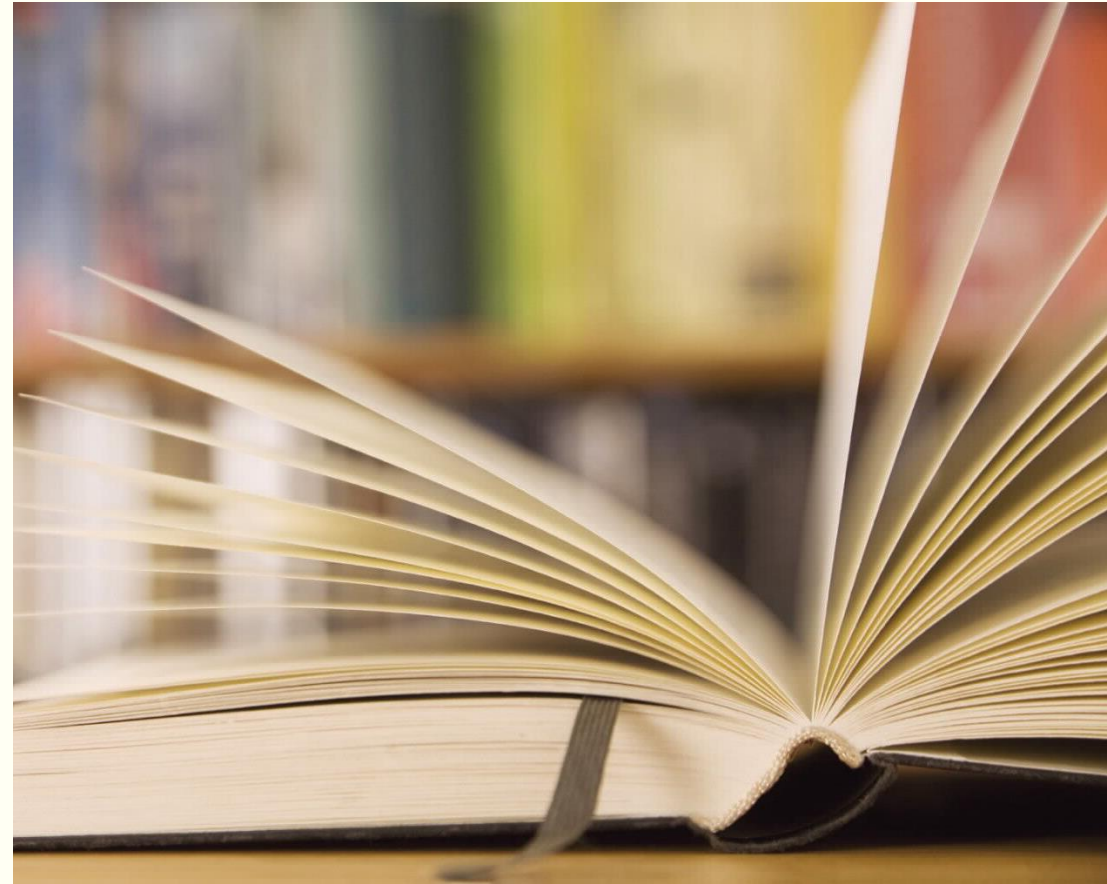




MNT LICENSE – THE ROAD AHEAD FOR CHANGE





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Sponsored by NAND Public Policy Committee- July 22, 2020

Conflict of Interest

- Paula Ritter-Gooder has no conflict of interest to report
- Katie Zulkoski has no conflict of interest to report
- Michelle Weber has no conflict of interest to report

Objectives

List

List the reasons for modernization of the Nebraska MNT licensure law and regulations

Describe

Describe the steps taken by NAND to modernize and update our state law (Plan of Work)

Discuss

Discuss the proposed changes and additions to strengthen the licensure law

Define

Define the role of dietitians in Nebraska as well as the role of the NAND lobbyists in advocating for the new licensure bill adoption and passage

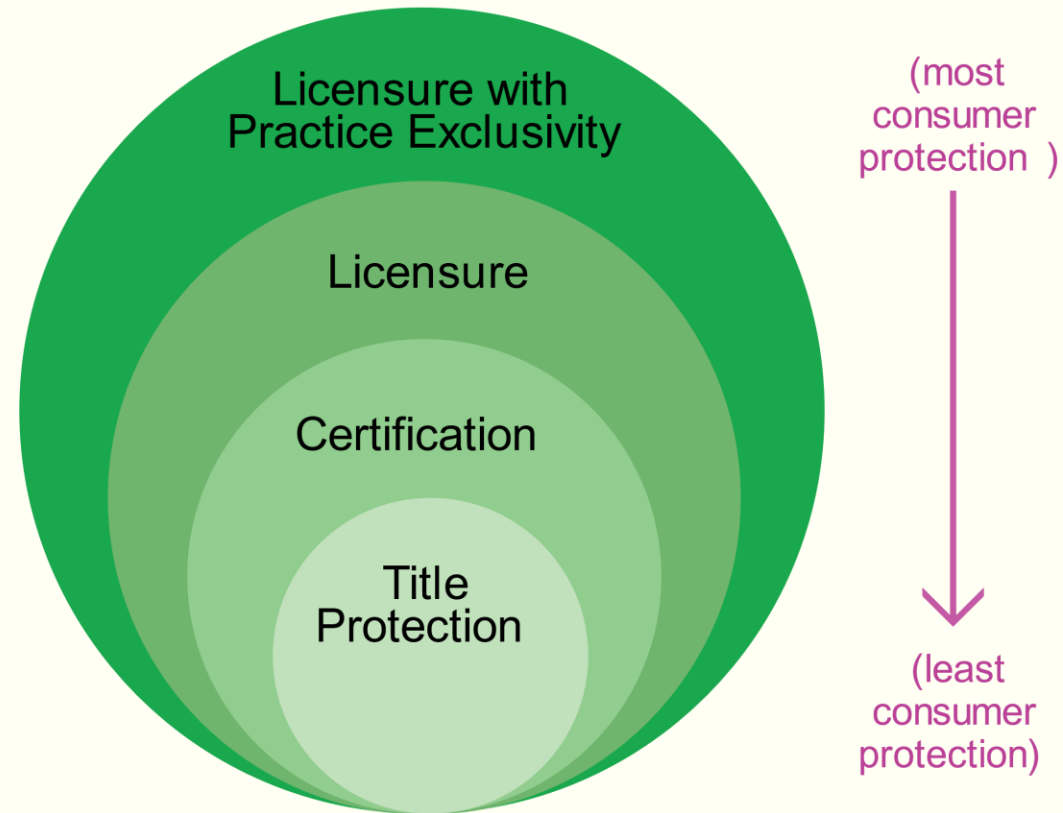


Benefits of Licensure

- Protect Nebraskans from harm
 - Consumers can identify and seek care from practitioners who demonstrate knowledge, skill and competency to provide safe and ethical medical nutrition therapy.
 - General non-medical nutrition information by unlicensed providers vs MNT licensed providers
 - Licensure laws **do not** protect those practicing within the regulated profession.
 - Licensure laws are narrowly tailored to neither restrict freedom of speech nor monopolize legitimate business endeavors.

- Licensed Dietitian Nutritionists
 - Licensure is usually the baseline by which payors (Medicaid/Medicare/Insurance) determine whether a practitioner is qualified to provide service and receive compensation for that service

MNT Licensure Act in NE- Where are we?



Challenges to Licensure Laws- National Climate

- Special interest groups in the past 8 years have sued to overturn nutrition and dietetics licensure laws in North Carolina, Florida, and Mississippi
- Special interest groups have hired Washington DC-based lobbyists to introduce or advocate for laws in more than a dozen states to deny basic public protections against real, demonstrable harm caused by unqualified or incompetent providers
- Courts and legislatures have-to-date rejected challenges and upheld licensure laws due to amended and passed laws that are narrowly tailored to the harm they seek to prevent

Tuma, PA. The Legal Nexus of Consumer Protection and Dietetics Practice. *J Acad Nutr Diet.* 2020;120(7):1223-1226.

Recent and Improved Licensure Laws in other States

- New Jersey established licensure for registered dietitian nutritionists after a 30-year fight
- Florida's law changed from having a potentially **unconstitutionally broad practice exclusivity clause** where one could not advise someone what to buy in the grocery store without a license
- Improved laws narrowly tailors the mandatory licensure requirement to the treating and managing of diseases and medical conditions (Nebraska at the forefront with MNT Statue)



- For a map of states and licensure laws go to:
<https://www.eatrightpro.org/advocacy/licensure/licensure>

Other Stakeholders in MNT Across the Nation and in our State

- Board-Certified Nutrition Specialist (CNS)

 - MS or Doctoral degree in nutrition or related field with 35 hours specific coursework

 - Supervised Practice, Certification exam

 - MD, DO, DC, DDS, Doctor of Nursing, ND, PharmD, RN MS

- Diplomates of the American Board of Clinical Nutrition

 - A health care professional (MD, DO) holding a professional Doctoral degree from a recognized accrediting agency

 - 300 clock hours of specialized training in nutrition from an institution/provider that meets criteria

 - Competency exam



Why modernize the NE MNT Act?

- National climate calls for proactive NAND leadership
- Ensure all MNT providers are held to high standards of education, supervised practice, and exam competency
- Original MNT practice act was passed in 1995
- Strengthen statute
 - Scope of Practice Expanded and Clarified
 - Definitions Updated and Added
 - Nutrition Care Process, Assessment, Diagnosis, Intervention, Monitoring and Evaluation
 - Title Protection Section

Why modernize the NE MNT Act? (cont.)

- Remove gap in present statute
 - No supervised practice requirement for applicants with MS and PhD degree
 - Current statute allows MNT Board to approve an exam other than CDR registration exam
 - MNT Board receives formal request in 2018 by Certified Nutrition Specialists (applicants with MS or PhD degrees) to approve their credentialing exam
- Provide more continuity when working across state lines- interstate compacts
 - Those who provide service in more than one state must license in each state, similar state regulations allow efficient reciprocity



NAND Licensure Committee Members 2018-2019-2020

Board Members/Public Policy Committee

Jennie Dunavan, NAND President

Jean Ann Fisher, Past NAND President

Shannon Frink, Past NAND President

Shannon Muhs, Affiliate Delegate

Lisa Graff, State Policy Representative

Heidi Wietjes, Past Public Policy Coordinator

Rachel Pinos, Current Public Policy Coordinator

Appointed NAND Volunteers

- Nancy Hakel-Smith

- Megan Hall, NAND President Elect 2020

- Jill Jank

- Toni Kuehneman

- Linda Young

- Paula Ritter-Gooder, Chair

Licensure Committee Plan of Work



Inform and recruit members to form committee (December 2018- April 2019)



Educate members on Plan of Work and request input (NAND newsletters articles June 2019 and ongoing)



Draft Bill (June 2019-June 2020)



Hire Lobbyist (August 2019, August 2020)



Obtain technical assistance from the Academy of Nutrition and Dietetics and Lobbyists - ongoing

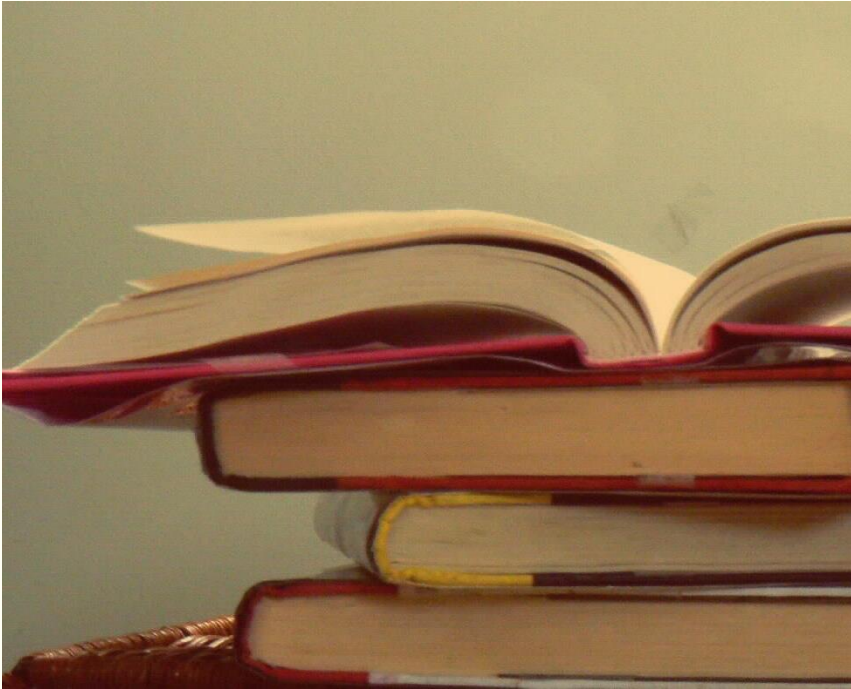


Gain support of other associations- upcoming



Engage NAND members in Advocacy during legislative session

“Nitty Gritty” Bill Drafting



- Academy Model Practice Act-2017
 - Academy Licensure Proposals in cohesive format
 - Template for affiliates/states to use in bill drafting
 - Provides standardized requirements across states- benefits working across state lines or interstate compacts
- Constant refining process
- Technical Assistance from Academy staff
- Edit based on Academy/Committee comments and discussions
- Edit based on consensus legislation (recently passed bills passed in other states)

Medical Nutrition Therapy, defined

Current Statute 38-1809

- Medical nutrition therapy means the assessment of the nutritional status of patients. Medical nutrition therapy involves the assessment of patient nutritional status followed by treatment, ranging from diet modification to specialized nutrition support, such as determining nutrient needs for enteral and parenteral nutrition, and monitoring to evaluate patient response to such treatment. **Source:** Laws 2007, LB463, § 631.

Draft Bill

Means assessment of nutrition problems/diagnosis and their cause, establish nutrition diagnosis-specific goals, determine and implement a nutrition care intervention plan to resolve or minimize the problem and monitor and evaluate effectiveness of the interventions and progress toward goals/outcomes; medical nutrition therapy is furnished as part of the treatment or management of a diagnosed disease or medical condition and provided by a licensed medical nutrition therapist or licensed nutritionist. The term includes the provision of all of the following services:

- (i) Interpreting anthropometric, biochemical, clinical and dietary data in acute and chronic disease states and recommending or ordering nutrient needs based on the data, including but not limited to, tube feedings and parenteral nutrition
- (ii) Food and nutrition counseling regarding prescription drug interactions.
- (iii) Developing and managing systems operations with the primary focus of nutrition care or recommending or ordering therapeutic diets.

Scope of Practice- Overview

Current Statute 38-1804

- Assessment, defined. Assessment means the process of evaluating the nutritional status of patients. The assessment includes review and analysis of medical and diet histories, biochemical lab values, and anthropometric measurements to determine nutritional status and appropriate nutritional treatment.”

Draft Bill

- Language in draft bill reflects the Standards of Practice* as the Nutrition Care Process and workflow elements as a method to manage nutrition care activities (nutrition assessment, nutrition diagnosis, nutrition intervention/plan of care, nutrition monitoring and evaluation and discharge planning and transitions of care).

- Academy of Nutrition and Dietetics: Revised 2017 Standards of Practice in Nutrition Care and Standards of Professional Performance for Registered Dietitian Nutritionists. *J Acad Nutr Diet.* 2018; 118: 132-140.

Accessed from: [https://jandonline.org/article/S2212-2672\(17\)31625-8/fulltext](https://jandonline.org/article/S2212-2672(17)31625-8/fulltext)

Scope of Practice- Diet and Laboratory Orders



Current statute

- No language

Draft Bill

- A licensed medical nutrition therapist may order patient diets *, including therapeutic diets, oral nutrition supplements, and dietary supplements
- A licensed medical nutrition therapist may order medical laboratory tests related to nutritional therapeutic treatments consistent with state law

***CMS Rules on Therapeutic Diet Orders**

The Center for Medicare and Medicaid Services rules regulating the ordering of therapeutic diets in various facilities (such as acute care hospitals, Critical Access Hospitals and long-term care facilities) allow RDNs to order diets in accordance with state law and facilities' policies and procedure approvals.

Definitions- Draft Bill

Medical Weight Control

means medical nutrition therapy for the purpose of reducing, maintaining, or gaining weight for individuals having a diagnosed disease or medical condition

Therapeutic Diets

means a diet intervention prescribed by a physician or other authorized non-physician practitioner that provides food or nutrients via oral, enteral and parenteral routes as part of treatment of disease or diagnosed clinical conditions to modify, eliminate, decrease, or increase identified micro-nutrients and macro-nutrients in the diet

Exclusion of General Nutrition Services

Current Statute-General Nutrition Services, excluded

▪ **38-1807. General nutrition services.**

▪ General nutrition services includes, but is not limited to:

- (1) Identifying the nutritional needs of individuals and groups in relation to normal nutritional requirements; and
- (2) Planning, implementing, and evaluating nutrition education programs for individuals and groups in the selection of food to meet normal nutritional needs throughout the life cycle. **Source:** Laws 2007, LB463, § 629. .

Draft Bill- General Nonmedical Nutrition information

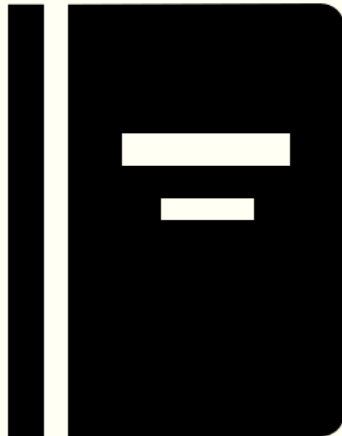
▪ General nonmedical nutrition information means information on any of the following

- (i) Principles of good nutrition and food preparation
- (ii) Food that should be included in the normal diet
- (iii) The essential nutrients needed by the human body
- (iv) The recommended amounts of essential nutrients in the human body
- (v) The actions of nutrients in the human body
- (vi) Food and supplements that are good sources of essential nutrients in the human body

Other Draft Bill Highlights

- Update supervised practice experience to 1,000 hours to align with Accreditation Council of Education for Nutrition and Dietetics requirements
- Include eligibility requirements for individuals who are Board Certified Specialists in Nutrition or Diplomates of the American Clinical Board of Nutrition based on the academic standards and supervised practice requirements currently established for the Registered Dietitian Nutritionist.
- Require pre-approved supervised practice for all applicants including MS and PhD applicants.
- Clarify exemption language of activities not subject to act
- Clarify temporary license for individuals eligible for examination but prior to exam completion and individuals in state on temporary basis for medical emergency
- Update membership of the MNT Board to include a Board-Certified Specialist in Nutrition or Diplomate of the American Clinical Board of Nutrition as available
- Add Title protection section- nutrition therapy consultant, master nutrition therapist, nutrition counselor, nutrition specialist , certified nutrition practitioner, certified nutrition therapy counselor are titles that only can be used by individual licensed to practice MNT

Academy Incident Reporting Tool



- Incident Reporting Tool to protect public, enhance quality of care, promote self-regulation of profession (Available at: www.eatrightpro.org/advocacy/licensure/incident-reporting-tool)
- Report incident of harm (can be used by health care professional or consumer)
- Report or document value of dietetics and nutrition practice (positive outcomes) by licensed MNT
- Fills a gap in documentation and collection of note-worthy incidents in provision of MNT across the country.
- Use of tool does not replace need to report incidents of harm to your state's Dietetics and Nutrition Board or other government oversight agency
- Regulation tool for Code of Ethics complaint- self regulation of the profession

Next Steps



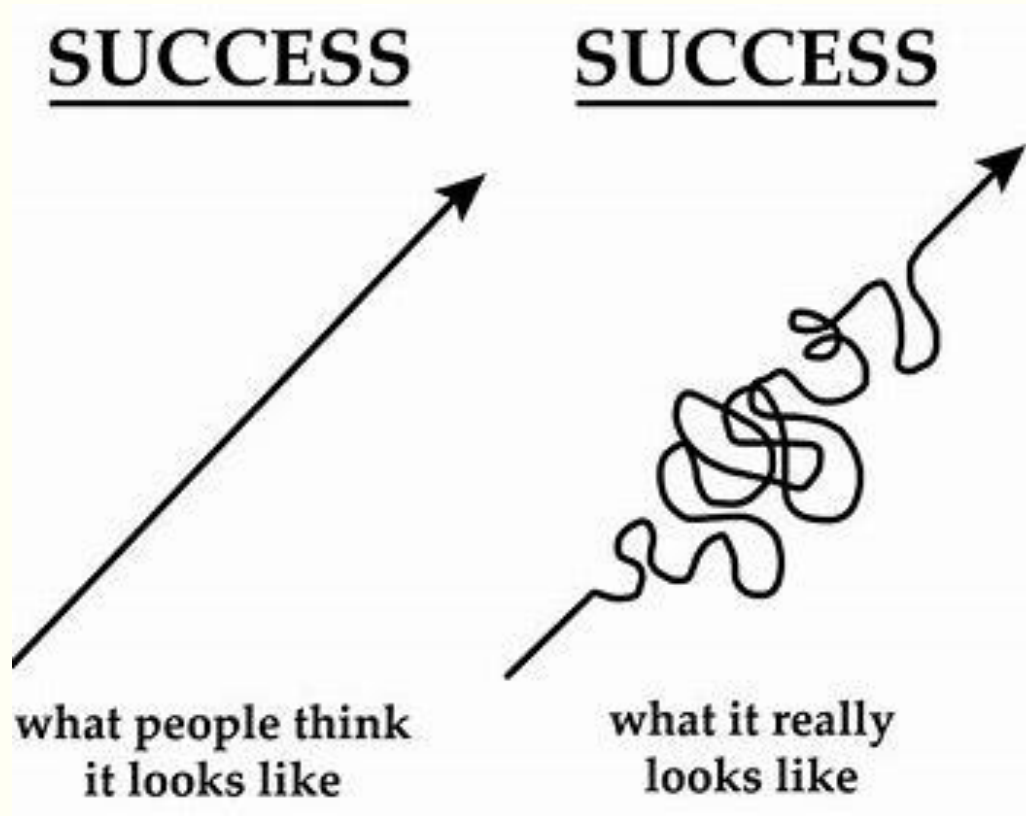
- Nebraska Credentialing Review Program 407 application and review of the draft bill
- Draft bill may continue to need adjustments and language changes
- Work with NAND lobbyists to ensure our Nebraska affiliate concerns are addressed throughout the process, to act and resolve conflicts when they arise. Every problem has a solution.

Summary

- The purpose of licensure laws are to protect the public from harm
- Other stakeholders/special interest groups have challenged licensure laws in other states
- NE MNT statute has outdated Scope of Practice, missing definitions, and gaps in eligibility criteria for application
- NAND Licensure Committee has drafted a proposed MNT Licensure Bill
- NAND lobbyists will assist with application process, bill sponsor, bill support, bill passage and guide NAND in this process
- NE RD/RDNS can support proposed bill by engaging with their legislator at the appointed time and enlist fellow colleagues for support



Nebraska MNT Licensure Law-The Road to Change



“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

Announcements



NAND seeking a Consumer Protection Coordinator. Contact: Rachel Pinos, NAND Public Policy Coordinator at: rpinos@nrchealth.com



Nebraska Department of Health and Human Services now accepting applications until 8/1/2020 for LMNT Board Member. Information available at:

<http://dhhs.ne.gov/licensure/Documents/MNTInstructions.pdf>

References/Resources

- Nebraska Department of Health and Human Services Licensure Website: <http://dhhs.ne.gov/licensure/Pages/Licensing-Home-Page.aspx>
- State of Nebraska Statutes relating to Medical Nutrition Therapy Practice Act: <http://dhhs.ne.gov/licensure/Documents/Medical%20Nutrition%20Therapy.pdf>
- Chapter 61 Licensure of Medical Nutrition Therapists: https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-172/Chapter-061.pdf
- Academy of Nutrition and Dietetics Advocacy /Licensure resources:
<https://www.eatrightpro.org/advocacy#licensure>



ZULKOSKI WEBER GOVERNMENT RELATIONS

Katie Zulkoski & Michelle Weber



ZULKOSKI • WEBER

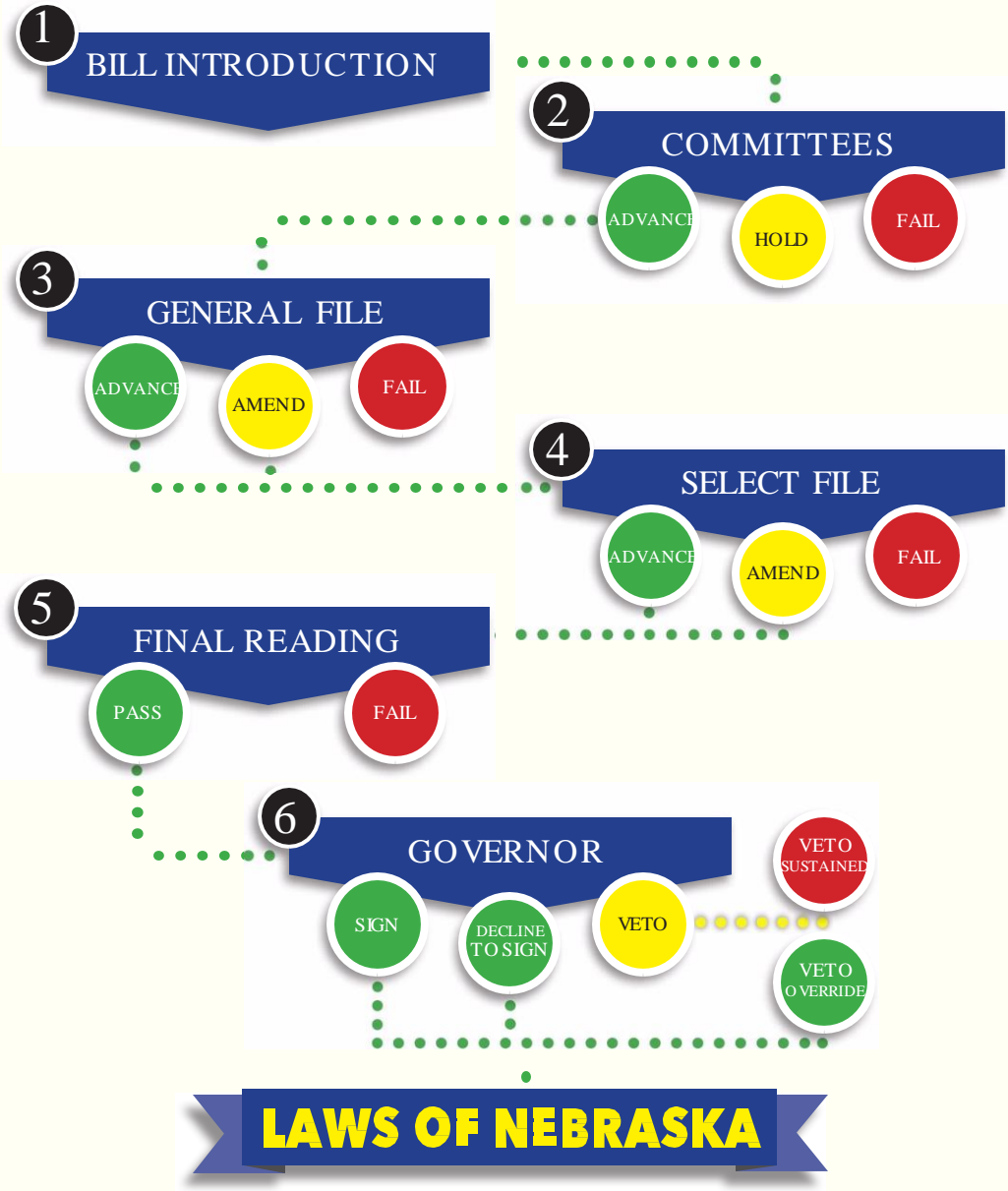
407 Process

- The Credentialing Review (407) Program was created to review proposals for changes in scope of practice or for new credentialing on the part of representatives of Nebraska health professions.
- Proposals are known as “applications” and the persons or groups who submit proposals for review are referred to as “applicants” or “applicant groups.”
- Proposals are evaluated against public health related criteria to determine whether proposals would benefit the public health and welfare by the bodies that conduct the review.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

1. The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health
2. The review of the State Board of Health
3. The review of the Director of the Division of Public Health

HOW LAWS ARE MADE IN THE UNICAMERAL



Questions and Answers

