

HOUSE BILL NO. 806

INTRODUCED BY C. SPRUNGER, E. BUTTREY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO DIETITIANS AND NUTRITIONISTS; REVISING THE BOARD OF MEDICAL EXAMINERS; PROVIDING DEFINITIONS; PROVIDING LICENSURE REQUIREMENTS; REQUIRING CRIMINAL BACKGROUND CHECKS FOR LICENSURE OF DIETITIANS AND NUTRITIONISTS; PROVIDING EXEMPTIONS; ~~PROVIDING QUALIFIED SUPERVISOR REQUIREMENTS~~; PROVIDING FOR PERMITS AND TRANSITIONAL LICENSURE; AMENDING SECTIONS 2-15-1731, 20-4-502, 20-9-327, 37-25-101, 37-25-102, 37-25-201, 37-25-303, 37-25-304, AND 37-25-305, MCA; AND REPEALING SECTIONS 37-25-301 AND 37-25-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 2-15-1731, MCA, IS AMENDED TO READ:

"2-15-1731. Board of medical examiners. (1) In accordance with 37-1-123, there is a Montana state board of medical examiners.

(2) The board consists of 12 members:

(a) five doctors of medicine, including one with experience in emergency medicine, none of whom may be from the same county;

(b) one doctor of osteopathy;

(c) one podiatrist;

(d) one ~~nutritionist~~ dietitian;

(e) one physician assistant;

(f) one emergency care provider, as defined in 50-6-202, who may be a volunteer emergency care provider; and

(g) two public members.

(3) The board is allocated to the department as prescribed in 2-15-121."

1 **Section 2.** Section 20-4-502, MCA, is amended to read:

2 **"20-4-502. Definitions.** For purposes of this part, unless the context requires otherwise, the following
3 definitions apply:

4 (1) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-
5 451.

6 (2) "Educational loans" means all loans made pursuant to a federal loan program, except federal
7 parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

8 (3) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20
9 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

10 (4) "Impacted school" means:

11 (a) a special education cooperative;

12 (b) the Montana school for the deaf and blind, as described in 20-8-101;

13 (c) the Montana youth challenge program, as established in 10-1-1401;

14 (d) a correctional facility, as defined in 41-5-103;

15 (e) a public school located on an Indian reservation; and

16 (f) a public school that, driving at a reasonable speed for the road surface, is located more than 20
17 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial
18 census.

19 (5) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent
20 of public instruction for accreditation purposes in the current school year, who:

21 (i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in
22 subsection (5)(b) in a position that requires an educator license in accordance with administrative rules adopted
23 by the board of public education; or

24 (ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-24-
25 301, ~~37-25-302~~ [section 7], 37-39-308, 37-39-309, or 37-39-311 and is employed by an entity listed in
26 subsection (5)(b) to provide services to students.

27 (b) For purposes of subsection (5)(a), an entity means:

28 (i) a school district;

- 1 (ii) an education cooperative;
- 2 (iii) the Montana school for the deaf and blind, as described in 20-8-101;
- 3 (iv) the Montana youth challenge program; and
- 4 (v) a correctional facility, as defined in 41-5-103.
- 5 (6) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

6

7 **Section 3.** Section 20-9-327, MCA, is amended to read:

8 **"20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

- 9 (i) public school districts, as defined in 20-6-101 and 20-6-701;
- 10 (ii) special education cooperatives, as described in 20-7-451;
- 11 (iii) the Montana school for the deaf and blind, as described in 20-8-101;
- 12 (iv) correctional facilities, as defined in 41-5-103; and
- 13 (v) the Montana youth challenge program.

14 (b) A special education cooperative that has not met the requirements of 20-7-454 may not be
15 funded under the provisions of this section except by approval of the superintendent of public instruction.

16 (2) (a) The quality educator payment for special education cooperatives must be distributed
17 directly to those entities by the superintendent of public instruction.

18 (b) The quality educator payment for the Montana school for the deaf and blind must be distributed
19 to the Montana school for the deaf and blind.

20 (c) The quality educator payment for Pine Hills correctional facility and the facility under contract
21 with the department of corrections for female, as defined in 1-1-201, youth must be distributed to those facilities
22 by the department of corrections.

23 (d) The quality educator payment for the Montana youth challenge program must be distributed to
24 that program by the department of military affairs.

25 (3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-
26 time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in
27 the previous school year, each of whom:

28 (a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in

1 subsection (1) of this section in a position that requires an educator license in accordance with the
2 administrative rules adopted by the board of public education;

3 (b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-
4 24-301, ~~37-25-302~~ [section 7], 37-39-308, 37-39-309, or 37-39-311; and

5 (ii) is employed by an entity listed in subsection (1) to provide services to students; or

6 (c) (i) holds an American Indian language and culture specialist license; and

7 (ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian
8 language immersion program pursuant to Title 20, chapter 7, part 14."

9

10 **Section 4.** Section 37-25-101, MCA, is amended to read:

11 **"37-25-101. Legislative finding and purpose.** The legislature finds and declares that the practice of
12 medical nutrition assessment and counseling therapy affects the public health, safety, and welfare. It is the
13 purpose of this chapter to provide for the licensing and regulation of dietitians and nutritionists in order to
14 protect the public health, safety, and welfare, to ensure that dietetics and nutritional services of high quality are
15 available to the people of Montana, and to provide a means of identifying those qualified to practice dietetics
16 and nutrition."

17

18 **Section 5.** Section 37-25-102, MCA, is amended to read:

19 **"37-25-102. Definitions.** In this chapter, unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Accredited" means accredited through the council on postsecondary accreditation and the
22 U.S. department of education.

23 ~~(2) "ACEND" means the accreditation council for education in nutrition and dietetics or its~~
24 ~~successor organization, which is an autonomous accrediting agency for education programs preparing students~~
25 ~~to begin careers as nutrition and dietetics technician s or nutrition and dietetics technician s, registered.~~

26 ~~(2)(3)(2)~~ "Board" means the board of ~~medical examiners~~ PROVIDED FOR IN 2-15-1731.

27 ~~(3)(4)(3)~~ "Commission" means the ~~commission on dietetic registration, which is a member of the~~
28 national commission for health certifying agencies.

1 ~~(5)~~ "Degree" means a degree received from an educational institution that at the time the degree
2 ~~was awarded was accredited by a United States institutional accrediting body for higher education recognized~~
3 ~~by the council for higher education and the United States department of education or a validated foreign~~
4 ~~equivalent.~~

5 ~~(4)~~ "Dietetic nutrition practice" or "dietetics nutrition" is the integration and application of principles
6 derived from the sciences of nutrition, biochemistry, physiology, and food management and from the behavioral
7 and social sciences to achieve and maintain health. The primary function of dietetic nutrition practice is to
8 provide nutrition assessment and nutrition counseling.

9 ~~(5)(6)(4)~~ "General nutritional information" means information on:

- 10 (a) principles of good nutrition;
- 11 (b) foods to be included in a daily diet;
- 12 (c) the essential nutrients needed by the body;
- 13 (d) recommended amounts of these nutrients;
- 14 (e) the action of these nutrients on the body;
- 15 (f) the effects of deficiencies in these nutrients; or
- 16 (g) foods and supplements that are good sources of essential nutrients.

17 ~~(7)(5)~~ "Licensed dietitian" means a person licensed under this chapter to engage in the practice of
18 dietetics and the practice of nutrition, including the provision of medical nutrition therapy.

19 ~~(6)(8)(6)~~ "Licensed nutritionist" means a nutritionist licensed under this chapter to engage in the
20 practice of nutrition, including the provision of medical nutrition therapy.

21 ~~(9)(7)~~ "Medical nutrition therapy" means the provision of any of the following nutrition care services
22 for the purpose of management or treatment of a disease or medical condition:

- 23 (a) nutrition assessment;
- 24 (b) nutrition diagnosis;
- 25 (c) nutrition intervention; and
- 26 (d) nutrition monitoring and evaluation.

27 ~~(10)(8)~~ "Medical weight control" means medical nutrition therapy provided for the purpose of reducing,
28 maintaining, or gaining weight.

1 ~~(11)(9) "Nonmedical weight control" means nutrition care services for the purpose of reducing,~~
2 ~~maintaining, or gaining weight that do not constitute the treatment or management of a disease or medical~~
3 ~~condition. The term includes weight control services for healthy population groups to achieve or maintain a~~
4 ~~healthy weight.~~

5 ~~(7) —"Nutrition assessment" means the evaluation of nutritional needs of individuals and groups~~
6 ~~based on appropriate biochemical, anthropometric, physical, and dietary data in order to determine nutrient~~
7 ~~needs and to recommend appropriate nutritional intake, including both enteral and parenteral nutrition.~~

8 ~~(12) —"Nutrition and dietetics technician" or "nutrition and dietetics technician, registered" means~~
9 ~~an individual registered accordingly with the commission.~~

10 ~~(13) —(a) "Nutrition assessment" means the ongoing, dynamic, and systematic process of ordering,~~
11 ~~obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to~~
12 ~~make decisions about the nature and cause of nutrition-related problems relative to patient and community~~
13 ~~needs. The term includes initial data collection, including the ordering of laboratory tests and reassessment and~~
14 ~~analysis of patient or community needs, and provides the foundation for nutrition diagnosis and nutritional~~
15 ~~recommendations and orders. The term also includes ordering laboratory tests to check and track nutritional~~
16 ~~status.~~

17 ~~(b) —The collection of nutrition-related data does not, by itself, constitute nutrition assessment.~~

18 ~~(14) —"Nutrition care services" means any part or all of the following services provided within a~~
19 ~~systematic process:~~

20 ~~(a) —assessing and evaluating the nutritional needs of individuals and groups and determining~~
21 ~~resources and constraints in a practice setting, including ordering of nutrition-related laboratory tests to check~~
22 ~~and track nutrition status;~~

23 ~~(b) —identifying nutrition problems and establishing priorities, goals, and objectives that meet~~
24 ~~nutritional needs and are consistent with available resources and constraints;~~

25 ~~(c) —creating individualized dietary plans and issuing and implementing orders to meet nutritional~~
26 ~~needs of healthy individuals and individuals with disease states or medical conditions, including ordering~~
27 ~~therapeutic diets, and monitoring the effectiveness of therapeutic diets ;~~

28 ~~(d) —determining and providing appropriate nutrition intervention in health and disease, including~~

1 ~~nutrition counseling on food and prescription drug interactions;~~

2 ~~(e) — developing, implementing, and managing nutrition care systems; and~~

3 ~~(f) — evaluating, making changes in, and maintaining appropriate standards of quality in food and~~
4 ~~nutrition services.~~

5 ~~(8)(15)(10) "Nutrition counseling" means providing assistance and advice to individuals or groups~~
6 ~~in the selection of food and other sources of nutrients to achieve appropriate nutritional intake, based on:~~

7 ~~(a) — the nutrition assessment;~~

8 ~~(b) — the composition of food and other sources of nutrients; and~~

9 ~~(c) — meal preparation consistent with cultural background and socioeconomic status. a supportive~~
10 ~~process, characterized by a collaborative counselor-patient relationship with individuals or groups, to establish~~
11 ~~food and nutrition priorities, goals, and individualized action plans and general physical activity guidance that~~
12 ~~acknowledge and foster responsibility for self-care to promote health and wellness or to treat or manage an~~
13 ~~existing disease or medical condition.~~

14 ~~(16)(11)(a) "Nutrition diagnosis" means identifying and labeling nutrition problems managed and treated~~
15 ~~by a licensed dietitian.~~

16 ~~(b) The term does not include a medical diagnosis of the health status of an individual.~~

17 ~~(17) — "Nutrition intervention" means purposefully planned actions, including nutrition counseling,~~
18 ~~intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of the~~
19 ~~health status of an individual and the individual's family or caregivers, target groups, or community at large. The~~
20 ~~term includes approving, ordering, and monitoring therapeutic diets and counseling on food and prescription~~
21 ~~drug interactions.~~

22 ~~(18) — "Nutrition monitoring and evaluation" means identifying patient outcomes relevant to the~~
23 ~~nutrition diagnosis, intervention plans, and goals and comparing those outcomes with previous status,~~
24 ~~intervention goals, or a reference standard to determine the progress made in achieving desired outcomes of~~
25 ~~nutrition care and whether planned interventions should be continued or revised.~~

26 ~~(9) — "Nutritionist" means:~~

27 ~~(a) — a person licensed under this chapter; or~~

28 ~~(b) — a person who has satisfactorily completed a baccalaureate and master's or a doctoral degree~~

1 in the field of dietetics, food and nutrition, or public health nutrition conferred by an accredited college or
2 university."

3 ~~(19)~~ "Patient" means an individual recipient of nutrition care services.

4 ~~(20)~~(12)"Practice of dietetics" means the integration and application of scientific principles derived from
5 the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, pharmacology, food systems,
6 management, and behavioral and social sciences to achieve and maintain optimal nutrition status of individuals
7 and groups. The term includes the provision of nutrition care services, including medical nutrition therapy, in
8 person or via telehealth, to prevent, manage, or treat chronic and acute diseases or medical conditions and
9 promote wellness in inpatient and outpatient settings. The term encompasses developing and ordering
10 therapeutic diets via oral, enteral, and parenteral routes and providing other advanced medical nutrition therapy
11 and related support activities consistent with current competencies required of academic and supervised
12 practice programs accredited by ACEND and in accordance with the commission's scope and standards of
13 practice for the registered dietitian.

14 ~~(21)~~(13)"Practice of nutrition" means the integration and application of scientific principles derived from
15 the study of nutrition science, cellular and systemic metabolism, biochemistry, physiology, and behavioral
16 sciences for achieving and maintaining health throughout a person's lifespan. The term includes the provision of
17 nutrition care services, including medical nutrition therapy, in person or via telehealth, to prevent, manage, or
18 treat chronic diseases or medical conditions and promote wellness in outpatient settings. Consistent with level
19 of competence, the practice of nutrition may encompass the ordering of oral therapeutic diets, the ordering of
20 medical laboratory tests related to nutritional therapeutic treatments, and the provision of recommendations on
21 vitamin, mineral, and other dietary supplements.

22 ~~(22)~~(14)"Qualified supervisor" means an individual providing supervision who assumes full professional
23 responsibility for the work of the supervisee by verifying, directing, and approving the provided nutrition care
24 services, medical nutrition therapy, and other work being supervised.

25 ~~(23)~~(15)"Registered dietitian" means a person who is credentialed by the commission or its successor
26 organization as a registered dietitian or a registered dietitian nutritionist and is authorized to use the title and the
27 corresponding abbreviations "RD" or "RDN".

28 ~~(24)~~(16)"Telehealth" has the same meaning as provided in 37-2-305.

1 ~~(25) "Therapeutic diet" means a diet intervention prescribed by a physician or other authorized~~
2 ~~nonphysician practitioner that provides food, fluid, or nutrients via oral, enteral, or parenteral routes as part of~~
3 ~~the treatment of disease or clinical conditions to modify, eliminate, decrease, or increase identified~~
4 ~~m micronutrients and macronutrients in the diet or to provide mechanically altered food when indicated.~~

5

6 **Section 6.** Section 37-25-201, MCA, is amended to read:

7 **"37-25-201. Powers and duties of board.** In addition to all other powers and duties conferred and
8 imposed on the board by Title 37, chapter 1, and this chapter, the board shall adopt rules that set professional,
9 practice, and ethical standards for licensed dietitians and nutritionists and other rules as may be necessary for
10 the administration of this chapter."

11

12 NEW SECTION. **Section 7. Scope of dietetic-nutrition practice.** Only an individual licensed under
13 this chapter or as permitted pursuant to 37-25-304 may provide medical nutrition therapy as part of the practice
14 of dietetics or nutrition.

15

16 NEW SECTION. **Section 8. Licensing requirements for dietitians and nutritionists.** (1) An
17 applicant for licensure as a dietitian shall submit:

- 18 (a) a completed application as required by the board;
- 19 (b) any fees as required by the board; and
- 20 (c) proof of valid current registration with the commission or its successor organization that gives
21 the applicant the right to use the term "registered dietitian", "registered dietitian nutritionist", "RD", or "RDN".

22 (2) An applicant for licensure as a nutritionist shall submit:

- 23 (a) a completed application as required by the board; ~~and~~

24 ~~(b) ANY FEES AS REQUIRED BY THE BOARD; AND~~

25 ~~(b)~~ (c) valid proof of the following:

- 26 (i) completion of a master's or doctoral degree with a major in human nutrition, foods and nutrition,
27 community nutrition, public health nutrition, nutrition education, nutrition, nutrition science, clinical nutrition,
28 applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition

1 and integrative health, or a comparable titled major, or a doctoral degree or validated foreign equivalent, in a
2 field of clinical health care from a college or university accredited at the time of graduation by a U.S. institutional
3 accrediting body for higher education recognized by the United States department of education. The applicant
4 must have completed coursework leading to competence in medical nutrition therapy, including but not limited
5 to:

6 (A) 15 semester hours of courses on clinical or life sciences, including at least 3 semester hours in
7 human anatomy and physiology or the equivalent; and

8 (B) 15 semester hours of courses on nutrition and metabolism, including at least 6 semester hours
9 in biochemistry.

10 (ii) completion of a planned, documented, and continuous supervised practice experience
11 approved by the board demonstrating competence in the practice of nutrition, including medical nutrition
12 therapy, meeting all the following:

13 (A) completion of a supervised practice experience under this subsection (2) within 5 years of
14 completing the requirements under subsection ~~(2)(b)(i)~~ (2)(C)(i), unless the examining board grants an
15 extension for a limited time;

16 (B) supervised practice experience completed under this subsection (2) must include at least 1,000
17 hours in the following practice areas, with a minimum of 200 hours each in nutrition assessment, nutrition
18 intervention, and nutrition monitoring and evaluation;

19 (C) the experience is determined by the board to have prepared the applicant to provide nutrition
20 care services for various populations of diverse cultures, genders, and across a person's lifespan, and to be
21 able to competently formulate actionable medical nutrition therapies and interventions, education, counseling,
22 and ongoing care for the prevention, modulation, and management of a range of chronic medical conditions;
23 and

24 (D) the supervised practice experience completed under this subsection (2) was under the
25 supervision of a qualified supervisor as defined in 37-25-102.

26 (iii) completion of the examination requirements by demonstrating:

27 ~~(A)~~ passage of the certified nutrition specialist examination administered by the board for
28 certification of nutrition specialists or its successor organization or an equivalent examination on all aspects of

1 the practice of nutrition that has been reviewed under a program that requires a master's degree or higher, is
2 accredited by the national commission for certifying agencies, and is approved by the board. If passage of the
3 examination occurred more than 5 years before application, demonstration of completion of 75 hours of
4 continuing education meeting the continuing education criteria of the board for each 5-year period post-
5 examination; ~~or~~ AND

6 ~~(B) (IV) the applicant holds a valid current certification with the board for certification of nutrition~~
7 ~~specialists or its successor organization that gives the applicant the right to use the title "certified nutrition~~
8 ~~specialist".~~

9 (3) A person who is licensed under this chapter on [the effective date of this act] must be licensed
10 as a licensed dietitian without meeting any additional requirements so long as the person holds the RD
11 credential.

12

13 NEW SECTION. Section 9. Criminal background check. (1) Each applicant for licensure shall
14 submit a full set of the applicant's fingerprints to the board for the purpose of obtaining a state and federal
15 criminal history background check.

16 (2) Each license applicant is responsible to pay all fees charged in relation to obtaining the state
17 and federal criminal history background check.

18 (3) The board may require a licensee renewing a license to submit a full set of the licensee's
19 fingerprints to the board for the purpose of obtaining a state and federal criminal history background check.

20 (4) The Montana department of justice may share the fingerprint data obtained under this section
21 with the federal bureau of investigation.

22

23 **Section 10.** Section 37-25-303, MCA, is amended to read:

24 "**37-25-303. Issuance of license.** ~~Upon~~ On successful completion of the requirements in ~~37-25-302~~
25 [section 7], an applicant must be issued a license attesting to the date and fact of licensure."

26

27 **Section 11.** Section 37-25-304, MCA, is amended to read:

28 "**37-25-304. Exemptions from licensure requirements.** This chapter does not prevent:

1 (1) a student or intern in an approved academic program ~~or a paraprofessional with approved~~
2 ~~dietetic nutrition training from~~ engaging in the practice of ~~dietetics-nutrition~~ medical nutrition therapy if a
3 ~~licensed nutritionist-qualified supervisor~~ is available for direct supervision and if the student, or intern, ~~or~~
4 ~~paraprofessional~~ does not represent to the public that the individual is a dietitian or a nutritionist;

5 (2) a ~~licensed~~ physician or nurse licensed in this state from engaging in the practice of ~~dietetics-~~
6 ~~nutrition~~ medical nutrition therapy when it is incidental to the practice of that profession;

7 (3) a person licensed under any other law of this state from engaging in the profession or business
8 for which the person is licensed if the person does not represent to the public that the person is a dietitian or a
9 nutritionist;

10 (4) an educator or adviser employed by a nonprofit agency acceptable to the board or by an
11 accredited degree-granting institution or an accredited elementary or secondary school from engaging in an
12 activity within the scope of the individual's salaried position;

13 (5) ~~a person employed by or under contract with an agency of the state or federal government from~~
14 ~~discharging an official duty if the person does not represent to the public that the person is a nutritionist;a~~
15 dietitian or nutritionist who is serving in the armed forces or the United States public health service or is
16 employed by the United States department of veterans affairs from engaging in the practice of medical nutrition
17 therapy or using government-issued titles, provided the practice or title use is related to the service or
18 employment;

19 (6) a person from furnishing general nutritional information, including dissemination of literature, as
20 to the use of food, food materials, or dietary supplements or from engaging in the explanation as to the use of
21 foods or food products, including dietary supplements, in connection with the marketing and distribution of
22 those products if the person does not represent to the public that the person is a dietitian or a nutritionist;

23 (7) a person from furnishing general nutrition information or disseminating literature if the person
24 does not represent to the public that the person is a dietitian or a nutritionist; ~~or~~

25 (8) ~~a person from fulfilling state or federal regulations governing the delivery or provision of~~
26 ~~nutritional health services to hospitals or long-term care facilities if the person does not represent to the public~~
27 ~~that the person is a nutritionist.~~ a person who is employed by this state, a county, a municipal agency, or any
28 other political subdivision or a person who contracts with this state, a county, a municipal agency, or any other

1 political subdivision for the purposes of providing nutrition care services for the women, infants, and children
2 food supplement program from providing nutrition care services or utilizing the title of "nutritionist" within the
3 discharge of the person's official duties;

4 (9) a person who does not represent as a dietitian or nutritionist from providing medical weight
5 control for obesity for any of the following:

6 (a) an instructional program that has been approved in writing by one or more of the following:

7 (i) a licensed nutritionist or licensed dietitian; or

8 (ii) a health care practitioner licensed or certified in this state whose authorized scope of practice
9 includes medical nutrition therapy; or

10 (b) a plan of care that is overseen by a health professional licensed in this state whose scope of
11 practice otherwise authorizes the health professional to provide and delegate medical nutrition therapy, so long
12 as the medical weight control services are not discretionary and do not require the exercise of professional
13 judgment;

14 (10) a person who does not represent as a dietitian or nutritionist who assists with the provision of
15 medical nutrition therapy from performing only support activities that are not discretionary and that do not
16 require the exercise of professional judgment for their performance, and the person is directly supervised by a
17 licensed dietitian, licensed nutritionist, or a health care practitioner licensed in this state acting within the scope
18 of the practitioner's license;

19 (11) a person from providing individualized nutrition recommendations for the wellness and primary
20 prevention of chronic disease, health coaching, holistic and wellness education, guidance, motivation, behavior
21 change management, services for nonmedical weight control, or other nutrition care services so long as the
22 services do not constitute medical nutrition therapy and the person does not represent as a dietitian or
23 nutritionist;

24 (12) an out-of-state ~~practitioner~~ DIETITIAN OR NUTRITIONIST from providing medical nutrition therapy
25 services via telehealth to a patient located in this state if the out-of-state practitioner:

26 (a) is a ~~health care practitioner~~ licensed or certified in good standing in any state or territory with a
27 licensed or certified scope of practice that includes the provision of medical nutrition therapy and provides
28 medical nutrition therapy services via telehealth;

- 1 (i) in consultation with a medical nutrition therapy practitioner licensed in this state who has a
2 practitioner-patient relationship with the patient;
3 (ii) for a patient whom the practitioner has a current practitioner-patient relationship and the patient
4 is temporarily present in this state; or
5 (iii) pursuant to a current practitioner-patient relationship and the care is limited to temporary or
6 short-term follow-up medical nutrition therapy services to ensure continuity of care.
7 (b) by providing medical nutrition therapy via telehealth as described in subsection (12)(a),
8 consents to the jurisdiction of the board."
9

10 **Section 12.** Section 37-25-305, MCA, is amended to read:

11 "**37-25-305. Representation to public as dietitian or nutritionist -- limitation on use of title.** A
12 person may not represent to the public by any title, sign, or advertisement or description of services that the
13 person is a dietitian or a nutritionist or a licensed dietitian or nutritionist unless the person has been licensed
14 under this chapter ~~or has met the requirements of 37-25-102(9)(b).~~"
15

16 ~~NEW SECTION. Section 12. — Qualified supervisor requirements. (1) If supervising a student or~~
17 ~~trainee who is providing medical nutrition therapy, a qualified supervisor must be one of the following:~~

18 ~~(a) — a licensed dietitian, licensed nutritionist, or a health care provider licensed or certified in any~~
19 ~~state or territory, including licensed or certified dietitians, dietitian nutritionists, or nutritionists whose scope of~~
20 ~~practice includes the provision of medical nutrition therapy;~~

21 ~~(b) — in the case of the supervisor supervising a student or trainee in a state that does not provide for~~
22 ~~licensure or certification of dietitians, dietitian nutritionists, or nutritionists, the supervisor meets other criteria as~~
23 ~~the board may establish, including being a registered dietitian or a licensed health care provider whose scope~~
24 ~~of practice includes the provision of medical nutrition therapy; or~~

25 ~~(c) — an employee of the federal government authorized within the discharge of official duty to~~
26 ~~provide medical nutrition therapy.~~

27 ~~(2) — Unless the person is an employee of the federal government authorized within the discharge of~~
28 ~~official duty to provide medical nutrition therapy, a qualified supervisor must be licensed in this state to provide~~

1 medical nutrition therapy if the qualified supervisor is supervising a student or trainee who is providing medical
2 nutrition therapy to a patient located in this state.

3 (3) — A qualified supervisor may only supervise a clinical activity or nutrition care service for which
4 the qualified supervisor is qualified and is authorized to perform.

5 (4) — A qualified supervisor shall develop and carry out a program for advancing and optimizing the
6 quality of care provided by the student or trainee being supervised. A qualified supervisor and a student or
7 trainee being supervised shall identify and document goals for supervised practice experience, the assignment
8 of clinical tasks as appropriate to the supervisee's evolving level of competence, the supervisee's relationship
9 and access to the qualified supervisor, and a process for evaluating the student or trainee's performance.

10 (5) — A qualified supervisor shall oversee the activities of and approve and accept responsibility for
11 the nutrition care services rendered by the student or trainee.

12 (6) — A qualified supervisor shall, at a minimum, be physically onsite and present where the
13 supervisee is providing nutrition care services or be immediately and continuously available to the supervisee
14 by means of two-way real-time audiovisual technology that allows for the direct, contemporaneous interaction
15 by sight and sound between the qualified supervisor and the supervisee. If the qualified supervisor assigns a
16 nutrition care service to a supervisee that is to be provided in a setting where the qualified supervisor is not
17 routinely present, the qualified supervisor shall ensure that the means and methods of supervision are
18 adequate to ensure appropriate patient care, which may include synchronous videoconferencing or another
19 method of communication and oversight that is appropriate to the care setting and the education and
20 experience of the supervisee.

21 (7) — A qualified supervisor shall review on a regular basis the charts, records, and clinical notes of
22 the persons supervised and maintain responsibility for the supervisee's clinical record keeping.

23 (8) — A qualified supervisor must be available to render assistance during the provision of nutrition
24 care services when requested by the patient or must have arranged for another qualified practitioner lawfully
25 able to render nutrition care services to be available in the absence of the qualified supervisor.

26 (9) — A qualified supervisor shall limit the assignment of nutrition care services to those services that
27 are within the training and experience of the supervisee and customary to the practice of the qualified
28 supervisor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NEW SECTION. Section 13. Provisional and limited permits. (1) The board may issue a provisional license for an individual to engage in the practice of dietetics for 1 year under the supervision of a licensed dietitian on the filing of an application with appropriate fees and submission of evidence of successful completion of the education and supervised practice requirements for dietitian licensure provided for in [section 7].

(2) The board may issue a provisional license for an individual to engage in the practice of nutrition for 1 year under the supervision of a licensed dietitian or licensed nutritionist on the filing of an application with appropriate fees and submission of evidence of successful completion of the education and supervised practice requirements for nutritionist licensure provided for in [section 7].

NEW SECTION. Section 14. —Transitional licensure. For 1 year beginning on [the effective date of this act], the board may waive the examination requirement and may grant a nutritionist license to an applicant who:

(1) — received a baccalaureate or higher academic degree from a United States regionally accredited institution of higher education recognized by the council on higher education with at least 30 credit hours, or a major course of study, in human nutrition, foods and nutrition, food systems management, nutritional science, nutritional education, community nutrition, public health nutrition, 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 leading to competence in medical nutrition therapy;

(2) — has been employed or self-employed at least half-time to provide nutrition care services for the treatment or management of a diagnosed disease or medical condition for 3 of the 5 years immediately preceding [the effective date of this act];

(3) — has been providing medical nutrition therapy to residents of this state without supervision for at least 6 months immediately preceding [the effective date of this act]; and

(4) — does not hold the RD credential.

1 **NEW SECTION. Section 14. Repealer.** The following sections of the Montana Code Annotated are
2 repealed:

3 37-25-301. Scope of dietetic-nutrition practice.

4 37-25-302. Licensing requirements.

5

6 **NEW SECTION. Section 15. Codification instruction.** [Sections ~~6 7~~ through ~~8 9~~ and ~~12 through 14~~
7 13] are intended to be codified as an integral part of Title 37, chapter 25, part 3, and the provisions of Title 37,
8 chapter 25, part 3, apply to [sections ~~6-7~~ through ~~8-9~~ and ~~12 through 14~~ 13].

9

- END -