

# **MEDICAL HEALTH BOARD LAWS**

## **AS OF THE 2019 LEGISLATIVE SESSION**

### **TITLE 37, CHAPTER 25**

#### **NUTRITIONISTS**

This version of the Montana Code Annotated is provided as a tool for board members and department staff. In case of inconsistencies, the text in the West Publishing hardbound copy or the MCA online version from Legislative Services is the official rule text and will prevail.

---

## CHAPTER 25

# NUTRITIONISTS

### Chapter Administrative Rules

Title 24, chapter 156, subchapter 13, ARM Nutrition practice rules.

---

### Part 1

#### General

#### Part Cross-References

Montana Access to Food and Nutrition Act, Title 50, ch. 49, part 1.

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

**History:** En. Sec. 1, Ch. 529, L. 1987.

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

- (1) "Accredited" means accredited through the council on postsecondary accreditation and the U.S. department of education.
- (2) "Board" means the board of medical examiners.
- (3) "Commission" means the commission on dietetic registration, which is a member of the national commission for health certifying agencies.
- (4) "Dietetic-nutrition practice" or "dietetics-nutrition" is the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, and food management and from the behavioral and social sciences to achieve and maintain health. The primary function of dietetic-nutrition practice is to provide nutrition assessment and nutrition counseling.
- (5) "General nutritional information" means information on:
  - (a) principles of good nutrition;
  - (b) foods to be included in a daily diet;
  - (c) the essential nutrients needed by the body;
  - (d) recommended amounts of these nutrients;
  - (e) the action of these nutrients on the body;
  - (f) the effects of deficiencies in these nutrients; or
  - (g) foods and supplements that are good sources of essential nutrients.
- (6) "Licensed nutritionist" means a nutritionist licensed under this chapter.
- (7) "Nutrition assessment" means the evaluation of nutritional needs of individuals and groups based on appropriate biochemical, anthropometric, physical, and dietary data in order to determine nutrient needs and to recommend appropriate nutritional intake, including both enteral and parenteral nutrition.
- (8) "Nutrition counseling" means providing assistance and advice to individuals or groups in the selection of food and other sources of nutrients to achieve appropriate nutritional intake, based on:
  - (a) the nutrition assessment;
  - (b) the composition of food and other sources of nutrients; and
  - (c) meal preparation consistent with cultural background and socioeconomic status.
- (9) "Nutritionist" means:
  - (a) a person licensed under this chapter; or

(b) a person who has satisfactorily completed a baccalaureate and master's or a doctoral degree in the field of dietetics, food and nutrition, or public health nutrition conferred by an accredited college or university.

**History:** En. Sec. 2, Ch. 529, L. 1987; amd. Sec. 48, Ch. 83, L. 1989.

#### **Compiler's Comments**

**1989 Amendment:** Deleted former (4) that read: "(4) "Department" means the department of commerce"; and deleted (11) that read: "(11) "Registered dietitian" means a person who is registered by the commission."

---

## **Part 2** **Board of Medical Examiners**

#### **Part Cross-References**

Right to know, Art. II, sec. 9, Mont. Const.  
Oath defined, 1-1-201.  
Seal defined, 1-4-201.  
Oaths, Title 1, ch. 6.  
Open meetings, Title 2, ch. 3, part 2.  
Meeting defined, 2-3-202.  
Power of agencies to issue subpoenas, 2-4-104.  
Adoption and publication of rules, Title 2, ch. 4, part 3.  
Power of hearings officer to issue subpoenas, 2-4-611.  
Public records, Title 2, ch. 6.  
Allocation of boards for administrative purposes, 2-15-121.  
Preservation of records, Title 22, ch. 3, part 2.  
Subpoenas, Title 26, ch. 2, part 1.  
Arrest of witness for disobedience of subpoena, 26-2-106, 26-2-107.  
Duties of Department, Director, and boards, Title 37, ch. 1, part 1.  
Licensing investigation and review — record access, 37-1-135.  
Disrupting meeting as disorderly conduct, 45-8-101.

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

**History:** En. Sec. 10, Ch. 529, L. 1987; amd. Sec. 74, Ch. 467, L. 2005.

#### **Compiler's Comments**

**2005 Amendment:** Chapter 467 near beginning after "board by" inserted "Title 37, chapter 1, and"; deleted former (1) that read: "(1) examine qualified applicants for a license to practice dietetics-nutrition, issue licenses to applicants who meet the requirements established by this chapter, and renew licenses as provided in 37-25-307"; and made minor changes in style. Amendment effective July 1, 2005.

**Statement of Intent:** The statement of intent attached to Ch. 529, L. 1987, provided: "A statement of intent is required for this bill because section 10 [37-25-201] requires the board of medical examiners to adopt rules that set professional, practice, and ethical standards for licensed nutritionists and such other rules as may be necessary for the administration of this act.

The legislature intends that the board adopt rules to protect the public health, safety, and welfare by regulating nutritional assessment and counseling and by protecting the title of nutritionist.

The legislature further intends to provide recourse in cases of misrepresentation or clear and direct harm in nutritional practice, recognizing as well that the public's constitutional freedoms and right to the pursuit of health must not be limited without good cause.

The legislature does not intend to prevent the sale of nutritional products nor to prevent the exercise of responsible salesmanship in judging customers' needs and recommending products."

## **Administrative Rules**

ARM 24.156.1301 Definitions.

ARM 24.156.1302 Fees.

ARM 24.156.1306 Professional conduct and standards of professional practice.

ARM 24.156.1309 Obligation to report to the board.

---

## **Part 3**

### **Licensing**

#### **Part Cross-References**

Contested case procedure, Title 2, ch. 4, part 6.

Licensing to follow contested case procedure, 2-4-631.

Duty of Department to investigate unprofessional conduct, 37-1-101.

Reporting disciplinary actions against licensees, 37-1-105.

Duties of Director in investigation of unethical conduct, 37-1-121.

Duty of Board to adopt and enforce licensing and certification rules and rules on conduct, 37-1-131.

Licensing boards to establish fees commensurate with costs, 37-1-134.

Licensing investigation and review — record access, 37-1-135.

Disciplinary authority of boards — injunctions, 37-1-136.

Grounds for disciplinary action as grounds for license denial — conditions to new licenses, 37-1-137.

Licensure of criminal offenders, Title 37, ch. 1, part 2.

Nondiscrimination in licensing, 49-3-204.

**37-25-301. Scope of dietetic-nutrition practice.** Only a nutritionist can provide the following services:

- (1) assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting;
- (2) establishing priorities and objectives that meet nutritive needs and are consistent with available resources and constraints;
- (3) providing nutrition counseling for any individual;
- (4) developing, implementing, and managing nutrition care systems; and
- (5) evaluating, adjusting, and maintaining appropriate standards of quality in food and nutrition services.

**History:** En. Sec. 3, Ch. 529, L. 1987.

**37-25-302. Licensing requirements.** (1) An applicant for licensure as a licensed nutritionist shall file a written application with the board and demonstrate to the board that the person is registered by the commission.

- (2) An applicant shall pay an application fee set by the board.

**History:** En. Sec. 4, Ch. 529, L. 1987; amd. Sec. 1392, Ch. 56, L. 2009.

#### **Compiler's Comments**

*2009 Amendment:* Chapter 56 made section gender neutral; and made minor changes in style. Amendment effective October 1, 2009.

#### **Administrative Rules**

ARM 24.156.1302 Fees.

ARM 24.156.1303 Licensure application.

ARM 24.156.1304 Initial license.

**37-25-303. Issuance of license.** Upon successful completion of the requirements in 37-25-302, an applicant must be issued a license attesting to the date and fact of licensure.

*History:* En. Sec. 5, Ch. 529, L. 1987; amd. Sec. 34, Ch. 109, L. 2009.

**Compiler's Comments**

*2009 Amendment:* Chapter 109 deleted former (2) that read: "(2) The license is effective on the date of issuance and expires 1 year after that date"; and made minor changes in style. Amendment effective October 1, 2009.

*Saving Clause:* Section 53, Ch. 109, L. 2009, was a saving clause.

*Severability:* Section 54, Ch. 109, L. 2009, was a severability clause.

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

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

(2) a licensed physician or nurse from engaging in the practice of dietetics-nutrition when it is incidental to the practice of that profession;

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

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

(5) a person employed by or under contract with an agency of the state or federal government from discharging an official duty if the person does not represent to the public that the person is a nutritionist;

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

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

(8) a person from fulfilling state or federal regulations governing the delivery or provision of nutritional health services to hospitals or long-term care facilities if the person does not represent to the public that the person is a nutritionist.

*History:* En. Sec. 6, Ch. 529, L. 1987; amd. Sec. 1393, Ch. 56, L. 2009.

**Compiler's Comments**

*2009 Amendment:* Chapter 56 made section gender neutral; and made minor changes in style. Amendment effective October 1, 2009.

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

*History:* En. Sec. 7, Ch. 529, L. 1987; amd. Sec. 157, Ch. 42, L. 1997.

**Compiler's Comments**

*1997 Amendment:* Chapter 42 at end substituted "37-25-102(9)(b)" for "37-25-102(10)(b)"; and made minor changes in style. Amendment effective March 12, 1997.

**Administrative Rules**

ARM 24.156.1306 Professional conduct and standards of professional practice.

**37-25-306. Repealed.** Sec. 128, Ch. 429, L. 1995.

*History:* En. Sec. 8, Ch. 529, L. 1987.

**37-25-307. Repealed.** Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 9, Ch. 529, L. 1987; amd. Sec. 1, Ch. 255, L. 1991; amd. Sec. 81, Ch. 429, L. 1995; amd. Sec. 31, Ch. 492, L. 1997; amd. Sec. 33, Ch. 271, L. 2003.

**37-25-308. Grounds for revocation, suspension, or refusal to renew license.** The board may impose a fine or probationary conditions, suspend or revoke a license, or deny or refuse to renew a license if the licensee or applicant has:

- (1) obtained a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) engaged in unprofessional conduct or gross incompetence as defined by rule of the board;
- (3) been convicted of a crime of moral turpitude or a felony related to the practice of dietetics-nutrition; or
- (4) violated an order or rule of the board.

History: En. Sec. 11, Ch. 529, L. 1987.

**Administrative Rules**

ARM 24.156.1307 Unprofessional conduct.