



**COLORADO**

**Department of  
Regulatory Agencies**

Colorado Office of Policy, Research &  
Regulatory Reform

# 2024 Sunrise Review

Medical Nutrition Therapy as  
Practiced by Dietitians and  
Nutritionists



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December 31, 2024



**COLORADO**

**Department of  
Regulatory Agencies**

Executive Director's Office

December 31, 2024

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The General Assembly established the sunrise review process in 1985 as a way to determine whether regulation of a certain profession or occupation is necessary before enacting laws for such regulation and to determine the least restrictive regulatory alternative consistent with the public interest. Pursuant to section 24-34-104.1, Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on June 30 and December 31.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed its evaluation of the sunrise application for the regulation of Medical Nutrition Therapy as Practiced by Dietitians and Nutritionists and is pleased to submit this written report.

The report discusses the question of whether there is a need for regulation in order to protect the public from harm, whether regulation would serve to mitigate the harm and whether the public can be adequately protected by other means in a more cost-effective manner.

To learn more about the sunrise review process, among COPRRR's other functions, visit [coprrr.colorado.gov](http://coprrr.colorado.gov).

Sincerely,

Patty Salazar  
Executive Director



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## Background

### Sunrise Process

Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review.

The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect public health, safety, or welfare. DORA's Colorado Office of Policy, Research and Regulatory Reform (COPRRR) must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:<sup>1</sup>

(I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public;

(I.5) Whether the practitioners of the profession or occupation exercise independent judgment, and whether the public can reasonably be expected to benefit from the direct regulation of the profession or occupation if a practitioner's judgment or practice is limited or subject to the judgment or supervision of others;

(II) Whether the public needs, and can be reasonably expected to benefit from, an assurance of initial and continuing professional or occupational competence;

(III) Whether the public can be adequately protected by other means in a more cost-effective manner; and

(IV) Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must include a description of the proposed regulation and justification for such regulation.

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<sup>1</sup> § 24-34-104.1(4)(b), C.R.S.

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## Methodology

During the sunrise review, COPRRR staff performed a literature search, contacted and interviewed the sunrise applicant, contacted the Division of Professions and Occupations within the Colorado Department of Regulatory Agencies, reviewed laws in other states and interviewed stakeholders.

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## Profile of Medical Nutrition Therapy

Medical nutrition therapy is an evidence-based approach to nutrition care that may include nutrition assessment, intervention, diagnosis, evaluation, and monitoring to assist with the prevention, delay, or management of a variety of diseases and chronic conditions.<sup>2</sup>

A variety of health-care professionals provide medical nutrition therapy services as a part of their scope of practice, including dietitians and nutritionists who receive specific training in nutrition-related care. Dietitians and nutritionists possess expertise in the utilization of food and nutrition to manage chronic conditions and promote health.<sup>3</sup>

In general, dietitians and nutritionists work to assist with the prevention or support the treatment of chronic conditions such as obesity, heart disease, and autoimmune diseases. Both dietitians and nutritionists work in a variety of settings and are often self-employed or may work as consultants for a variety of organizations.<sup>4</sup>

Additionally, both dietitians and nutritionists may work in clinical settings and may provide medical nutrition therapy to create customized nutritional plans with the goal of improving health outcomes based on the specific needs of each patient.<sup>5</sup>

In order to become a Registered Dietician (RD) or a Registered Dietician Nutritionist (RDN), an individual must satisfy specific requirements established by the Commission on Dietetic Registration, including, but not limited to, possession of a minimum of a master's degree, completion of an internship, and ongoing continuing education.<sup>6</sup>

Additionally, individuals seeking the RD or RDN credential must pass the RD examination which is administered by the Commission on Dietetic Registration through Pearson Vue testing centers. The examination fee of \$200 must be paid at the time of examination registration and two and one-half hours are needed to complete the examination.<sup>7</sup>

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<sup>2</sup> Academy of Nutrition and Dietetics. *Evidence Analysis Library: Medical Nutrition Therapy*. Retrieved November 13, 2024, from <https://www.andeal.org/topic.cfm?menu=5284>

<sup>3</sup> U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook. Dietitians and Nutritionists: Summary*. Retrieved November 13, 2024, from <https://www.bls.gov/ooh/healthcare/dietitians-and-nutritionists.htm#tab-2>

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook. Dietitians and Nutritionists: How to Become a Dietician or Nutritionist*. Retrieved December 1, 2024, from <https://www.bls.gov/ooh/healthcare/dietitians-and-nutritionists.htm#tab-4>

<sup>7</sup> *Registration Examination for Dietitians: Handbook for Candidates*, Commission on Dietetic Registration (2022), pp. 2, 4.

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Content tested during the examination includes:<sup>8</sup>

- Principles of Dietetics (21 percent),
- Nutrition Care for Individuals and Groups (45 percent),
- Management of Food and Nutrition Programs and Services (21 percent), and
- Food Service Systems (13 percent).

To become a Certified Nutrition Specialist (CNS), applicants must possess a minimum of a master's degree, complete any required supervised experience, and pass an examination. This designation is administered by the Board for Certification of Nutrition Specialists, which is affiliated with the American Nutrition Association.<sup>9</sup>

The required CNS examination is administered by the Board for Certification of Nutrition Specialists via ISO-Quality testing locations. Candidates have four hours to complete the examination consisting of 200 multiple-choice questions. Content tested during the examination includes biochemistry, fundamental principles on nutrition, nutrition assessment, nutrients and human health, clinical intervention and monitoring, professional issues, and epidemiology.<sup>10</sup>

Both dietitians and nutritionists may provide a variety of services to their patients. Medical nutrition therapy is only one type of treatment or service that some dietitians and nutritionists may offer.

The Colorado Academy of Nutrition and Dietetics (sunrise applicant) estimates that approximately 2,849 dietitians and between 20 and 50 nutritionists are currently practicing within the state. Since medical nutrition therapy is only one part of the scope of practice for dietitians and nutritionists, it is unknown how many practitioners are specifically practicing medical nutrition therapy in Colorado.

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<sup>8</sup> *Registration Examination for Dietitians: Handbook for Candidates*, Commission on Dietetic Registration (2022), p. 5.

<sup>9</sup> U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook. Dietitians and Nutritionists: How to Become a Dietitian or Nutritionist*. Retrieved December 1, 2024, from <https://www.bls.gov/ooh/healthcare/dietitians-and-nutritionists.htm#tab-4>

<sup>10</sup> *BCNS Certifications Handbook*, Board for Certification of Nutrition Specialists (2024-2025), pp. 29-30.

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## Proposal for Regulation

The Colorado Academy of Nutrition and Dietetics (sunrise applicant) submitted a sunrise application to the Colorado Office of Policy, Research and Regulatory Reform in the Department of Regulatory Agencies for review consistent with section 24-34-104.1, Colorado Revised Statutes (C.R.S.). The application identifies licensure to be the appropriate level of regulation.

The sunrise applicant proposes that regulation be narrowly tailored to the practice of medical nutrition therapy performed by dietitians and nutritionists. The sunrise applicant asserts that aspects of medical nutrition therapy that should be included in the regulatory scope of practice include nutrition assessment, nutrition intervention, nutrition diagnosis, and any related monitoring and evaluation for the purpose of treatment of a medical condition or disease.

The sunrise applicant has proposed specific requirements for licensure for both dietitians and nutritionists.

In order to be eligible to obtain a license in medical nutrition therapy as a dietitian, the sunrise applicant proposes several requirements including, but not limited to, a master's degree or doctoral degree from an accredited program or an equivalent international academic degree, satisfactory completion of at least 1,000 hours of supervised experience, and successfully passing the registration examination administered by the Commission on Dietetic Registration(Commission) or a successor organization. Alternatively, the applicant for licensure may hold a current registration with the Commission as a Registered Dietician (RD) or a Registered Dietician Nutritionist (RDN).

In order to be eligible to obtain a license in medical nutrition therapy as a nutritionist, the sunrise applicant proposes several requirements including, but not limited to, possessing a master's or doctoral nutrition degree from an accredited program or an equivalent international academic degree, and:

- Completion of at least 15 semester hours in courses related to clinical or life sciences (3 semester hours must be related to human anatomy, physiology or an academic equivalent);
- Completion of at least 15 semester hours in courses related to nutrition and metabolism (6 semester hours must be related to biochemistry);
- Completion of at least 1,000 hours of supervised experience with at least 200 hours in each of several specific practices, including nutrition assessment, intervention, monitoring and evaluation; and
- Passage of the certification examination required for the credential of a Certified Nutrition Specialist (CNS) administered by the Board for Certification of Nutrition Specialists or its successor organization.



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Alternatively, the applicant for licensure may hold a current registration with the Board for Certification of Nutrition Specialists as a Certified Nutrition Specialist (CNS).

Further, the sunrise applicant proposes that criminal history may be considered as a part of the licensure process.

Additionally, the sunrise applicant indicates that certain exemptions to regulation should be contemplated, including, but not limited to: nutritional recommendations regarding health coaching; holistic and wellness education; guidance and behavior change management; non-medical weight management; and wellness and prevention of chronic disease.

The sunrise applicant has also filed an application regarding mandatory continuing education, as required by section 24-34-901, C.R.S., and requests that any applicable licensees be required to complete this additional requirement.

Further, the sunrise applicant asserts that, if licensure were to be required, any dietician or nutritionist providing services in medical nutrition therapy be required to maintain current requirements for registration or certification with their respective national associations.

These requirements include 75 Continuing Professional Education Credits (CPEUs), including 1 CPEU in ethics or health equity for registered dietitians for every five-year recertification cycle, and 75 Continuing Education credits for certified nutritionists for every five-year recertification period.

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## Summary of Current Regulation

### National Laws and Regulations

Several laws and regulatory standards have been enacted at the national level relating to medical nutrition therapy, dietitians, and nutritionists.

In 2002, section 1861 of the Social Security Act was amended to include statutory language regarding the definition of medical nutrition therapy as,<sup>11</sup>

...nutritional diagnostic, therapy, and counseling services for the purpose of disease management which are furnished by a registered dietitian or nutrition professional...pursuant to a referral by a physician...

This language acknowledges dietitians and nutritionists as practitioners of medical nutrition therapy.

Further, the definition of medical nutrition therapy lists specific requirements for the qualifications of dietitians and nutrition professionals, including a bachelor's degree or higher degree granted by a regionally accredited college or university, and licensure or certification by the state in which services are performed. However, the provision also states that if an individual intends to provide medical nutrition therapy services in a state where licensure or certification is not required, the individual must meet any other established criteria.<sup>12</sup>

In 2024, the Dietician Licensure Compact (Compact) was enacted by three states: Nebraska, Alabama, and Tennessee.<sup>13</sup> The intent behind the Compact is to facilitate multi-state practice between member states regarding licensure pathways as well as the reduction of barriers to license portability.<sup>14</sup>

### The Colorado Regulatory Environment

The State of Colorado does not currently regulate the practice of medical nutrition therapy or many of the practitioners that provide this service to patients, including dietitians and nutritionists.

However, section 6-1-707(1)(b), Colorado Revised Statutes (C.R.S.), provides title protections for the terms “dietician”, “certified dietitian”, and the abbreviations “D” or “C.D” to indicate that a person possesses the credentials of a dietitian. Further, this

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<sup>11</sup> 42 U.S.C. § 1395x

<sup>12</sup> Ibid.

<sup>13</sup> Academy of Nutrition and Dietetics. *Dietician Licensure Compact*. Retrieved November 13, 2023, from <https://www.eatrightpro.org/advocacy/initiatives/dietitian-licensure-compact>

<sup>14</sup> National Center for Interstate Compacts, Council of State Governments. *Dietician Licensure Compact*. Retrieved November 13, 2023, from <https://compacts.csg.org/compact-updates/the-interstate-compact-for-dietitians/>

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statutory section provides a list of requirements that must be met to refer to oneself as a dietitian with the ability to utilize any of the aforementioned titles, which includes the requirement to hold a certification of registration through the Commission on Dietetic Registration.

Currently, no title protections are in place for nutritionists or other related terms within Colorado statutes.

Additionally, section 19-3-304(2)(bb), C.R.S., requires all dietitians within the state to report any observed instances of child abuse or neglect.

In 2024, the General Assembly passed House Bill 1322, which required the Department of Health Care Policy and Financing (HCPF) to conduct a feasibility study to determine whether federal authorization should be sought to provide certain services, including nutrition services, to Medicaid patients to address health-related social needs.<sup>15</sup> HCPF was required by statute to release a report detailing the feasibility study's findings to the Joint Budget Committee on or before November 10, 2024.

As a result of work completed for this feasibility study, HCPF requested an amendment to the 1115 Demonstration Waiver, or "Expanding the Substance Use Disorder Continuum of Care" from the Centers for Medicare and Medicaid Services, which was submitted in August 2024 in order to provide additional housing and nutrition services to various populations within the state. If approved by the Centers for Medicare and Medicaid Services, the state will begin to implement this change in coverage starting as early as July 2025.<sup>16</sup>

## Regulation in Other States

According to documentation provided in the sunrise application, 49 states currently regulate dietitians and nutritionists on some level, and 47 of those states have a licensure process for them.

According to the sunrise applicant, five states currently license medical nutrition therapy narrowly: North Carolina, New Jersey, North Dakota, Nebraska, and Michigan.

Table 1 details information provided by the sunrise applicant regarding whether dietitians and nutritionists are specifically regulated within each state and the District of Columbia, the statutory location of each regulatory element, and any comments regarding the type of regulation provided in each jurisdiction.

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<sup>15</sup> *HB24-1322 Feasibility Study: Submitted to the Colorado Joint Budget Committee in Compliance with HB24-1322*, Colorado Department of Health Care Policy and Financing, (2024), p.4.

<sup>16</sup> *Ibid.*

**Table 1**  
**State Regulation of Dietitians and Nutritionists**

State	Regulation	Title Protection	Statutory Citation	Comments
Alabama	X		Ala. Code § 34-34A	Licensed Dietitian/Nutritionist
Alaska	X		Alaska Stat. § 8.38	Licensed Dietitian/Nutritionist
Arizona				
Arkansas	X		Ark. Code § 17-3-83	Licensed Dietitian
California		X	Cal. Bus. & Prof. Code § 2-5.65	Title protection for the terms “Registered Dietitian” or “Dietitian.”
Colorado		X	Section 707 of Article 1 of Title 6, C.R.S.	Title protection for the term “Dietitian.”
Connecticut	X		Conn. Gen. Stat. § 20-384b	Certified Dietitian/Nutritionist
Delaware	X		Del. Code tit. 24, § 38	Licensed Dietitian/Nutritionist
District of Columbia	X		D.C. Code § 3-1207.01. to § 3-1207.02.	Licensed Dietitian/Nutritionist
Florida	X		Fla. Stat. § 468.501 to § 468.518	Licensed Dietitian/Nutritionist
Georgia	X		Ga. Code Ann. § 43-11a	Licensed Dietitian
Hawaii	X		Haw. Rev. Stat. § 448b	Licensed Dietitian
Idaho	X		Idaho Code Ann. § 54-35	Licensed Dietitian
Illinois	X		225 ILCS 30/	Licensed Dietitian/Nutritionist
Indiana	X		Ind. Code § 25-14.5	Licensed Dietitian
Iowa	X		Iowa Code § 152a	Licensed Dietitian
Kansas	X		K.S.A. Chapter 65, Public Health Article 59, Dietitians	Licensed Dietitian
Kentucky	X		KRS Title XXVI Occupations and Professions, Chapter 310, Dietitians and Nutritionists	Licensed Dietitian/Certified Nutritionist
Louisiana	X		Ky. Rev. Stat. Ann. § 310	Licensed Dietitian/Nutritionist
Maine	X		Me. Stat. tit. 32, § 104	Licensed Dietitian/Licensed Dietetic Technician
Maryland	X		Md. Code, Health Occupations §	Licensed Dietitian/Nutritionist
Massachusetts	X		Mass. Gen. Laws Ch. 112, § 201	Licensed Dietitian/Nutritionist
Michigan	X		Mich. Comp. Laws § 333.18351 to § 333.18367	Licensed Dietitian/Nutritionist

State	Regulation	Title Protection	Statutory Citation	Comments
Minnesota	X		Minn. Stat. § 148.621	Licensed Dietitian/Nutritionist
Mississippi	X		Miss. Code Ann. § 73-10	Licensed Dietitian
Missouri	X		Mo. Rev. Stat. § 324.200 to § 324.228	Licensed Dietitian
Montana	X		Mont. Code Ann. § 37-25	License Registered Dietitians as Nutritionists
Nebraska	X		Neb. Rev. Stat. § 38-1801 to § 38-1823	Licensed Dietitian/Nutritionist
Nevada	X		Nev. Rev. Stat. § 640e	Licensed Dietitian
New Hampshire	X		N.H. Rev. Stat. Ann. § 326-H	Licensed Dietitian
New Jersey	X		N.J. Rev. Stat. § 45:16B-2	Licensed Dietitian/Nutritionist
New Mexico	X		N.M. Stat. § 61-7A	Licensed Dietitian/Nutritionist
New York	X		N.Y. Education Law § 8-157	Certified Dietitian/Nutritionist
North Carolina	X		N.C. Gen. Stat. § 90-350 to § 90-369	Licensed Dietitian/Nutritionist
North Dakota	X		N.D. Cent. Code § 43-44	Licensed Registered Dietitian/Licensed Nutritionist
Ohio	X		Ohio Rev. Code § 4759	Licensed Dietitian
Oklahoma	X		Okla. Stat. tit. 59, § 1721 to § 1741	Licensed Dietitian
Oregon	X		Or. Rev. Stat. § 691	Licensed Dietitian
Pennsylvania	X		P.L. 317, No. 69	Licensed Dietitian/Nutritionist
Rhode Island	X		R.I. Gen. Laws § 5-64	Licensed Dietitian Nutritionist
South Carolina	X		S.C. Code Ann. § 40-20	Licensed Dietitian
South Dakota	X		S.D. Codified Laws § 36-10B	Dietetics - Licensed Nutritionist; Nutrition - Licensed Nutritionist
Tennessee	X		Tenn. Code Ann. § 63-25	Licensed Dietitian Nutritionist
Texas	X		Tex. Occ. Code § 701	Licensed Dietitian
Utah	X		Utah Code § 58-49	Certified Dietitian
Vermont	X		Vt. Stat. Ann. tit. 26, § 3381 to § 3390	Certified Dietitian
Virginia		X	Va. Code Ann. § 54.1-27.1	Title protection for the terms “Dietitian” or “Nutritionist.”

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State	Regulation	Title Protection	Statutory Citation	Comments
Washington	X		Wash. Rev. Code § 18-138	Certified Dietitian/Nutritionist
West Virginia	X		W. Va. Code § 30-35	Licensed Dietitian
Wisconsin	X		Wis. Stat. § 448.70 to § 448.94	Certified Dietitian
Wyoming	X		Wyo. Stat. Ann. § 33-47	Licensed Dietitian

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## Analysis and Recommendations

### Public Harm

Sunrise criterion I asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public.

In order to determine whether the regulation of medical nutrition therapy as practiced by dietitians and nutritionists is necessary, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) staff requested that the Colorado Academy of Nutrition and Dietetics (sunrise applicant) and other stakeholders provide specific examples of harm.

Due in part to the privacy requirements of the Health Insurance Portability and Accountability Act, examples were anecdotally provided to protect the patients' anonymity. Unless otherwise noted, all examples occurred in Colorado.

According to the sunrise applicant, in the following examples, the term “alternative health-care provider” relates to health-care providers for whom no specific occupational credentials were provided or could be identified.

Examples can be categorized into groups of similar instances where the recommendations of a health-care provider are alleged to have caused harm, relating to:

- Elimination of certain foods from the diet,
- Calorie restriction, and
- Introduction of substances.

#### Elimination of Foods

##### **Example #1**

In 2023, a 40-year-old patient was admitted on a short-term basis to a behavioral health unit for psychosis and was subsequently screened for nutritional risks. The screening identified that the patient was at risk for malnutrition, which led to a nutrition consultation. During the consultation, the patient stated that they had been consuming less than five different foods as a result of an unverified food allergy test that they had received years prior from an alternative health-care provider that indicated multiple food allergies. As a result, the patient presented with Avoidant/Restrictive Food Intake Disorder (ARFID) as well as chronic constipation due to lack of sufficient dietary fiber.

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During their stay at the behavioral health unit, the patient refused any nutritional shakes or supplements offered. The patient continued to experience constipation and was deemed mentally stable and was discharged from the unit. The patient was then referred to an eating recovery center for additional support. Weeks after discharge, the patient was admitted to the hospital for potential bowel impaction or obstruction, which required immediate nutrition support.

Upon being discharged from the hospital, the patient was advised to seek support from a dietitian. Due to the prolonged impact of their restrictive diet and lack of medical nutrition therapy, their limited diet led to significant health complications.

### **Example #2**

Between 2021 and 2024, a six-year-old patient experienced bowel impaction. At the age of three, the patient had been diagnosed with a distended bowel, with alternating constipation and diarrhea, which continued for an additional year after the impaction was resolved.

The patient received care for the second bowel impaction at Children's Hospital Colorado, and the family then consulted with a local alternative health-care provider. The provider diagnosed the patient with food allergies. Following the testing, the provider instructed the child's parents to eliminate entire food groups, and the family continued to return to this provider believing that the patient was experiencing ongoing gastrointestinal issues.

As a result of the ongoing treatment, the patient was determined through screening to be positive for the risk of an eating disorder when assessed by a health-care professional. Through the experience prior to the diagnosis, the family suffered emotional and financial trauma, including thousands of dollars spent on unnecessary supplements, medical co-pays, provider visits, and time away from work, and further exacerbated the parents' fear of reintroducing foods to the patient.

### **Example #3**

In 2020, a 22-year-old patient experienced a relapse of an anorexia eating disorder. The patient developed an infection while traveling and consulted an alternative health-care provider who advised the patient to eliminate all grains from their diet. This food restriction caused the patient to relapse back into anorexia. A dietitian then intervened and was able to assist the patient with the reintroduction of all foods, which normalized their eating behaviors.

This incident resulted in physical, mental, and financial hardship for the patient and required additional nutritional and psychological therapy.



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#### **Example #4**

In 2023, a 65-year-old patient was referred to a dietician for medical nutrition therapy with the conditions of diabetes and obesity. At the initial interview with the dietician, the patient indicated that they had been working with an alternative health-care provider who had recommended that the patient eat only cooked vegetables. It was determined that the patient lacked variety in their diet and was not consuming enough vegetables. As a result, the patient continued to have poor blood sugar levels and difficulties achieving weight loss.

#### **Example #5**

In 2022, a 72-year-old patient was undergoing radiation and chemotherapy as a result of a diagnosis related to head and neck cancer. During their treatment, the patient met with a dietician. During the appointment, the patient mentioned that they had been receiving nutritional recommendations from an alternative health-care provider, who had advised that the patient make dietary adjustments, including the incorporation of whole fruits, vegetables and grains, low carbohydrate and dairy intake, and the avoidance of sugar. The dietician expressed the need for a diet specifically developed for cancer treatment.

An eating assessment tool indicated that the patient's condition had continued to worsen during the three months that the patient had met with the alternative health-care provider. Additionally, the assessment tool reflected a functional swallowing issue. As a result, the previous diet recommended by the alternative health-care provider led to the patient experiencing weight loss, inadequate nutrition intake, and difficulties resuming a standard diet at the conclusion of therapy.

#### **Example #6**

In Iowa, a patient died from low potassium, which caused the patient's heart to stop. The patient had been prescribed a meal replacement product for weight loss by an individual who was not a nutritionist and did not possess the necessary nutritional knowledge.

#### ***Analysis***

In all six examples, patients were advised to restrict the types of foods consumed, which were inferred to have led to a variety of poor outcomes. For example, physical harm was observed, such as bowel impaction or obstruction, poor blood sugar levels, weight loss, inadequate nutrition, and death. Additionally, mental health harm was noted, including eating

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disorders. Financial harm was also noted, including money spent on supplements, doctors' visits, and time away from work. Although these types of harm were attributed to be in direct correlation to the nutritional guidance that had been provided, there may be other factors not noted that may have contributed to the physical, mental and financial harm indicated.

In all of the aforementioned examples, recommendations related to food restrictions had been provided by alternative health-care providers whose professional titles were either unknown or not believed to be dietitians nor nutritionists. Therefore, the examples of harm provided in this category cannot be attributed to the group of professionals whom the sunrise applicant is seeking to regulate.

### Calorie Restriction

#### **Example #1**

In 2024, an alternative health-care provider diagnosed a 54-year-old patient with a gastrointestinal issue and prescribed adherence to a restrictive diet. The patient was set on a very restrictive, low-calorie diet by a medical doctor. Consequently, the patient lost an additional 10 pounds, and the patient suffered from a fear of specific foods, as well as a general fear of eating and substantial fatigue. The diet did not improve the patient's symptoms, and they were unable to regain the weight they had lost.

A dietitian has been working with the patient to address their fear of food and to incorporate a wider variety of foods into their diet, as well as to address the need for appropriate portion sizes. The patient is starting to regain the weight lost and overcome food fears.

This incident resulted in physical, mental, and financial hardship for the patient due to significant weight loss, fatigue, fear regarding appropriate foods to eat, and costs associated with needing additional assistance from a dietitian.

#### **Example #2**

In Colorado, a patient with multiple conditions was being fed a diet, through a gastrostomy tube, consisting of a high fiber formula for a period of three months as directed by a dietitian. The patient was later reassessed by the reporting oncology dietitian, and it was determined that the patient was not tolerating the formula and was not consuming enough nutrition to meet their dietary needs. As a result, the patient lost more than 10 percent of their body weight within three months, which met the criteria for clinical malnutrition.

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### ***Analysis***

In both examples provided, the patients received recommendations that led to calorie restriction, and harm was observed, including weight loss, malnutrition, fatigue, and financial hardship.

In Example #1, the nutritional guidance received to limit caloric intake was provided by a medical doctor, which is a profession that is already regulated and must adhere to the statutory requirements and regulation provided by the Colorado Medical Board. Therefore, this example is not applicable regarding the question as to whether to regulate the practice of medical nutrition therapy by dietitians or nutritionists.

In Example #2, a dietitian provided the guidance to restrict caloric intake through the use of a high fiber formula. Since this recommendation was obtained from a dietitian, this example of harm does relate directly to the sunrise applicant's request to regulate dietitians.

### **Introduction of Substances**

#### **Example #1**

In 2023, a high school coach in Steamboat Springs, who was also the owner of a nutrition company and a personal trainer, provided their athletes with a substance called Kratom, which is considered a potentially dangerous, unapproved substance, in order to enhance their performance. Additionally, school leadership and parents of the athletes were unaware until it was discovered that the coach had distributed the illegal supplement.

### ***Analysis***

In this example, a high school coach advised their student athletes to consume an unapproved substance without the knowledge or consent of parents or school administration. While the distribution of an unapproved supplement to minors is certainly an example of harm, it should be noted that a high school coach may already be under the purview and potential disciplinary action imposed by the Colorado Board of Education. Therefore, this example is not applicable to the question of whether or not to regulate the practice of medical nutrition therapy by dietitians or nutritionists. Additionally, law enforcement and the state's courts could ascertain whether any criminal activity occurred and the appropriate sanctions.

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In the end, several of the examples provided above indicate harm as the result of medical nutrition therapy, but only one specifically pertains to medical nutrition therapy as practiced by a dietitian.

## **Independent Judgment**

Sunrise criterion I.5 asks:

Whether the practitioners of the profession or occupation exercise independent judgment, and whether the public can reasonably be expected to benefit from the direct regulation of the profession or occupation if a practitioner's judgment or practice is limited or subject to the judgment or supervision of others.

Both dietitians and nutritionists receive training to exercise independent judgment and work independently to provide various professional services, including medical nutrition therapy.

If the dietitian or nutritionist works in a private practice, they work independently within their scope of practice in meeting with their patients.

Additionally, in some clinical settings, dietitians may work under the orders of a physician and may work under the clinical protocols established by the facility or other medical staff.

However, in clinical settings, dietitians may function as members of an interdisciplinary care team and as the team's clinical nutrition expert. As such, the dietitian is responsible for the patient's nutritional diagnosis and treatment as it relates to their overall diagnosis.

## **Need for Regulation**

Sunrise criterion II asks:

Whether the public needs, and can be reasonably expected to benefit from, an assurance of initial and continuing professional or occupational competence.

Stakeholders provided a variety of examples with the intent to demonstrate circumstances in which harm may have occurred. An analysis of these examples is necessary to examine whether there is a need for regulation. Examples were separated into categories, including:

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- Elimination of certain foods or food groups from the diet,
  - Calorie restriction, and
  - Introduction of substances.

Harm can be determined in situations where there is a demonstrated lack of competency by taking specific actions—or not completing required actions—that caused harm, or contributed to the harm, of a patient.

The examples of public harm provided by stakeholders are notable and include physical harm, such as bowel impaction or obstruction, poor blood sugar levels, weight loss, malnutrition, fatigue, and death. Additionally, mental health harm was noted, including eating disorders. Financial harm was also noted, including money spent on supplements, doctor visits, and time away from work. In instances where these types of harm are directly correlated to changes in nutrition or dietetic supplementation, these examples may indicate a need to regulate the practice of medical nutrition therapy.

However, in all examples provided except one, none of the harm could be attributed to the actions or recommendations of either dietitians or nutritionists. Since the sunrise applicant is seeking to regulate medical nutrition therapy as an activity to be licensed for work performed by dietitians and nutritionists, and only one example of harm pertains to work performed by either dietitians or nutritionists, there is insufficient evidence to conclude that an initial assurance of the competency of dietitians or nutritionists practicing medical nutrition therapy is necessary.

Further, since an initial demonstration of competency is not justified, continuing education is also not warranted.

## **Alternatives to Regulation**

Sunrise criterion III asks:

Whether the public can be adequately protected by other means in a more cost-effective manner.

Both nutritionists and dietitians can become registered or certified with national associations, which may require completion of education and supervised experience, and passing an examination in order to receive credentials.

To become a Registered Dietitian or a Registered Dietitian Nutritionist, these credentials must be obtained by meeting specific requirements administered by the Commission on Dietetic Registration, including, but not limited to, a minimum completion of a master's degree, completion of an internship, and ongoing continuing education.

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To become a Certified Nutrition Specialist, applicants must possess a minimum of a master's degree, complete any required supervised experience, and pass an examination. This designation is administered by the Board for Certification of Nutrition Specialists, which is affiliated with the American Nutrition Association.

Both professions currently have established paths to additional registration or certification. Therefore, once a dietitian or nutritionist is registered or certified, they are already under the guidance and review of a regulatory structure that is meant to ensure competency in their respective fields.

Although some dietitians and nutritionists work in independent practices, many are hired to work in a variety of settings as part of a medical team when providing medical nutrition therapy services. Possessing these credentials is beneficial to dietitians and nutritionists, since these additional registrations and certifications may give them an edge over the competition when applying for positions in their field.

Therefore, the registration and certification processes offered through national associations provide a viable alternative to state regulation.

## **Collateral Consequences**

Sunrise criterion IV asks:

Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

Both the Commission on Dietetic Registration and the Board for Certification of Nutrition Specialists may discipline registrants and certificants for any conviction of a felony or other crime of moral turpitude under federal or state law in a matter related to the practice of their respective fields.

Additionally, the sunrise applicant proposed that an applicant's criminal history could be considered in determining licensure qualifications but should not be the sole determining factor.

Since only one example of harm was provided for this sunrise review related specifically to the groups for which the sunrise applicant has proposed regulation, namely dietitians and nutritionists, and it did not involve criminal activity, it is reasonable to conclude that criminal history need not be a deciding factor in the determination as to whether to issue a license.

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## Conclusion

The sunrise applicant has proposed that the practice of medical nutrition therapy by dietitians and nutritionists be regulated.

Further, the sunrise applicant and other stakeholders submitted numerous examples of harm caused by the practice of medical nutrition therapy, but only one example of harm was caused by the group of professionals (one dietitian) that the sunrise applicant seeks to regulate.

Sunrise criterion I asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public.

This criterion aims to require the sunrise applicant to demonstrate proof of harm that would justify regulation for an entire group of professionals. Thus, submitting evidence of harm committed by others outside of the group for which regulation is sought is not conclusive or affirmative proof that regulation, in this instance, is justified.

Since the professions that the sunrise applicant is seeking to regulate are dietitians and nutritionists specifically, and only one example of harm related to any member of either group in the practice of medical nutrition therapy has been provided, there is not enough evidence of harm to justify regulation of this entire group of professionals.

**Recommendation – Do not regulate medical nutrition therapy as practiced by dietitians and nutritionists.**