

**Question:**

Do I need to be licensed in North Dakota if I am providing nutrition counseling from another state to North Dakota residents?

**Answer:**

The North Dakota Board of Dietetic Practice and members of its staff are not authorized to give legal advice or assistance to the general public. As a matter of policy this office does not undertake to advise potential marketers or promoters of products or services as to all possible laws they have to comply with in doing business in this state. To do so has on occasion resulted in situations where businesses assumed they had somehow received clearance or approval by the North Dakota Board of Dietetic Practice to transact such business or use such promotional techniques. While many businesses, of course, simply wish to be in compliance with the laws that may affect them, we nevertheless can only advise that North Dakota laws be examined or consultation with legal counsel familiar with the applicable laws be made. However, we do offer the following discussion for your assistance.

In addition to the North Dakota Dietetic Practice Act found at North Dakota Century Code (N.D.C.C.) ch. 43-44, these three laws are on point for out-of-state practitioners acting with North Dakota patients. For legal purposes, the term foreign practitioner refers to a practitioner from other U.S. states.

**43-51-02. Location of practice of an occupation or profession.**

The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.

**43-51-03. Indirect practice without a license.**

1. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through consultation with the person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the individual who is licensed by the board. Both the foreign practitioner and the individual licensed by the board are responsible for the services provided under this subsection.

2. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through a remote means and are a continuation of an existing relationship between the foreign practitioner and the individual receiving the services which was formed in the state or jurisdiction in which the foreign practitioner is currently licensed.

**43-51-05. Limited practice without a license.**

Upon prior written application to the appropriate board, a foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board if the services are provided for no more than thirty full or partial days per year. The one-year period commences on the date the written application is approved by the board. An application from a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. The board may require payment of a fee of twenty-five dollars or other fee established by the board by administrative rule, not to exceed the higher of twenty-five dollars or one-tenth of the fee for an annual license from the board, as a condition of approving an application under this section.

Please consult an attorney in private practice who is familiar with healthcare licensing and regulation. However, in light of the above laws, many professionals have chosen to become licensed in North Dakota in order to provide services to North Dakota citizens.