

Consumer Protection Through Professional Regulation

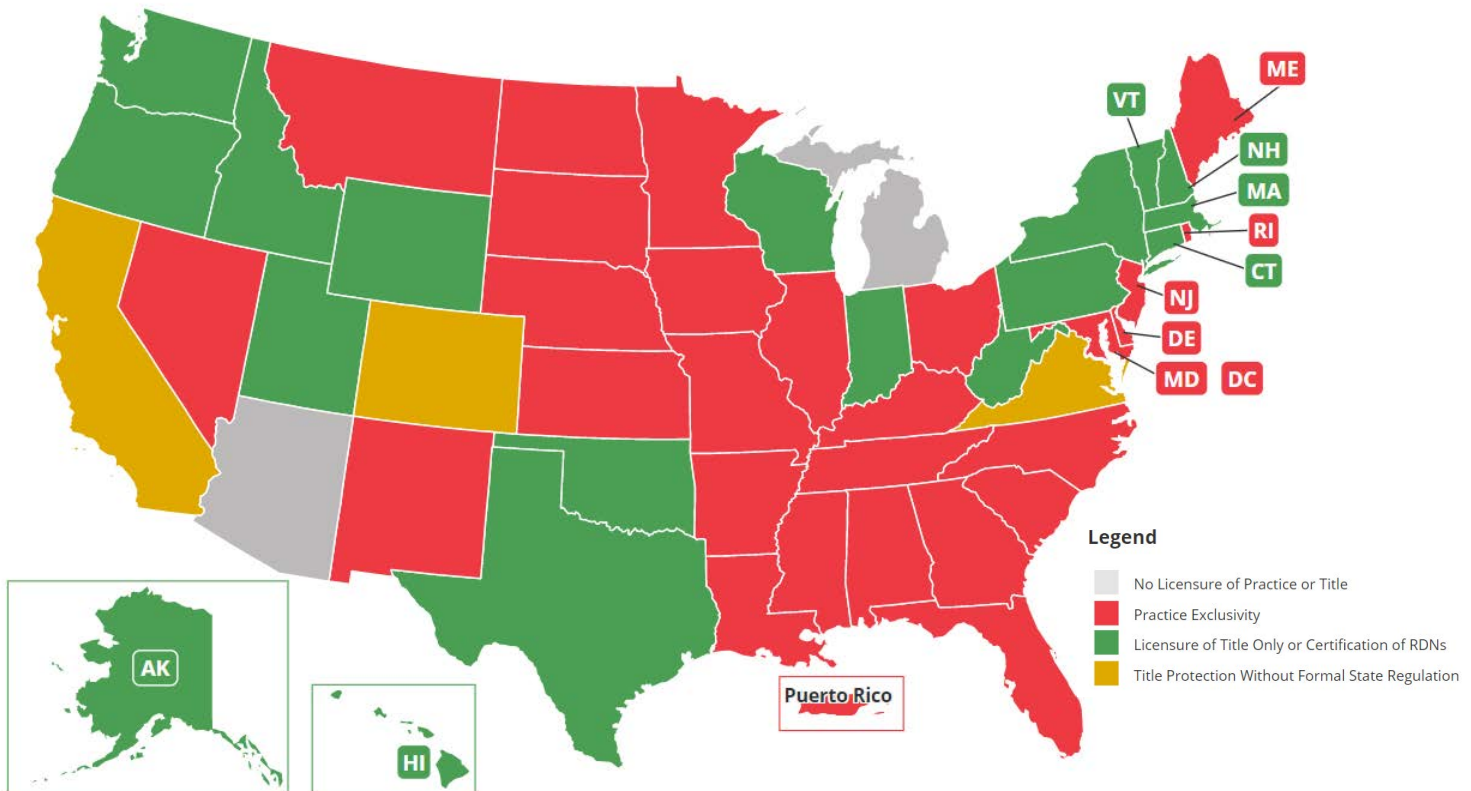
Issue Brief for Academy Members

Overview

Nutrition advice is everywhere these days. With so many sources and opinions – not all of which are reliable – consumers are understandably uncertain to whom they should turn for competent advice about integrating food and nutrition into a healthy lifestyle. People also need reliable advice on therapies and practices that are safe and appropriate for particular diseases, health conditions or complex dietary requirements.

Unfortunately, patients and communities bear the physical, health and financial costs of navigating and receiving conflicting, confusing and often inaccurate nutrition information. In too many instances, substandard practices and unqualified practitioners cause significant harm and even death when recommending or providing incorrect nutritional interventions that are not scientifically validated.

The Academy of Nutrition and Dietetics is committed to improving Americans’ health and helping people avoid or reduce the dangers of unscientific, medically unnecessary treatment by supporting the regulation of the practice of nutrition and dietetics.



Licensure Protects the Public

Licensure is common and virtually mandatory for health care providers and other professions in which harm is possible from incompetent or unqualified practitioners. In most states, registered dietitian nutritionists, like nurses, physicians, pharmacists, psychologists, paramedics, lawyers, teachers and certified public accountants, must apply for and maintain a state license to practice. Accrediting and credentialing bodies for these professions have standardized requirements to ensure that a minimum level of education and training be acquired.

Elected officials, the public, RDNs and nutrition and dietetics technicians, registered partner in efforts to prevent harm in our communities and workplaces. The singular purpose of the professional regulation of licensed dietitian nutritionists is to protect the public by maintaining state-specific lists of statutorily qualified individuals who possess the education and experience to practice nutrition and dietetics and provide recourse against people who offer scientifically non-validated and harmful advice. This is accomplished through passage of licensure laws that guide the public to qualified providers and protect against the dissemination of inaccurate nutrition recommendations or interventions that can lead to poor or even dangerous health outcomes — and unnecessary, expensive products and services.

Licensure Sets High Standards for Providers

States often establish minimum credentials or requirements for providing a defined service within their jurisdiction. This allows states to maintain a registry of licensed, qualified people, which serves as a resource for those seeking safe and effective care and provides a mechanism to enforce sanctions against providers who cause harm or violate public safety. Objective standards of qualification for practitioners of nutrition and dietetics also helps ensure the public's access to nutrition counseling and interventions based on scientific evidence provided by people with the skills and knowledge to help one translate them into action.

Notably, when states set qualifications for licensure, they almost uniformly choose to mirror those of RDNs, reflecting the National Academies of Sciences, Engineering, and Medicine's (formerly the Institute of Medicine's) recognition of RDNs as "the single identifiable group of health-care professionals with standardized education, clinical training, continuing education and national credentialing requirements necessary to be directly reimbursed as a provider of nutrition therapy."¹

When the federal government determined the qualifications necessary to provide medical nutrition therapy within Medicare, it set education and experience standards essentially mirroring those uniquely possessed by RDNs.²

Nature of Nutrition and Dietetics Regulation

At present, 47 states, Puerto Rico and the District of Columbia have statutory provisions regulating the practice of nutrition and dietetics and/or associated titles used by such practitioners, such as "dietitian" and "nutritionist." The Academy's dedication to protecting consumers is reflected in our advocacy to enact, maintain, or strengthen states' dietetics licensure laws that hold these health care practitioners to high standards. This commitment is a central part of the Code of Ethics for the Nutrition and Dietetics Profession.

State regulation of dietetics and nutrition takes three forms, although there is some overlap and some difference in what is regulated between and among each form:

- **Licensure**
- **Certification**
- **Title Protection only**

The most effective nutrition and dietetics licensure regulations include two components:

- Establishment of a scope of practice for nutrition professionals who meet specified minimum credentials to perform certain tasks, such as medical nutrition therapy or other complex nutrition care services.
- A legislatively protected scope of practice, meaning only those people in the state with sufficient qualifications to become properly licensed may legally engage in activities falling within the regulated scope of practice.

¹ Committee on Nutrition Services for Medicare Beneficiaries. "The Role of Nutrition in Maintaining Health in the Nation's Elderly: Evaluating Coverage of Nutrition Services for the Medicare Population." Washington, DC: Food and Nutrition Board, Institute of Medicine; January 1, 2000 (published).

² 42 U.S.C. 1395x(vv)(2) (Defining "registered dietitian or nutrition professional").

Most states have adopted strong licensure laws that specify the minimum credentials required to both (1) use various titles, such as “dietitian,” “nutritionist,” “licensed dietitian nutritionist” or “registered dietitian nutritionist” and (2) legally provide medical nutrition therapy and other dietetics and nutrition services. However, some states take a less protective approach by licensing and regulating the practice of RDNs and other qualified nutrition providers and granting licensees the ability to use certain protected titles; but not limiting the type of practitioners who can provide the complex nutrition care services detailed in the scope of practice to only RDNs and other qualified nutrition providers.

Legislatively Protected Services in the Scope of Practice and Exemptions

The two ways in which states legislate a protected scope of practice is to require licensure either to (1) broadly provide dietetics and nutrition services as defined in the licensure law or (2) more narrowly provide medical nutrition therapy to patients or clients. States with the former type of legislatively regulated scope of practice often have a more extensive list of multiple legislative exemptions that allow specific groups of professionals to engage in the protected list of nutrition and dietetics services. Examples of legislative exemptions include members of similar professions operating within the scope of their licensure law and dietetics interns working towards their credentialing as RDNs.

For example, RDNs, nurses and pharmacists all deliver Diabetes Self-Management Training, which they can legally provide within Medicare and is within their respective scopes of practice and in line with their respective training and qualifications. Exemptions help make dietetics licensure laws flexible enough for qualified practitioners from other professions to continue their specialized activities while still ensuring consumers are protected from those seeking to practice with little to no formal education, expertise or ethical standards.

The Academy believes that the provision of medical nutrition therapy and other complex dietetics and nutrition services should only be provided by people who have at minimum the specialized training and competencies of RDNs. Therefore, the Academy works with other practitioners within the nutrition space — such as physicians, chiropractors, pharmacists, certified nutrition specialists, naturopaths, health coaches — on various legislative and licensure activities. When appropriate and necessary, the Academy provides feedback and testimony to legislators to ensure certain potentially harmful services requiring specialized training and education are exclusively provided by licensed professionals who have, at minimum, met the standards of RDNs.

Benefits of Licensure

Benefits to the Public

Consumers deserve access to qualified nutrition professionals who can help them integrate food and nutrition into their lives to prevent, treat and manage disease and other health conditions. By setting objective standards of education, experience and examination in the field of nutrition and dietetics, states can ensure the public can identify and seek care from practitioners who demonstrate the knowledge, skill and

Licensure

States’ professional licensing laws determine and help consumers identify who is qualified to provide a particular set of specified services, known as the profession’s *scope of practice*. People are qualified for licensure when they attain the objective accredited education, experience and examination that demonstrate competency to provide the services or tasks included within the regulated profession’s legislated scope of practice.

Certification

Certification is state recognition of practitioners who have met the standards of qualification as a RDN. Certification ensures that people are held to established standards of practice, limits the use of certain titles to certified practitioners and typically establishes a mechanism for sanctioning them if they practice inappropriately. However, certification does not prevent unqualified people from practicing in the state.

Title Protection

Similar to certification, this least protective form of state regulation permits anyone to practice the profession, but only people with specified qualifications or credentials (such as the RDN credential) may hold themselves out as dietitians or nutritionists, or use other titles specified in the title protection statute. Unlike certification, however, the three states with mere title protection statutes have no state-established standards of practice or ethics that protect the public.

State Regulation of Food, Nutrition and Health



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competency to provide safe and ethical nutrition therapies. Holding the title of a licensed dietitian or nutritionist conveys a certain standard of knowledge and expertise and, therefore, a level of safety is expected when working with a licensed dietitian or nutritionist.

Contrary to some misleading and self-serving claims by those seeking to practice without obtaining requisite education and training in the field, licensure laws are not intended to protect those practicing within the regulated profession. Instead, they protect the safety and welfare of the public from unqualified or incompetent people who — in this case — seek to practice nutrition and dietetics without proper training, experience, expertise or liability insurance. These protections are particularly important for people with medical diagnoses that can be positively impacted by medical nutrition therapy, or who could be vulnerable to harm if not treated by a qualified, licensed practitioner.

Similarly, licensure laws are narrowly tailored to ensure they neither restrict freedom of speech nor monopolize legitimate business endeavors. Rather, they simply ensure that providers engaging in the conduct of providing specified, legislatively defined nutrition and dietetics services meet basic qualifying criteria necessary to safely and effectively treat and meet the nutritional needs of people.

Benefits to Licensed Dietitian Nutritionists

Nutrition and dietetics licensure provides the public, health insurers and other payors, and state and federal governments with the assurance that practitioners meet standards of professional competence in order to be reimbursed for providing nutrition care services.

In states that have licensure with a legislatively protected scope or practice, individuals must comply with applicable licensure laws in order to provide and receive reimbursement for services. In other states, individuals may be still be reimbursed despite meeting only some of the qualifications required to become a licensed dietitian nutritionist. Licensure is the baseline by which payors should determine whether a practitioner is qualified to provide reimbursable services.

Licensure can open professional opportunities for licensed, registered dietitian nutritionists when health care payers and similar entities recognize the high standards licensure demands. Health care facilities often will expand their facility-specific scopes of practice for RDNs when licensure provides a process by which the public can report fraudulent or harmful activity and the state can sanction providers as necessary.

Benefits for Working Across State Lines

As regulations vary from state to state, practitioners who provide services in more than one state — whether through consulting or corporate positions, health systems with facilities in more than one state, telehealth, or for any other reason — must be familiar (and comply) with each applicable states' regulations.

Provision of services via telehealth also varies per state and insurance provider policies. The National Telehealth Policy Resource Center – Center for Connected Health Policy offers extensive information about telehealth-related regulations, laws and Medicaid programs. The Academy provides guidance for its members specifically related to nutrition services provided via telehealth at www.eatrightpro.org/telehealth.

Conclusion

When licensure laws establish standardized criteria to provide a service, laws decrease the potential for discriminatory, arbitrary or conflicting rules being created to enter a profession in each state. Standardized criteria facilitate portability of services across states.

The Academy works to implement reciprocity provisions between states with dietetics licensure and has established a Model Practice Act to promote consistency of licensure laws and related regulations from one state to the next. This not only allows consumers to access qualified licensed dietitian nutritionists across state lines or via telehealth, but also ensures they are receiving safe and effective services.

For more information, visit www.eatrightpro.org/advocacy/licensure/professional-regulation-of-dietitians.

Licensure Protects the Public

- Licensure helps consumers identify dietitians that meet minimum qualifications.
- Regulation increases safety by mitigating unethical and unsafe practices.
- Standardized criteria facilitate services across states via telehealth.