



Frequently Asked Questions

LICENSURE OF DIETITIAN/NUTRITIONIST

What is Certification?

The current Certification for Dietitian/Nutritionist in NYS provides for protection of the **title** of Dietitian/Nutritionist. Certification does not protect the scope of practice for dietetics. Dietitian/Nutritionists have been certified in New York State since 1991.

Technically the work done by Dietitians/Nutritionists do can be done by any unqualified persons without restriction. The only prohibition is that they cannot call themselves a "Certified Dietitian", "Certified Nutritionist" or Certified Dietitian/Nutritionist (CDN). This poses a potential threat to the public seeking counseling on diet and nutrition for the purpose of both treatment and prevention of disease and conditions.

How does licensure differ from certification?

Licensure protects *the scope of practice* for the profession of dietetics and nutrition. One cannot practice medicine without a license. That is, it is unlawful to practice these or other professions, including nursing, physical therapy, or acupuncture - for example - in New York State without a current license. In New York, licenses are issued by the Office of Professions, Division of Professional Licensing Services, within the New York State Education Department (NYSED). By licensing Dietitian/Nutritionists, the State would protect the title **AND** the scope of practice, thereby prohibiting those not trained or qualified in dietetics and nutrition from practicing unless they meet the appropriate standards, as provided for under this legislation.

Why is licensure necessary?

The current certification law for dietitians and nutritionists is insufficient to protect the health and safety of New Yorker's seeking nutrition care. The credentialing standards for a New York State certificate lags behind federally recognized national standards for dietetic and nutrition professionals. An Institute of Medicine study identified the minimum criteria for those who will engage in Medical Nutrition Therapy. This standard was adopted by the Medicare program. Passage of a licensure law that identifies the profession's scope, education and

training and mirrors the federally recognized national standard will ensure the health and safety of New Yorkers seeking nutrition care. Forty four (44) states other than New York regulate the profession, thirty of these states provide for licensure. There are currently close to 5,000 Certified Dietitians/Nutritionists in New York State.

What happens to those that are currently certified as Dietitian/Nutritionist in New York State?

The intent of this bill is not to make those who currently are certified as a Certified Dietitian/Nutritionist jump through unnecessary additional hoops in order to continue to function and practice in the profession. These individuals will be "grand-parented" in under the new law and automatically licensed.

What are the benefits of licensure?

Besides protecting the public with a defined scope of practice, reimbursement issues can be more clearly defined and prescribed for licensed professionals. Licensure defines a minimum set of qualifications for Dietitian/Nutritionists, thereby providing greater consumer protection. While this bill does not mandate third party coverage, it does lend providers a level of protection by ensuring that those they might cover are qualified practitioners in evidenced based nutrition care with proven and measured outcomes.

What is the cost to the Education Department to implement?

Licensure fees provided for in the bill are intended to fund the oversight of Dietitian/Nutritionists. Since certification is currently in place the Office of the Professions already has an infrastructure and a Board of Dietetics and Nutrition (BODAN). Therefore, the transition to licensure will not be financially burdensome to NYSED.

Would a license be required to practice dietetics in NYS?

Yes. The legislation is drafted to become effective 1 year after it is signed into law, thereby giving the Education Department sufficient time to develop the necessary infrastructure to transfer Certified Dietitian/Nutritionists to licensed status of Dietitian/Nutritionists.

Do I need to be a Registered Dietitian to be licensed in NYS?

No, you do not need to become a Registered Dietitian to be licensed in NYS. In fact, no national credential is required for licensure.

Do I need to be a member of the Academy of Nutrition and Dietetics or the NYS Academy of Nutrition and Dietetic to be licensed in NYS?

No, you do not need to be a member of the Academy or NYSAND to be eligible for licensure in NYS. The legislation does not require any applicant to be a member of any national or state association to be eligible for licensure.

Is the Academy of Nutrition and Dietetics examination the only acceptable exam for licensure?

No, the legislation authorizes the New York State Department of Education to determine which exam or exams are acceptable. In fact, currently NYSED accepts multiple exams for the NYS certification of dietetic/nutrition including an exam administered by the Commission on Dietetic Registration and the Certification Board for Nutrition Specialists.

Will dietitian make up the majority of board members in the Board of Dietetics and Nutrition?

No, dietitians will not represent the majority of BODAN. Of the 9 members, only 4 will represent the dietetic community. One physician and one public member will serve on the Board. The remaining members will represent the nutrition community.

Who may be opposed?

In 2012, the New York State Medical Society has issued a memo of opposition. Specifically they oppose to the use of the terms "diagnosis" and "medical". Their objections stem from a long history in protecting these two terms within the medical field. Our bill clearly defines "diagnosis" as "nutrition diagnosis" specific to the practice of dietetics and nutrition. The bill also clearly states that a nutrition diagnosis does not mean a medical diagnosis. The term nutrition diagnosis is important to ensure that NYS practitioners of nutrition care will be eligible where appropriate for Medicaid/Medicare coverage. Without the authority to perform a nutrition diagnosis these reimbursements might be in jeopardy thereby threatening the loss of millions to NYS.

The objection to the use of the term "medical" is also misguided. The term is used in the bill as it relates to "medical nutrition therapy" or "MNT". This is a federally recognized and defined term under Medicare. Similar to the use of the term diagnosis, the use of MNT is needed to ensure that NYS practitioners can perform the full scope of practice as recognized federally, and as it is reimbursed by Medicare for renal disease and diabetes it is important that NYS licensure statutes recognize the practitioner's ability to perform such services.

How will WIC programs be affected?

Language has been added to exempt from licensure individuals providing nutrition counseling within authorized WIC programs.

What happens to Chiropractors and Nurses? Are we removing their authority to provide nutrition care?

Absolutely not! The Chiropractic law states:

“Nothing herein shall be construed to prohibit a licensed chiropractor who has successfully completed a registered doctoral program in chiropractic, which contains courses of study in nutrition satisfactory to the department, from using nutritional counseling, including the dispensing of food concentrates, food extracts, vitamins, minerals, and other nutritional supplements approved by the board as being appropriate to, and as a part of, his or her practice of chiropractic. Nothing herein shall be construed to prohibit an individual who is not subject to regulation in this state as a licensed chiropractor from engaging in nutritional counseling.”

This bill does not seek to change that authority. While nursing does not have similar language there is a clear understanding that the nursing scope of practice allows for nutrition counseling. This bill maintains that authority. The language specifically exempts nurses to ensure that they will be able to continue providing comprehensive care to their patients.

Why does the education need to include a course of study in food systems management for Licensed Dietitian Nutritionist?

Many federal regulations [regulations related to Conditions of Participation for Hospitals (42 CFR 482.28) and Programs of All-Inclusive Care for the Elderly (42 CFR 460.104)] speak to food systems management education for participation. The purpose of licensure is to align NYS's standards with federal standards for participation and CMS guidelines. The inclusion of food systems management will ensure that licensed dietitians/nutritionist will be able to fill the necessary roles in New York's clinical care settings without jeopardizing federal support.

Will there only be one license?

No, we recommend the establishment of two licenses: Licensed Nutritionist and Licensed Dietitian. Each will have their own pathway to licensure, including education, experience and examination.

Will one title be better than the other? Is this a tiered profession?

No, even though their preparation is different for each title both will represent a highly qualified nutrition care professional authorized to do medical nutrition therapy. We are not seeking to create a hierarchy within the profession.

Why the difference in preparation?

NYSAND recognizes that there are multiple pathways to being competent in MNT. The Dietetic pathway includes education and experience in food systems management to prepare the dietitian to work in hospital and long-term care food systems. The nutritionist pathway may not include this preparation, however, the nutritionist pathway will provide competency towards MNT.