

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

September 28, 2022
1:00 p.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 172, Chapter 61 of the Nebraska Administrative Code (NAC) – *Medical Nutrition Therapists*. The proposed changes set the requirements for obtaining a license based on reciprocity; set out the requirements for documenting residency; and correct punctuation.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

To encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments. Interested persons may provide verbal comments in person or by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may attend the hearing and provide verbal or written comments, or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS via the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 172	Prepared by: Kris Chiles
Chapter: 61	Date prepared: 1/24/2022
Subject: Medical Nutrition Therapists	Telephone: 402-471-0185

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency: No additional costs to State agencies.

Political Subdivision: No additional costs to political subdivisions.

Regulated Public: No additional costs to the regulated public.

If indeterminable, explain why: N/A.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 61 MEDICAL NUTRITION THERAPISTS

001. SCOPE AND AUTHORITY. These regulations govern the licensing of medical nutrition therapists under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-1801 to 38-1816 and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions set out in the Medical Nutrition Therapy Practice Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 ASSESSMENT. Assessment is defined in Neb. Rev. Stat. § 38-1804. It includes the following activities:

- (A) The collection of information, review of records, and verification of information. The records and information include anthropometric data, diagnoses, laboratory values, medications, diet orders, physical assessment data, and food preference or diet history information;
- (B) Determining a complete nutritional plan of care to meet fluid need, calorie or protein need, need for specific form of food, need for specific adaptive devices for feeding techniques, or need for supplemental food, fluid, or medical nutritional product for a patient;
- (C) Reviewing or refining goals set for the patient;
- (D) Reviewing or refining a plan to achieve the established goals for a patient;
- (E) Recommending changes in a physician's diet order, for a patient, to a physician when a possible need for a change is identified by a medical nutrition therapist; and
- (F) Writing a therapeutic diet order for a patient in accordance with Neb. Rev. Stat. 38-1813.

002.02 DATA COLLECTION. Data collection is the collection of anthropometric data such as height, weight, age, laboratory values, current medications, diagnoses, food preference, and diet history.

002.03 HOUR. An hour, for the purposes of 172 NAC 61-003.02(B), 172 NAC 61-003.03(B), and continuing education, is an academic hour and calculated as follows:

- (A) 1 semester hour of academic credit equals 15 clock hours;
- (B) 1 quarter hour of academic credit equals 10 clock hours; and
- (C) 1 trimester hour of academic credit equals 12 clock hours.

002.04 LICENSE EXAMINATION. The license examination is The Registration Examination for Dietitians, as established by the Commission on Dietetic Registration, the credentialing

agency of the Academy of Nutrition and Dietetics, or any other examination established by the Commission on Dietetic Registration and determined by the Board to be equivalent.

002.05 OBSERVATION. Observation is watching the patient during intake of food and fluid.

003. LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the licensing requirements of Neb. Rev. Stat. § 38-1813, 172 NAC 10, and this chapter.

003.01 COMMISSION ON DIETETIC REGISTRATION. If applying based on holding registration, the applicant must submit official documentation of registration with the Commission on Dietetic Registration.

003.02 BACCALAUREATE DEGREE AND SUPERVISED CLINICAL EXPERIENCE. If applying based on a baccalaureate degree, the applicant must provide the following:

- (A) An official transcript, submitted directly from the issuing institution, verifying completion of a baccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the Board;
- (B) Documentation of at least 900 hours of supervised clinical experience. An individual must provide documentation of completing at least 60 semester hours, or 90 quarter hours, or 75 trimester hours of academic credit to equal the 900 hours of clinical experience; and
- (C) Official documentation of the license examination score sent directly from the Commission on Dietetic Registration or Academy of Nutrition and Dietetics. The examination is scored on a scale of 1–50. The minimum scaled score required to pass the examination is 25.

003.03 MASTER'S OR DOCTORAL DEGREE. If applying based on a master's or doctoral degree, the applicant must provide the following:

- (A) An official transcript, submitted directly from the issuing institution, verifying completion of one of the following:
 - (i) A master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition or in an equivalent major course of study with the intent of the degree being nutrition in nature and approved by the Board; or
 - (ii) A master's or doctoral degree which included a major course of study in clinical nutrition;
- (B) Verification of completion of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition. An individual must provide documentation of completing at least 13.5 semester hours, or 20 quarter hours, or 17 trimester hours to equal the 200 hours needed for the combined biochemistry and physiology; and at least 5 semester hours, or 7.5 quarter hours, or 6.25 trimester hours to equal the 75 hours needed in human nutrition; and
- (C) Official documentation of the license examination score sent directly from the Commission on Dietetic Registration or Academy of Nutrition and Dietetics. The examination is scored on a scale of 1–50. The minimum scaled score required to pass the examination is 25.

003.04 RECIPROCITY. To obtain a license based on reciprocity, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-1813, 38-129.02, 172 NAC 10, and this chapter.

003.05 RESIDENCY. All applicants receiving a license pursuant to 172 NAC 61 must submit documentation of establishing residency in Nebraska as required by Neb. Rev. Stat. § 38-129.02. Such documentation must be submitted within 90 days of establishment of residency and consist of a rental or lease agreement with the signature of the owner or landlord and the applicant, a deed or title to residential real property with the name of the applicant as an owner, or documents with the name and address of the applicant such as mortgage bills, home utility bills, medical or employee documents or similar documents that show the applicant residing in Nebraska.

004. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter. All medical nutrition therapy licenses issued by the Department will expire on September 1, of each odd-numbered year.

005. CONTINUING EDUCATION REQUIREMENTS. Each medical nutrition therapist who is in active practice in the State of Nebraska must complete 30 hours of continuing education programs or activities during the preceding 24-month period prior to the expiration date.

005.01 ACCEPTABLE SUBJECT MATTER. The subject matter for each continuing education program must clearly relate to maintaining skills necessary for the safe and competent practice of medical nutrition therapy as defined in Neb. Rev. Stat. § 38-1809.

005.01(A) ACADEMIC CREDIT. If using academic credit hours, the hours must be completed through an undergraduate or graduate college or university program.

005.01(B) CONTINUING EDUCATION PROGRAM. 60 minutes of participation equals 1 continuing education hour when completing workshops, seminars, conferences, or electronic interactive presentations for purposes of obtaining continuing education credit.

005.01(C) PRESENTER. A presenter may receive continuing education credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program or activity.

005.01(D) GENERAL NUTRITION PROGRAM. A maximum of 10 hours of continuing education relating to general nutrition, defined in Neb. Rev. Stat. § 38-1807, may be used as credit for each renewal period.

005.01(E) EXHIBITS. 25 exhibits equal 1 continuing education hour. A maximum of 3 continuing education hours may be used as credit per renewal period.

005.01(F) POSTER SESSIONS. 6 poster sessions equal 1 continuing education hour; a maximum of 3 continuing education hours may be used as credit each renewal period.

005.01(G) HOME STUDY PROGRAM. A maximum of 15 hours of continuing education hours may be used as credit for each renewal period. The provider of the program must have a system to monitor knowledge obtained by the licensee completing a home study program, such as, but not limited to a final examination or program evaluation.

005.01(H) VIDEO OR AUDIO MEDIA OR JOURNAL CLUB. A maximum of 15 hours of continuing education hours may be used as credit for obtained each renewal period. The provider of a video or audio media must issue a certificate of completion. A journal club must be an organized activity, with a pre-determined discussion topic and must be conducted in a monitored environment by another licensed medical nutrition therapist.

005.01(I) CERTIFICATE PROGRAMS. 20 hours of continuing education, unless noted otherwise, may be used for completing a certificate program as follows:

- (i) Certified Nutrition Support Clinician sponsored by the National Board of Nutrition Support Certification, Inc.;
- (ii) Certified Diabetes Educator sponsored by the National Certification Board for Diabetes Educators;
- (iii) Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise;
- (iii) Certificate programs sponsored by the Commission on Dietetic Registration, such as:
 - (1) Board Certification as a Specialist in Pediatric Nutrition;
 - (2) Board Certification as a Specialist in Renal Nutrition;
 - (3) Board Certification as a Specialist in Gerontological Nutrition;
 - (4) Board Certification as a Specialist in Oncology Nutrition; or
 - (5) Board Certification as a Specialist in Sports Dietetics;
- (v) International Board of Lactation Consultant Examiners; or
- (vi) Certificate Programs approved through the Academy of Nutrition and Dietetics, such as:
 - (1) Certificate of Training in Childhood and Adolescent Weight Management sponsored by the Commission on Dietetic Registration, 29 hours are acceptable; or
 - (2) Certificate Training in Adult Weight Management sponsored by the Commission on Dietetic Registration, 28 hours are acceptable.

005.02 NONACCEPTABLE SUBJECT MATERIAL. The following topic areas do not count towards continuing education for renewal or reinstatement:

- (A) Menu planning;
- (B) Dietetic association business meeting or delegate report;
- (C) Cooking or baking demonstrations;
- (D) Food service sanitation;
- (E) Catering;
- (F) Garnishing techniques;
- (G) Publishing an employee training manual;
- (H) Sales presentation on a company's new product;
- (I) Marketing self as dietitian or medical nutrition therapist;
- (J) Language training; and

- (K) Health service administration, such as management, grant writing, and human resources.

006. REINSTATEMENT. The applicant must meet the requirements set out in 172 NAC 10.

007. ANCILLARY PERSONNEL. Ancillary personnel may:

- (A) Collect data to be submitted to the medical nutrition therapist in writing for medical records;
- (B) Document an observation, such as anthropometric data and food preferences, for medical records or on the patient's chart; and
- (C) Direct questions to the physician in charge or the medical nutrition therapist and may make recommendations based on observations.

008. FEES. Fees are set out in 172 NAC 2.