

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: All Rules Generally

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*All references to “they”, “their”, or “themselves” should be changed to “he or she”. All references to individual parties, such as applicants or supervisors, must be singular, rather than the plural “they” construction to be grammatically correct. This is a clarity/ambiguity issue in contravention of G.S. 150B-21.9(a)(2).*

*All references to an article within a chapter of the General Statutes should be formatted as “Article \_\_ of Chapter \_\_ of the General Statutes”.*

Please retype the rule accordingly and resubmit it to our office electronically.

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0101

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (a)(3), in each rule which uses “application”, are the forms’ contents and substantive requirements prescribed along with any “other materials necessary”?*

*In (a)(7)(A), what are “ongoing, dynamic, and systematic process[es]”?*

*In (a)(8), how are “cultural background” needs implemented within these rules? What is required of the regulated public through this definition, if anything?*

*In (a)(9) and (10), delete the portion after “cultural background”. This is redundant with the definition above.*

*In (a)(9), what are “learning experienced” and how shall they be “conducive to health and well-being”? Are these continuing education for the nutritionist or the client/patient?*

*In (a)(10), who is the acting party which makes “planned actions and nutrition counseling”?*

*Were (a)(9) and (10) added in their entirety after publication within 37:02 NCR 190-201? How would this not be considered a substantial change?*

*In (a)(12), change all semi-colons to commas.*

*In (a)(13)(C). remove the parentheses. Also, in (a)(13)(D), what is “nutritional or hydrational support”?*

*How are the definitions of “alternate supervised experiential learning” and “direct supervised experiential learning” used in the Board’s rules? Is the criteria outlined within such rules?*

*Also, in (a)(15), remove the parentheses.*

*In (a)(16), place an Oxford comma after “enteral”.*

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: November 8, 2022

1 21 NCAC 17 .0101 is amended with changes as published in 37:02 NCR 190-201 as follows:

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**21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS**

(a) As used in this Chapter, the following terms shall mean:

- (1) "Act" means Dietetics/Nutrition Practice Act in G.S. 90, Article 25.
- (2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the acts listed under G.S. 90-365(a).
- (3) "Application" means a written request directed to and received by the Board, on forms supplied by the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all information, documents, and other materials necessary to demonstrate that the applicant has met the requirements for licensure as specified in the Act.
- (4) "Degree" means a degree received from a college or university that was regionally accredited at the time the degree was conferred, or a validated foreign equivalent.
- (5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.
- (6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed scope of practice includes dietetics or nutrition.
- (7) "Nutrition assessment" means:
  - (A) ~~the evaluation of the nutrition needs of individuals and groups by licensed dietitians/nutritionists and licensed nutritionists based upon biochemical, anthropometric, nutrigenomic, physical, and food and diet history data to determine nutritional needs and the initial and ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, clinical, and dietary data to [make decisions about the nature and cause of nutrition related problems] determine nutritional needs~~ and order therapeutic diets, including enteral and parenteral nutrition; ~~and~~
  - (B) the ordering of laboratory tests related to the practice of nutrition and ~~dietetics; dietetics;~~ and
  - (C) the conducting of a swallow screen.
  - (D) The collection of data does not, by itself, constitute nutrition assessment.
- (8) "Nutrition counseling" [intervention, education, counseling, or management]" means the advice and assistance provided by licensed dietitians/nutritionists and licensed nutritionists to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with therapeutic needs and cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs, education, and socioeconomic status. [The following does not constitute nutrition intervention education, counseling, or management: presenting educational lectures, videos, webinars aimed at mass audiences; writing books, articles, blog posts, or social media content; developing condition-based training programs and treatment protocols not related to a current client; watching or listening

1 to educational lectures, videos, or webinars; teaching classes in academic programs; and conducting  
2 research that is not related to a current client.]

3 (9) "Nutrition education" means any set of learning experiences designed to facilitate the voluntary  
4 adoption of eating and other nutrition-related behaviors, conducive to health and well-being,  
5 consistent with therapeutic needs and cultural background, which shall include ethnicity, race,  
6 language, religious and spiritual beliefs, education, and socioeconomic status.

7 (10) "Nutrition intervention" means planned actions and nutrition counseling intended to improve a  
8 nutrition-related behavior, risk factor, environmental condition, or aspect of the health status,  
9 consistent with therapeutic needs and cultural background, which shall include ethnicity, race,  
10 language, religious and spiritual beliefs, education, and socioeconomic status.

11 (11) [(9)] "Nutrition monitoring or evaluation" means regular re-evaluation of ~~medical nutrition~~  
12 ~~therapy~~ the nutrition care treatment and prevention plan, which may include review of clinical  
13 research and standards of care, to compare the outcomes with the patient's previous health status,  
14 intervention goals, or reference standards to determine the progress made in achieving desired  
15 outcomes of nutrition care and whether planned interventions should be continued or revised.

16 (12) [(10)] "Nutrition services" for purposes of G.S. 90-357.5(c)(2) means the provision of nutrition  
17 assessments; nutrition intervention, education, counseling, or management; and nutrition monitoring  
18 or evaluation.

19 (13) [(11)] "Swallow screen" means a minimally invasive evaluation procedure conducted by a  
20 licensed dietitian/nutritionist that provides for the determination of:

21 (A) the likelihood that dysphagia exists;

22 (B) whether the patient requires referral for further swallowing assessment;

23 (C) whether it is safe to feed the patient orally (for the purposes of nutrition, hydration, and  
24 administration of medication); and

25 (D) whether the patient requires referral for nutritional or hydrational support.

26 (14) [(12)] "Alternate supervised experiential learning" means observational hours that do not involve  
27 direct patient or client care or the discussion thereof. Such hours are limited to: observing videos of  
28 client and practitioner interactions; shadowing an experienced clinician; participating in simulation  
29 exercises or role playing; or utilizing case studies to prepare treatment plans.

30 (15) [(13)] [~~"Professional work setting"~~]; ~~"Direct supervised experiential learning"~~ means nutrition  
31 care services provided for the benefit of patients or clients. Such hours are limited to: counseling  
32 individuals and groups; researching and developing patient or client treatment plans for current  
33 patients or clients; researching, preparing, and presenting patient or client workshops; community  
34 education (development and delivery of education to a specific population); supervisor grand rounds  
35 and one-on-one meetings with one's supervisor to discuss current patient or client care; or direct  
36 hours approved as part of a programmatically accredited supervised practice program.

1 (16) [(14)] "Therapeutic diet" means a nutrition intervention prescribed by a physician or other  
2 authorized non-physician practitioner that provides food, fluid, or nutrients via oral, enteral or  
3 parenteral routes as part of treatment of disease or clinical conditions to modify, eliminate, decrease,  
4 or increase identified micronutrients and macronutrients in the diet, or to provide mechanically  
5 altered food when indicated.

6 (17) [(15)] "Weight control services" as used in G.S. 90-368(7) means a general program of instruction  
7 with food, supplements, food products, or a food plan designed for one or more healthy population  
8 groups in order to achieve or maintain a healthy weight. A weight control program is not  
9 individualized to provide medical nutrition therapy as defined in G.S. 90-352(3a) or nutrition care  
10 services as defined in G.S. 90-352(4) to manage or treat a medical condition for a specific person or  
11 group.

12 (b) As used in this Chapter, the following acronyms and initialisms shall mean:

- 13 (1) "ACBN" means the American Clinical Board of Nutrition, whose Diplomate of the American  
14 Clinical Board of Nutrition credential is accredited by the National Commission for Certifying  
15 Agencies.
- 16 (2) "ACEND" means the Accreditation Council for Education in Nutrition and Dietetics.
- 17 (3) "AND" means the Academy of Nutrition and Dietetics.
- 18 (4) "BCNS" means the Board for Certification of Nutrition Specialists, whose Certified Nutrition  
19 Specialist credential is accredited by the National Commission for Certifying Agencies.
- 20 (5) "CDR" means the Commission on Dietetic Registration, whose Registered Dietitian Nutritionist  
21 credential is accredited by the National Commission for Certifying Agencies.
- 22 (6) "LDN" means licensed dietitian/nutritionist.
- 23 (7) "LN" means licensed nutritionist.
- 24 (8) "PLDN" means provisionally licensed dietitian/nutritionist.
- 25 (9) "PLN" means provisionally licensed nutritionist.

26  
27 *History Note: Authority G.S. 90-352; 90-356;*  
28 *Temporary Adoption Eff. March 19, 1992 for a period of 180 days to expire on September 13, 1992;*  
29 *Eff. June 1, 1992;*  
30 *Recodified from 21 NCAC 17 .0001 Eff. February 1, 1995;*  
31 *Amended Eff. December 1, 2011; April 1, 2010; July 18, 2002; March 1, 1996;*  
32 *Readopted Eff. December 1, 2019. 2019;*  
33 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0104

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (b)(4), remove the comma after “90-357.5” to avoid any dependent clause issues.*

*In (e)(1) through (3), ensure each of the hyperlinks are correct. <https://www.acbn.org/handbook.pdf> does not direct to a page or PDF.*

*In (f), what does “ready for Board review” mean? What is the deadline for “completion” of an incomplete application?*

*In (h)(2) and (i), what such documentation shall be submitted to prove competency requirements, in addition to the official transcript(s)?*

*Do the requirements within (j) include “Board-approved internships” within G.S. 90357.5(a)(1)(b) or does it only cover “supervised practice experiences”?*

*Also, is “documented, supervised practice experiences” defined or explained outside of G.S. 90357.5(a)(1)(b)?*

*In (k)(1), does “information and verification of each part” require anything beyond those items listed in (k)(2)?*

*In (k)(3)(A), what is meant by “authorize, and approve all nutrition care services of the student or trainee supervised”? Based on a plain reading, the supervisor is required to approve the student or trainee’s care, regardless of evaluation. Consider an option, such as “determine whether to approve...”*

*What is being required of the supervisor’s in (k)(3)(F) specifically? Are there any specific requirements placed on the evaluation itself?*

*In (l), change “must” to “shall”. Use the active voice.*

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: November 8, 2022

*Also, what is being required of “learning experiences” providing preparation of students to work? The rule does not unambiguously state what shall be done to prepare students.*

*In (m)(3)(A), see the same issue as in (k)(3)(A) above.*

*In (m)(3)(F), see the same issue as in (k)(3)(F) above.*

*In (n)(1), remove the parentheses.*

*In (o)(3), does the last sentence, permitting an applicant to apply for licensure at a later date, consider an application an “initial license” as referenced in other rules?*

Please retype the rule accordingly and resubmit it to our office electronically.

1 21 NCAC 17 .0104 is amended with changes as published in 37:02 NCR 190-201 as follows:

2  
3 **21 NCAC 17 .0104 APPLICATIONS**

4 (a) Each applicant for initial licensure shall file a completed application with the Board. Application forms are  
5 available at [www.ncbdn.org](http://www.ncbdn.org).

6 (b) A complete application shall be:

- 7 (1) typed;
- 8 (2) signed by the applicant affirming that the information on the application is true and releasing to the  
9 Board information pertaining to the application;
- 10 (3) accompanied by the application, issuance, and criminal history record check fees; and
- 11 (4) accompanied by evidence, statements, or documents demonstrating the applicant meets the  
12 applicable requirements specified in G.S. 90-357.5, and this Rule, and the applicant is not in  
13 violation of G.S. 90-363.

14 (c) Applicants shall submit a completed application to the North Carolina Board of Dietetics/Nutrition via its website  
15 at [www.ncbdn.org](http://www.ncbdn.org).

16 (d) The Board shall not review an application until the applicant pays the application fee. The fee may be paid online  
17 via credit card, or by check or money order mailed to: North Carolina Board of Dietetics/Nutrition, 1135 Kildaire  
18 Farm Road, Suite 200, Cary, NC 27511.

19 (e) Examination information for each of the examinations the Board recognizes may be found on the following  
20 websites:

- 21 (1) Information regarding the Registered Dietitian Nutritionist examination offered by the Commission  
22 on Dietetic Registration may be found at: [https://www.cdrnet.org/program-director/student-](https://www.cdrnet.org/program-director/student-instructions)  
23 [instructions](https://www.cdrnet.org/program-director/student-instructions).
- 24 (2) Information regarding the Certified Nutrition Specialist examination offered by the Board for  
25 Certification of Nutrition Specialists may be found at: <https://theana.org/certify/CNScandidate>.
- 26 (3) Information regarding the Diplomate of the American Clinical Board of Nutrition examination  
27 offered by the American Clinical Board of Nutrition may be found at:  
28 <https://www.acbn.org/handbook.pdf>.

29 (f) Before cancelling an application, the Executive Director shall send notice to an applicant who does not complete  
30 the application that lists the additional materials required. An incomplete application shall be valid for a period of ~~six~~  
31 four months from the date the application is filed with the Board. After ~~six~~ four months, if an application has not been  
32 completed by the applicant and ready for Board review, the application shall be considered cancelled due to failure to  
33 complete. Complete applications that the Board determines require additional evidence under Paragraph (m) of this  
34 Rule shall be eligible for consideration for the timeline set forth in that Paragraph.

35 (g) Applicants providing evidence of current registration as a Registered Dietitian Nutritionist by the CDR in G.S.  
36 90-357.5(a)(2) shall submit a photocopy of the applicant's registration identification card, or a copy of a CDR  
37 Credential Verification certificate certifying that the applicant is a Registered Dietitian Nutritionist.



1 (h) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(a)(1) shall either:

- 2 (1) Submit transcripts and a verification statement that includes the original signature of the Program  
3 Director of a college or university where the course of study was accredited by the ACEND as  
4 meeting the competency requirements of the most current edition of the Accreditation Standards for  
5 Nutrition and Dietetic Didactic Programs; or  
6 (2) Submit documentation, including official transcripts, demonstrating the course of study met the  
7 competency requirements of the most current edition of the ACEND Accreditation Standards for  
8 Nutrition and Dietetic Didactic Programs.

9 (i) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(c) shall submit  
10 documentation, including official transcripts, demonstrating completion of the requirements stated in G.S. 90-  
11 357.5(c)(1).

12 (j) Applicants providing evidence of completing a supervised practice experience in G.S. 90-357.5(a)(1)(b) shall  
13 either:

- 14 (1) Submit a verification statement that includes the original signature of the Program Director of a  
15 documented, supervised practice experience that has been accredited by the ACEND as meeting the  
16 competency requirements of the most current edition of the Accreditation Standards for Nutrition  
17 and Dietetics Internship Programs; or  
18 (2) Submit documentation demonstrating at least 1000 hours of documented, supervised practice  
19 experience, meeting the competency requirements of the most current edition of the Accreditation  
20 Standards for Nutrition and Dietetics Internship Programs issued by ACEND. The scope of activities  
21 may include alternate supervised experiential learning such as simulation, case studies, and role  
22 playing, but must also include at least 750 hours in a professional work setting, of direct supervised  
23 experiential learning. The 1000 hours must be concurrent with or following completion of the  
24 academic requirements for licensure and need not be a paid experience. ~~The following shall be~~  
25 ~~necessary to determine and verify supervised practice experience:~~

26 ~~(A) — The supervisor shall have access to all relevant patient/client records kept during the~~  
27 ~~supervised practice experience. The supervisor shall review performance by periodic~~  
28 ~~observation, either in real time, or by some recording of the nutrition service.~~

29 (k) The following shall be necessary for applicant's submitting proof of completion of a Board-approved internship  
30 or a documented, supervised practice experience in nutrition services under Subparagraph (j)(2) of this Rule:

- 31 ~~(B)(1)~~ If there shall be more than one supervisor or facility for different parts of the supervised practice  
32 experience, information and verification of each part is required.  
33 ~~(C)(2)~~ The applicant shall provide to the Board for each supervisor/facility:  
34 ~~(i)(A)~~ the name and address of the facility providing the supervised practice experience;  
35 ~~(ii)(B)~~ the name, address, phone, and title of the supervisor who supervised the supervised practice  
36 experience;



1 (m) The following shall be necessary for proof of completion of a Board-approved internship or a documented,  
2 supervised practice experience in nutrition services under Paragraph (l) of this Rule: ~~to determine and verify the~~  
3 ~~supervised practice experience:~~

4 ~~(1)~~ The supervisor shall have access to all relevant patient/client records kept during the supervised  
5 practice experience. The supervisor shall review performance by periodic observation, either in real-  
6 time or by some recording of the nutrition service.

7 ~~(2)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice  
8 experience, information and verification of each part is required.

9 ~~(3)~~(2) The applicant shall provide to the Board for each supervisor/facility:

10 (A) the name and address of the facility providing the supervised practice experience;

11 (B) the name, address, phone, and title of the supervisor who supervised the supervised practice  
12 experience;

13 (C) a summary of nutrition services performed, along with dates, and hours spent performing  
14 them;

15 (D) evidence that the supervisor met the requirements as stated in G.S. 90-357.5(c)(2) at the  
16 time of supervision; and

17 (E) an attestation that the supervisor is not related to, married to, or domestic partners with the  
18 supervisee.

19 ~~(4)~~(3) Each supervisor shall review the evidence provided by the applicant and verify that the information  
20 is true, including: shall:

21 (A) regularly, commensurate with the care provided, observe the provision of nutrition care  
22 services by the student or trainee supervised, and evaluate, authorize, and approve all  
23 nutrition care services of the student or trainee supervised;

24 (B) maintain primary responsibility for and control over all nutrition care services performed  
25 by the student or trainee, including clinical record keeping;

26 (C) ensure the student or trainee is designated throughout the supervised practice experience  
27 by a title that indicates the individual's status as a student or trainee;

28 ~~(A)~~(D) verify that the applicant participated in nutrition services under his or her supervision,  
29 stating the total number of hours;

30 ~~(B)~~(E) providing provide a summary of the nutrition services provided completed under his or her  
31 supervision; and

32 ~~(C)~~(F) providing provide an evaluation of the applicant for the Board to be able to assess the  
33 applicant's performance in the ~~areas of nutrition assessment; nutrition intervention,~~  
34 ~~education, counseling, or management; and nutrition monitoring or evaluation.~~ provision  
35 of nutrition services, as defined in 21 NCAC 17 .0101(10), to address, at a minimum, the  
36 acute and chronic medical conditions listed in Paragraph (l) of this Rule.

37 ~~(4)~~(n) Applicants who have obtained their education outside of the United States and its territories shall:

- 1 (1) Have their academic degree(s) evaluated by a Board-approved foreign credential evaluating service  
2 as equivalent to a baccalaureate or higher degree conferred by a U.S. college or university accredited  
3 by the regional accrediting agencies recognized by the Council on Higher Education Accreditation  
4 and the U.S. Department of Education; and
- 5 (2) All documents submitted in a language other than English shall be accompanied by a certified  
6 translation thereof in English from a Board-approved translation service.
- 7 (3) The following foreign credential evaluating and translation services are Board-approved:
  - 8 (A) Academic and Professional International Evaluation, Inc., which may be found at:  
9 [www.apie.org](http://www.apie.org);
  - 10 (B) Academic Credentials Evaluation Institute, Inc., which may be found at: [https://www.acei-](https://www.acei-global.org/)  
11 [global.org/](https://www.acei-global.org/);
  - 12 (C) American Education Research Corporation, Inc., which may be found at: [http://www.aerc-](http://www.aerc-eval.com/)  
13 [eval.com/](http://www.aerc-eval.com/);
  - 14 (D) Association of International Credential Evaluators, Inc., which may be found at: [www.aice-](http://www.aice-eval.org)  
15 [eval.org](http://www.aice-eval.org);
  - 16 (E) Bruscan Educational Information Services, which may be found at:  
17 <http://www.bruscan.com/>;
  - 18 (F) Center for Educational Documentation, Inc., which may be found at:  
19 <http://www.cedevaluations.com/>;
  - 20 (G) Education Credential Evaluators, Inc., which may be found at: [www.ece.org](http://www.ece.org);
  - 21 (H) Educational Perspectives, which may be found at: <https://www.edperspective.org/>;
  - 22 (I) Foundation for International Services, Inc., which may be found at: [https://www.fis-](https://www.fis-web.com/)  
23 [web.com/](https://www.fis-web.com/);
  - 24 (J) International Education Research Foundation, which may be found at: [www.ierf.org](http://www.ierf.org);
  - 25 (K) Josef Silny & Associates, which may be found at: <http://www.jsilny.org/>;
  - 26 (L) SpanTran: The Evaluation Company, which may be found at: <https://www.spantran.com/>;
  - 27 or
  - 28 (M) World Education Services, Inc., which may be found at: <https://www.wes.org/>.

29 ~~(m)~~(o) If the Board determines that the application does not demonstrate satisfaction of the requirements specified in  
30 G.S. ~~90-357.5~~, 90-357.5 and this Rule, the Board shall notify the applicant in writing. The notification shall include  
31 what is required to demonstrate the applicant meets the statutory requirements, and the applicant shall be:

- 32 (1) offered the ability to place the application on hold for a time period of up to one year from the date  
33 of the letter providing the Board's determination, so long as such a request is made in writing within  
34 30 days of the date of the letter. During this hold time, the applicant may provide other evidence  
35 demonstrating the applicant satisfied the requirements the Board determined were not met;

1 (2) offered the opportunity to appear for an interview before the Board. At any time during that  
2 interview, the applicant may stop the interview, and request to have all or any part of requested  
3 information provided in writing; and

4 (3) offered the ability to withdraw the application so long as such a request is made in writing within  
5 30 days of the date of the letter. The applicant will be allowed to apply for licensure at a later time.

6 ~~(n)~~(p) If an applicant who received the notice specified in Paragraph ~~(m)~~(o) of this Rule does not provide a written  
7 response to the Board within 30 days of the date of the notification requesting that ~~he or she~~ they be granted an  
8 interview or ~~his or her~~ their application be placed on hold or withdrawn, or after the opportunity for an interview the  
9 Board determines the applicant has still not demonstrated satisfaction of the requirements specified in G.S. 90-357.5  
10 and this Rule and the applicant has not requested their application be placed on hold or withdrawn, the Board shall  
11 issue the applicant an official rejection as provided in G.S. 90-358.

12 ~~(o)~~(q) A rejected applicant shall have 60 days from the date of official rejection to request ~~an administrative hearing,~~  
13 a contested case hearing in accordance with the rules of this Chapter.

14  
15 *History Note: Authority G.S. 90-356; 90-357.5; 90-357.6; 90-358;*

16 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*  
17 *1992;*

18 *Eff. June 1, 1992;*

19 *Recodified from 21 NCAC 17 .0004 Eff. February 1, 1995;*

20 *Amended Eff. January 1, 2021; December 1, 2011; July 18, 2002; March 1, 1996;*

21 *Readopted Eff. August 1, ~~2019~~ 2019;*

22 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0108

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

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In reviewing this Rule, the staff recommends the following changes be made:

*In (4), include “the” after “verify”.*

*In (4), does “false information” include inaccurate information or any other standard for information being proffered?*

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: November 8, 2022

1 21 NCAC 17 .0108 is amended with changes as published in 37:02 NCR 190-201 as follows:

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3 **21 NCAC 17 .0108 DISAPPROVED APPLICATION**

4 The Board shall not approve an applicant for licensure or renewal if the applicant:

- 5 (1) has ~~Has~~ not completed the requirements ~~in G.S. 90-350 through G.S. 90-369 including academic,~~  
6 ~~experience and examination requirements;~~ set by Article 25 of G.S. 90 and the rules of this Chapter.  
7 (2) has ~~Has~~ failed to remit any applicable fees;  
8 (3) has ~~Has~~ failed to comply with requests for supporting documentation; ~~and or~~  
9 (4) has ~~Has~~ presented false information on application documents required by the Board to verify  
10 applicant's qualifications for licensure.

11

12 *History Note: Authority G.S. 90-356; 90-358; **90-363**;*  
13 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*  
14 *1992;*  
15 *Eff. June 1, 1992;*  
16 *Recodified from 21 NCAC 17 .0008 Eff. February 1, 1995;*  
17 *Amended Eff. July 18, 2002;*  
18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
19 *~~2016.~~ 2016.*  
20 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0110

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (e)(2), place a hyphen between "Board issue".*

*Also, how are licensees meant to carry Board-issued license identification cards if (a) only requires the Board to issue electronic ones and (g) only allows official licensure certificates upon written request?*

*In (h), what "documentation" is required of licensees to show a name change?*

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: November 8, 2022



1 21 NCAC 17 .0110 is amended as published in 37:02 NCR 190-201 as follows:

2

3 **21 NCAC 17 .0110 LICENSURE CERTIFICATE**

4 (a) The Board shall ~~prepare and provide~~ issue to each licensee ~~a~~ an electronic license certificate and an electronic  
5 license identification card. The identification card shall contain the person's name, license ~~number~~ number, and date  
6 of expiration.

7 (b) License certificates shall be signed by the Chair, ~~Secretary~~ Secretary, and Treasurer and be affixed with the seal  
8 of the Board. Identification cards shall bear the signature of the Chair.

9 (c) Any certificate or identification card issued by the Board shall remain the property of the Board and shall be  
10 surrendered to the Board ~~on~~ upon demand.

11 (d) Licensees shall comply with G.S. 90-640, Article 37, which specifies the wearing of a name badge.

12 (e) The license certificate must be displayed in a public manner as follows:

13 (1) The license certificate shall be displayed in the primary place of employment of the licensee; or

14 (2) In the absence of a primary place of employment or when the licensee is employed in multiple  
15 locations, the licensee shall carry a current, Board issued license identification card.

16 (e) ~~Neither the licensee nor anyone else shall display a photocopy of a license identification card in lieu of the original~~  
17 ~~license certificate or license identification card.~~

18 (f) Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card  
19 issued by Board.

20 (g) The Board shall ~~replace a lost, damaged or destroyed license certificate or identification card upon receipt of~~ issue  
21 an official licensure certificate upon a written request from the licensee and payment of the ~~duplicate license fee.~~  
22 Duplicate License Certificate Fee.

23 (h) ~~The~~ Within 30 days of a name change, the licensee must submit a written request with documentation reflecting  
24 the name change within 30 days of a name change to the ~~Board~~ Board. Upon receipt of the request and documentation  
25 the Board ~~who~~ shall re-issue a license certificate and license identification card. ~~Requests~~ If an official licensure  
26 certificate reflecting the name change is requested, the request shall be accompanied by ~~duplicate license fee and~~  
27 ~~documentation reflecting the change.~~ a Duplicate License Certificate Fee.

28

29 *History Note: Authority G.S. 90-356; 90-362;*

30 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*  
31 *1992;*

32 *Eff. June 1, 1992;*

33 *Recodified from 21 NCAC 17 .0010 Eff. February 1, 1995;*

34 *Amended Eff. July 18, 2002;*

35 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
36 *2016- 2016;*

37 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0112

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (b), what is the Board's authority to regulate non-licensees, such as "person[s]", beyond the limits of G.S. 90-356(5) which states the Board may "discipline persons licensed under this Article..."?*

*In (c), change "must" to "shall". Use the active voice.*

*In (c), what procedures shall a licensee whose license was revoked on disciplinary grounds but reinstated engage in when required to "reapply and pay all applicable fees"?*

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: November 8, 2022

1 21 NCAC 17. 0112 is amended as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0112 SUSPENSION, REVOCATION AND DENIAL OF LICENSE**

4 (a) The Board may refuse to issue a license, or suspend, revoke or impose probationary conditions and restrictions on  
5 the license of a person upon a finding of any of the causes provided in General Statute Chapter 90, Article 25.

6 (b) When the Board has probable cause to believe that a person, ~~applicant~~ applicant, or licensee has violated any part  
7 of G.S. 90-350 through 90-369 or the rules of ~~the Board, this Chapter~~, the Board shall so advise the person in writing  
8 as referenced in Rule ~~.0116 .0503 and .0504~~ of this Chapter and provide the person with the opportunity for a hearing  
9 as referenced in Rule ~~.0116 .0504~~ of this Chapter. The Board's final decision or order shall be made in writing as  
10 referenced in Rule ~~.0116 .0514~~ of this Chapter.

11 (c) A suspended license shall be subject to expiration and may be renewed as provided in this Section, but such  
12 renewal shall not entitle the licensee to engage in the licensed activity until ~~he/she is~~ they are reinstated. If a license  
13 revoked on disciplinary grounds is reinstated, the licensee must reapply and pay all applicable fees.

14

15 *History Note: Authority G.S. 90-356; 90-363;*

16 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*  
17 *1992;*

18 *Eff. August 3, 1992;*

19 *Recodified from 21 NCAC 17 .0012 Eff. February 1, 1995;*

20 *Amended Eff. January 1, 1996;*

21 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
22 *~~2016.~~ 2016;*

23 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0114

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Many of the items in this Rule are vague or aspirational goals of the profession and would be more suited in policy rather than rules. How do you hold someone to account for the principles established or reconcile the vague standards? Below is a list of problematic portions of (a):*

*In (2), what does “integrity” mean in as an enforcement mechanism?*

*(3) and (4) seem to be at odds in the context of regulatory enactment. What is “controversial information” based on “scientific principles”?*

*Also, how do you enforce (3)’s supposed discrepancies in science or opinion? What does this require of licensees?*

*Similarly, what “current information” is to be used beyond “scientific principles”?*

*In (5), how is a licensee to be held responsible and accountable for personal competency? Either there is a competency requirement, like continuing education, which set standards or there is not one. How do “personal limitations” factor?*

*In (6), how are advertisements done in a “false or misleading manner”? This is vague and a mere “smell test” is not sufficient.*

*In (7), what is the standard for “undue influence”? When is the licensee’s influence over a client or patient “undue”? Is this not covered by other rules?*

*In (9), what “appropriate measures” shall be implemented?*

*(11) is unclear. Who are licensees to collaborate and consult with and under what circumstances? When are referrals “appropriate” and to what entities or persons?*

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: November 8, 2022

*In (12), what are the parameters on when information to a physician is necessary? What is a “change in health status” and when is the licensee required to notify the physician?*

*(13) is vague. What information is a licensee required to give a client or patient and what is the “informed decision” standard?*

*In (15), what is being required on licensees?*

*In (a)(9), remove the comma after “encryption”.*

*In (a)(16)(A), insert an Oxford comma after “drugs”. In (a)(16)(B), what does the term “adjudicated” mean in this context? Does this include only district and superior court final orders or does it include any appeals from such decision? Also, in (C), does “convicted” operate in a similar manner? Additionally, what does it mean for a crime to be “violent or sexual in nature”?*

*What regulation or requirement does (a)(17) place on the regulated public which said “laws and rules” do not already impose? What does this accomplish as a “rule” and how does it not state, in a less clear fashion, what is regulated in (b)(4)?*

*Does (a)(18) impose a requirement on licensees to report other licensees and themselves for “inappropriate behavior or treatment”? It is unclear.*

*Rephrase (a)(20) to “the licensee shall not engage in kissing, fondling, touching, or any activities... with any client, patient, or, while under the licensee’s supervision, any student...” for clarity.*

*In (b)(1), insert an Oxford comma after “drugs”. Also, what is the standard for whether an intoxicant “impairs [his or her] ability to practice”? Similarly, in (b)(2), when is a licensee “unfit to practice”? Does this include short term unfitness or inability?*

Please retype the rule accordingly and resubmit it to our office electronically.

1 21 NCAC 17.0114 is amended as published in 37:02 NCR 190-201 as follows:

2  
3 **21 NCAC 17 .0114 CODE OF ETHICS FOR PROFESSIONAL PRACTICE AND CONDUCT**

4 (a) Licensees, under the Act, shall comply with the following Code of Ethics in their professional practice and conduct.  
5 The Code reflects the ethical principles of the dietetic/nutrition professional and outlines obligations of the licensee to  
6 self, ~~client, society~~ client or patient, society, and the profession and sets forth mandatory standards of conduct for all  
7 licensees.

- 8 (1) The licensee shall provide professional services with objectivity and with respect for the unique  
9 needs and values of individuals as determined through the nutritional assessment.
- 10 (2) The licensee shall conduct all practices of ~~dietics/nutrition~~ dietics or nutrition with honesty and  
11 integrity.
- 12 (3) The licensee shall present substantiated information and interpret controversial information without  
13 personal bias, recognizing that legitimate differences of opinion exist.
- 14 (4) The licensee shall practice ~~dietics/nutrition~~ dietics or nutrition based on scientific principles and  
15 current information.
- 16 (5) The licensee shall assume responsibility and accountability for personal competence in ~~practice.~~  
17 practice, continuously develop and enhance expertise through education, and recognize personal  
18 limitations.
- 19 (6) The licensee shall inform the public of ~~his/her~~ their services by using factual information and shall  
20 not advertise in a false or misleading manner.
- 21 (7) The licensee shall not exercise undue influence on a ~~client, including~~ client or patient. This includes,  
22 not exercising undue influence on a client or patient in the promotion or the sale of services or  
23 products. The licensee shall be alert to any conflicts of interest and shall provide full disclosure  
24 when a real or potential conflict of interest arises.
- 25 (8) The licensee shall not reveal information about a client or patient obtained in a professional capacity,  
26 without prior consent of the ~~client, client or patient,~~ except as authorized or required by ~~law law,~~  
27 and shall make full disclosure about any limitations on ~~his/her~~ their ability to guarantee this.
- 28 (9) The licensee shall implement appropriate measures to protect personal health information using  
29 appropriate technology, such as encryption, and HIPAA compliant software.
- 30 ~~(9)~~(10) The licensee shall recognize and exercise professional judgment within the limits of the licensee's  
31 qualifications and shall not accept or perform professional responsibilities which the licensee knows  
32 or has reason to know that ~~he or she is~~ they are not qualified to perform.
- 33 (11) The licensee shall collaborate with others, obtain consultation, and make referrals as appropriate.
- 34 ~~(10)~~(12) The licensee shall take action, with prior consent of the ~~client, client or patient,~~ to inform a ~~client's~~  
35 client or patient's physician or other health care practitioner in writing in cases where a ~~client's~~ client  
36 or patient's nutritional status indicates a change in health status.

- 1           ~~(11)~~(13) The licensee shall ~~give~~ ensure that their client or patient has sufficient information ~~based on the~~  
2           ~~client's ability to process information such that the client can make his or her own informed~~  
3           ~~decisions. to make an informed decision.~~ The licensee shall not guarantee that nutrition care services  
4           will cause any certain outcome or particular result for the ~~client.~~ client or patient.
- 5           ~~(12)~~(14) The licensee shall permit use of that licensee's name for the purpose of certifying that  
6           ~~dietetics/nutrition~~ dietetics or nutrition services have been rendered only if the licensee has provided  
7           or supervised those services.
- 8           (15)   The licensee shall document, code, and bill to most accurately reflect the character and extent of  
9           delivered services.
- 10          ~~(13)~~(16) The licensee shall notify the Board in writing within 30 days of the occurrence of any of the  
11          following:
- 12           (A)   ~~The Licensee~~ the licensee seeks any medical care or professional treatment for the chronic  
13           or persistent use of intoxicants, drugs or narcotics.
- 14           (B)   ~~The Licensee~~ the licensee is adjudicated to be mentally incompetent.
- 15           (C)   ~~The Licensee~~ the licensee has been convicted or entered into a plea of guilty or nolo  
16           contendere to any crime ~~involving moral turpitude.~~ directly related to the duties and  
17           responsibilities of a dietitian or nutritionist or that was violent or sexual in nature; or
- 18           (D)   ~~The~~ the licensee has been disciplined by an agency of another state that regulates the  
19           practice of dietetics or nutrition.
- 20          ~~(14)~~(17) The licensee shall comply with all laws and rules concerning the profession.
- 21          ~~(15)~~(18) The licensee shall uphold the Code of Ethics for professional practice and conduct by reporting  
22          ~~suspected violations to the Board~~ inappropriate behavior or treatment of a client or patient in  
23          violation of the Code and the ~~Act to the Board.~~ Act.
- 24          ~~(16)~~(19) The licensee shall not interfere with an investigation or disciplinary proceeding by willful  
25          misrepresentation of facts to the Board or its representative or by the use of threats or harassment  
26          against any person.
- 27          ~~(17)~~(20) The licensee shall not engage in kissing, fondling, touching or in any activities, advances, or  
28          comments of a sexual nature with any client or patient or, while under the licensee's supervision,  
29          with any student, trainee, provisional ~~licensee~~ licensee, or person aiding the practice of  
30          ~~dietetics/nutrition.~~ dietetics or nutrition.
- 31          ~~(18)~~(21) The licensee shall not invite, accept, or offer gifts, monetary incentives, or other considerations that  
32          affect or reasonably give an appearance of affecting the licensee's professional judgment.
- 33   (b) Conduct and circumstances which may result in disciplinary action by the Board include the following:
- 34           (1)   The licensee is a chronic ~~or persistent~~ user of intoxicants, drugs or narcotics to the extent that the  
35           same impairs ~~his/her~~ their ability to practice ~~dietetics/nutrition.~~ dietetics or nutrition.

- 1 (2) The licensee is mentally, emotionally, or physically unfit to practice ~~dietetics/nutrition~~ dietetics or  
2 nutrition and is afflicted with such a mental, ~~emotional~~ emotional, or physical disability as to be  
3 dangerous to the health and welfare of a ~~client~~ client or patient.
- 4 (3) The licensee has been disciplined by an agency of another state that regulates the practice of dietetics  
5 or nutrition and at least one of the grounds for the discipline is the same or substantially equivalent  
6 to the grounds for discipline in this state.
- 7 (4) The licensee has violated any provisions of the Act or any of the ~~rules in~~ rules of this Chapter.

8

9 *History Note:* Authority G.S. 90-356(3); 90-356(2);  
10 Temporary Adoption Eff. March 19, 1992 for a period of 180 days to expire on September 13, 1992;  
11 Eff. July 1, 1992;  
12 Recodified from 21 NCAC 17 .0014 Eff. February 1, 1995;  
13 Amended Eff. April 1, 2010; July 1, 2004; July 18, 2002; March 1, 1996;  
14 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
15 ~~2016.~~ 2016;  
16 Amended Eff. December 1, 2022.



**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0302

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Insert a comma after “documented” for consistency.*

*What are “circumstances beyond the control of the student or trainee”? How is a student or trainee to file an extension?*

Please retype the rule accordingly and resubmit it to our office electronically.

1 21 NCAC 17.0302 is amended as published in 37:02 NCR 190-201 as follows:

2

3 **21 NCAC 17 .0302 REQUIREMENTS**

4 A student or trainee under direct supervision is exempt pursuant to G.S. ~~90-360(2)~~ 90-368(2) when enrolled in a course  
5 of study or completing a documented supervised practice experience as required under G.S. 90-357.5, not to exceed  
6 five years. The Board may approve or disapprove a request for an extension of the period of time based upon  
7 circumstances beyond the control of the student or trainee.

8

9 *History Note: Authority G.S. 90-357.5; 90-356(2); 90-368(2);*

10 *Eff. March 1, 1996;*

11 *Amended Eff. July 18, 2002;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*

13 *~~2016.~~ 2016;*

14 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0303

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (1), all semi-colons should be commas or a colon should be placed after “shall” so as to properly make a list within the paragraph. How is the standard of “immediate” going to be used in the context of compliance? How quickly should the supervising practitioner be available?*

*In (3), what is a “qualified practitioner”?*

*Similarly to .0104, what is meant by “authorize, and approve all nutrition care services of the student or trainee supervised”? Based on a plain reading, the supervisor is required to approve the student or trainee’s care, regardless of evaluation. Consider an option, such as “determine whether to approve...”*

Please retype the rule accordingly and resubmit it to our office electronically.

1 21 NCAC 17 .0303 is amended as published in 37:02 NCR 190-201 as follows:

2  
3 **21 NCAC 17 .0303 SUPERVISION**

4 For purposes of G.S. 90-368(2), "direct supervision" means the supervising practitioner:

- 5 (1) ~~discusses and recommends, with the student or trainee, nutrition care services undertaken by the~~  
6 ~~student or trainee, which are appropriate to the level of nutrition care; develop and carry out a~~  
7 ~~program for advancing and optimizing the quality of care provided by a supervisee. together with~~  
8 ~~the supervisee, shall identify and document competency goals for the supervised practice experience~~  
9 ~~described in G.S. 90-357.5; the supervisee's scope of practice; the assignment of clinical tasks as~~  
10 ~~appropriate to the supervisee's level of competence; the supervisee's relationship and access to the~~  
11 ~~supervisor; and an evaluation process for the supervisee's performance.~~  
12 (2) ~~is available for consultation on nutrition care services being performed by the student or trainee,~~  
13 ~~either through on site or through electronic communication; is physically onsite and available for~~  
14 ~~immediate physical intervention where the student or trainee is providing nutrition care that requires~~  
15 ~~physically touching the patient and is either physically onsite and available for immediate physical~~  
16 ~~intervention or immediately and continuously available by means of two-way real-time audiovisual~~  
17 ~~technology that allows for the direct, contemporaneous interaction by sight and sound between the~~  
18 ~~qualified supervisor and the supervisee where the student or trainee is providing medical nutrition~~  
19 ~~therapy not requiring touching of the patient;~~  
20 (3) shall be available to render immediate assistance when requested by ~~the student or trainee or~~ the  
21 patient or client, or shall have arranged for another qualified practitioner to be available in the  
22 absence of the supervising practitioner;  
23 (4) ~~periodically~~ regularly, commensurate with the care provided, observes the nutrition care services of  
24 the student or trainee supervised, and evaluates, authorizes, evaluates and approves all ~~nutrition care~~  
25 ~~services~~ medical nutrition therapy provided by the student or trainee ~~supervised, and supervised,~~  
26 (5) maintains primary ~~shall maintain~~ responsibility for ~~the and control over all~~ nutrition care ~~activities~~  
27 ~~services performed by the student or trainee. trainee, including countersigning all clinical encounter~~  
28 ~~notes; and~~  
29 (6) ensures the student or trainee is designated throughout the supervised practice experience by a title  
30 that indicates the individual's status as a student or trainee.

31  
32 *History Note: Authority G.S. 90-356(2); 90-357.5; 90-368(2);*  
33 *Eff. March 1, 1996;*  
34 *Amended Eff. December 1, 2011; July 18, 2002;*  
35 *Readopted Eff. December 1, 2019. 2019;*  
36 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0304

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (a), the second sentence is confusing with the use of “may make use of facts supplied”. What “facts” are being referenced and how is the Board making use of them? Consider simplifying the sentence, such as “The Board may use such records in determining...”*

*In (b), what records and reports may be required to be produced for the Board and under what circumstances? Also, what is the limiting factor on requesting documents? What authority does the Board have to request any documents, even those unrelated to nutrition and dietetics, and on any basis?*

Please retype the rule accordingly and resubmit it to our office electronically.

1 21 NCAC 17.0304 is amended as published in 37:02 NCR 190-201 as follows:

2

3 **21 NCAC 17 .0304 RECORDS AND REPORTS**

4 (a) Permanent and current records from ~~approved clinical practice programs~~ internships or documented, supervised  
5 practice experiences in nutrition services shall be available for review by representatives of the Board. The Board may  
6 make use of facts supplied in determining compliance with G.S. ~~90-368~~ 90-368(2) and in approving applications for  
7 a license.

8 (b) The Board may require additional records and reports for review at any time to provide evidence and substantiate  
9 compliance with standards of education, the ~~law~~ law, and the rules of ~~the Board~~ this Chapter.

10

11 *History Note: Authority G.S. 90-356(2); 90-368(2); 90-357;*

12 *Eff. March 1, 1996;*

13 *Amended Eff. July 18, 2002;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
15 *~~2016.~~ 2016.*

16 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0401

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In (a)(1), is this definition different than previously used? Why is the definition or use of the same phrase from two subparagraphs in the same statute different between sections? At the end of (a)(1), replace the period with a semi-colon.*

*Similarly, to .0104, what is meant by “evaluate, and approve the acts or functions of the person supervised”? Based on a plain reading, the supervisor is required to approve the student or trainee’s care, regardless of evaluation. Consider an option, such as “determine whether to approve...”*

*In (a)(1)(C), place an Oxford comma after “safety”.*

*Also, this Part is vague. What is being required of licensees and unlicensed personnel and what shall be done to achieve a stated purpose?*

*In (b)(1), on what bases is the “appropriate to the level of knowledge and skill of the unlicensed personnel” determination made?*

*How is (4) meant to limit what can be delegated? At what point does delegation become “the entire spectrum” and how is a licensee to know when that mark has been reached?*

*All subparagraphs of (b) should end with a semi-colon, except (5), and in (4) the semi-colon should be preceded by an “and”.*

*What is meant by (d)(3)?*

Please retype the rule accordingly and resubmit it to our office electronically.

1 21 NCAC 17 .0401 is amended as published in 37:02 NCR 190-201 as follows:

2  
3 **SECTION .0400 - UNLICENSED INDIVIDUALS**

4  
5 **21 NCAC 17 .0401 INDIVIDUALS AIDING THE PRACTICE OF ~~DIETETICS/NUTRITION~~**  
6 **DIETETICS OR NUTRITION**

7 (a) As used in this Section, the following terms and phrases, which have not already been defined in G.S. 90, Article  
8 25, shall have the meanings specified:

9 (1) ~~"Certified Dietary Manager" means an individual who is certified by the Certifying Board of the~~  
10 ~~Dietary Managers.~~

11 (2) ~~"Dietetic Technician Registered" or "DTR" means an individual who is registered by the~~  
12 ~~Commission on Dietetic Registration of the American Dietetic Association.~~

13 (3)(1) "Direct supervision" as referenced in G.S. 90-368(4) means that a licensed ~~dietitian/nutritionist~~  
14 ~~dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed~~  
15 ~~scope of practice includes the practice of dietetics or nutrition~~ shall:

16 (A) be available for consultation on delegated nutrition care activities being performed by the  
17 person being supervised, either through on-site or through electronic communication, and  
18 shall be available to render assistance when needed to the unlicensed personnel and patient  
19 or client, or shall have arranged for another licensee to be available in the absence of the  
20 licensed ~~dietitian/nutritionist, dietitian/nutritionist, licensed nutritionist, or other licensed~~  
21 ~~health care practitioner whose licensed scope of practice includes the practice of dietetics~~  
22 ~~or nutrition, provided that the licensed dietitian/nutritionist shall be on site at the service~~  
23 ~~delivery site and within audible and visual range of any unlicensed personnel person~~  
24 ~~described in Subparagraph (b)(3) of this Rule for the provision of any nutrition care~~  
25 ~~activities;~~

26 (B) directly and personally examine, ~~evaluate~~ evaluate, and approve the acts or functions of the  
27 person supervised; and

28 (C) meet with the unlicensed personnel in a joint effort to establish, ~~maintain~~ maintain, and  
29 elevate a level of performance to ensure the health, safety and welfare of clients or patients  
30 during the provision of nutrition care activities, and provide sufficient guidance and  
31 direction as to enable the unlicensed personnel to ~~competently~~ perform the delegated  
32 activity or function.

33 (4)(2) "Nutrition care activities" means activities performed by unlicensed personnel ~~which that~~ that are  
34 delegated by licensed ~~dietitians/nutritionists~~ dietitians/nutritionists, licensed nutritionists, or other  
35 licensed health care practitioners whose licensed scope of practice includes the practice of dietetics  
36 or nutrition in accordance with Paragraphs ~~(e)(b), and (d)(c), and (d)~~ (b), (c), and (d) of this Rule and ~~which that~~  
37 support the provision of ~~nutrition care services~~ medical nutrition therapy as referenced in G.S. 90-



1 352(4). ~~90-352(3a)~~. Nutrition care activities include the provision of nutrition care to address and  
2 mitigate a medical condition, illness or injury and the provision of weight control programs or  
3 services, as well as community nutrition, food service, and nutrition information or education.

4 ~~(b) Unlicensed personnel aiding the practice of dietetics/nutrition may include the following:~~

- 5 (1) a Certified Dietary Manager;
- 6 (2) a Dietetic Technician Registered; or
- 7 (3) an individual who has met the academic requirements as referenced in G.S. 90-357(3)b.1, c.1 and  
8 ~~d.~~

9 ~~(e)(b)~~ The licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care  
10 practitioner whose licensed scope of practice includes the practice of dietetics or nutrition:

- 11 (1) may delegate nutrition care activities to unlicensed personnel that are appropriate to the level of  
12 knowledge and skill of the unlicensed personnel. ~~The licensed dietitian/nutritionist~~
- 13 (2) shall be responsible for the initial and ongoing determination of the competence of the unlicensed  
14 personnel to perform any delegated acts or functions. Delegation of nutrition care activities shall be  
15 in writing and shall identify the patient or client and the act or function assigned to the unlicensed  
16 personnel. ~~The licensed dietitian/nutritionist~~
- 17 (3) shall supervise the nutrition care activities of the unlicensed personnel and maintain responsibility  
18 for nutrition care activities performed by all personnel to whom the care is delegated. ~~The licensed~~  
19 ~~dietitian/nutritionist~~
- 20 (4) shall not delegate the entire spectrum of ~~nutrition care services, medical nutrition therapy~~ but may  
21 delegate specific acts and functions which support the licensed ~~dietitian/nutritionist's~~ professional's  
22 provision of nutrition care services, medical nutrition therapy. ~~The licensed dietitian/nutritionist~~
- 23 (5) shall have the responsibility for clinical record keeping, documentation, ~~and shall ensure that case~~  
24 ~~notes and other records of services identify whether the licensed dietitian/nutritionist or the~~  
25 ~~unlicensed personnel was the direct provider of the service.~~

26 ~~(d)(c)~~ The following variables shall be considered by the licensed dietitian/nutritionist, licensed  
27 nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics  
28 or nutrition in determining whether or not an activity or function may be delegated to unlicensed personnel:

- 29 (1) knowledge and skills of the unlicensed personnel which include both basic educational and  
30 experience preparation and continuing education and experience;
- 31 (2) the competence of the unlicensed personnel for the activity or function;
- 32 (3) the variables in each service setting which include:
  - 33 (A) the complexity and frequency of nutrition care needed by a given client population;
  - 34 (B) the acuity and stability of the client's condition; and
  - 35 (C) established policies, procedures, practices, and channels of communication of the facilities  
36 where the delegated activities or functions are being performed which lend support to the

1 types of nutrition care activities being delegated, or not delegated, to unlicensed personnel;  
2 and  
3 (4) whether the licensed ~~dietitian/nutritionist~~ dietitian/nutritionist, licensed nutritionist, or other  
4 licensed health care practitioner whose licensed scope of practice includes the practice of dietetics  
5 or nutrition has the skills, ~~experience~~ experience, and ability to ~~competently~~ supervise the unlicensed  
6 personnel for the activity or function.

7 (d) Tasks, treatments, or interventions that may not be delegated include, but are not limited to:

- 8 (1) assessments of data, problem identification, and outcome evaluation;  
9 (2) tasks, treatments, or intervention that require a license; and  
10 (3) any and all aspects of care or activities that require independent clinical judgment or knowledge.

11  
12 *History Note: Authority G.S. 90-356(2); 90-368(4);*  
13 *Eff. March 1, 1996;*  
14 *Amended Eff. May 1, 2010; July 18, 2002;*  
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
16 *~~2016.~~ 2016;*  
17 *Amended Eff. December 1, 2022.*

**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Board of Dietetics & Nutrition

RULE CITATION: 21 NCAC 17 .0402

**DEADLINE FOR RECEIPT: Monday, November 14, 2022**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*What is the standard for whether something is “nonfraudulent” in (a)(1) and (b)(5)?*

*In (a)(1), what is a “healthy population group[]”?*

*What are “valid” pieces of scientific evidence? Who makes such a determination and why are the modifiers in (b), such as peer-reviewed publication, not sufficient?*

*In (b)(5), who determines whether information is “false or misleading” and “safe” and on what bases is such a determination made?*

Please retype the rule accordingly and resubmit it to our office electronically.

1 21 NCAC 17.0402 is amended as published in 37:02 NCR 190-201 as follows:

2  
3 **21 NCAC 17 .0402 INDIVIDUALS PROVIDING NUTRITION INFORMATION**

4 (a) The following terms and phrases shall have the meanings specified:

- 5 (1) "Nutrition information" means nonfraudulent nutrition information related to food, food materials,  
6 or dietary supplements which is designed for one or more healthy population groups and is based  
7 on valid scientific evidence, ~~reports reports,~~ and studies. Nutrition information is not ~~based on an~~  
8 ~~individual nutrition assessment as referenced in G.S. 90-352 or medical nutrition therapy as~~  
9 ~~referenced in 21 NCAC 17 .0101(11) and is not individualized to provide nutrition care services to~~  
10 ~~prevent, manage, treat, cure or rehabilitate a~~ for the purpose of managing or treating a medical  
11 condition, illness, or injury condition for a specific person or group as referenced in G.S. ~~90-352~~  
12 ~~and 21 NCAC 17 .0101(12).~~ 90-352(3a).
- 13 (2) "Reported or historical use" means information about food, food ~~materials~~ materials, or dietary  
14 supplements which is based ~~on the following:~~ on:
- 15 (A) historical or methodological studies or research conducted by experts in the field using  
16 sound scientific methods with randomized controlled clinical trials; or
- 17 (B) reports on valid scientific studies published in peer-reviewed medical or dietetics and  
18 nutrition journals or publications.

19 (b) The Board shall deem an individual who provides nutrition information or education to be in compliance with  
20 G.S. 90-368(9) when:

- 21 (1) The person does not hold ~~himself/herself~~ themselves out to be a dietitian or nutritionist or imply  
22 orally or in writing or indicate in any way that ~~he/she they are~~ is a dietitian/nutritionist; dietitian or  
23 nutritionist;
- 24 (2) The person does not provide ~~nutrition care services or nutrition care activities~~ medical nutrition  
25 therapy support activities which have not been delegated to ~~him/her them~~ by a licensed  
26 dietitian/nutritionist; dietitian/nutritionist, licensed nutritionist, or other licensed health care  
27 practitioner whose licensed scope of practice includes the practice of dietetics or nutrition;
- 28 (3) The person provides nutrition information on or about food, food ~~materials~~ materials, or dietary  
29 supplements, and does not provide nutrition information on the nutritional needs of the ~~consumer;~~  
30 consumer as related to managing or treating a medical condition;
- 31 (4) The person provides nutrition information in connection with the marketing and distribution of the  
32 food, food materials, dietary ~~supplements~~ supplements, or other goods to be provided or sold, and  
33 does not provide nutrition information in connection with the marketing and distribution of ~~nutrition~~  
34 medical nutrition therapy services;
- 35 (5) The person provides nonfraudulent nutrition information which is based on scientific reports and  
36 studies, is not false or misleading, and is safe; and

1           (6)     The person provides the nutrition information on food, food materials, nutraceuticals, dietary  
2           ~~supplements~~ supplements, or other goods in accordance with federal, ~~state~~ State, and local laws,  
3           ~~regulations~~ regulations, and ordinances, including but not limited to G.S. 90, Article 25.  
4

5     *History Note:*     *Authority G.S. 90-356(2); 90-368;*  
6                         *Eff. March 1, 1996;*  
7                         *Amended Eff. July 18, 2002;*  
8                         *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
9                         ~~*2016.*~~ *2016;*  
10                        *Amended Eff. December 1, 2022.*