

Burgos, Alexander N

Subject: FW: [External] RE: NCBDN Final Rules for 12/15/2022
Attachments: 21 NCAC 17.0303.docx

From: Charla Burill <director@ncbdn.org>
Sent: Tuesday, December 13, 2022 3:11 PM
To: Rules, Oah <oah.rules@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Duke, Lawrence <lawrence.duke@oah.nc.gov>
Cc: hjones@jordanprice.com; Holliday, Amanda S <amanda_holliday@unc.edu>; Marnie Jones <info@ncbdn.org>
Subject: [External] RE: NCBDN Final Rules for 12/15/2022

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Please note, I needed to make a correction to .0303 as I believe I had the colon in the wrong place in (1) and a comma instead of a semi-colon at the end of (4). Please see attached and use this one instead of the version sent earlier today.

Apologies for any inconvenience.

Sincerely,

Charla

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 document: competency goals for the supervised practice~~
9 ~~experience described in G.S. 90-357.5; the supervisee's scope of practice; the assignment of clinical~~
10 ~~tasks as appropriate to the supervisee's level of competence; the supervisee's relationship and access~~
11 ~~to the 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~~
15 ~~requires physically touching the patient and is either physically onsite and available for [immediate]~~
16 ~~physical intervention or [immediately and] continuously available by means of two-way real-time~~
17 ~~audiovisual technology that allows for the direct, contemporaneous interaction by sight and sound~~
18 ~~between the qualified supervisor and the supervisee where the student or trainee is providing~~
19 ~~medical nutrition therapy not requiring touching of the patient;~~
20 (3) shall be available to render [immediate] assistance during the provision of nutrition care when
21 requested by ~~the student or trainee or~~ the patient or client, or shall have arranged for another qualified
22 practitioner lawfully able render nutrition care services, to be available in the absence of the
23 supervising practitioner;
24 (4) ~~periodically~~ regularly, commensurate with the care provided, observes the nutrition care services of
25 the student or trainee supervised, and evaluates, authorizes, evaluates and approves all nutrition care
26 services medical nutrition therapy provided by the student or trainee supervised, and [supervised,]
27 supervised;
28 (5) maintains primary ~~shall maintain~~ responsibility for ~~the~~ and control over all nutrition care ~~activities~~
29 services performed by the student or trainee, trainee, including countersigning all clinical encounter
30 notes; and
31 (6) ensures the student or trainee is designated throughout the supervised practice experience by a title
32 that indicates the individual's status as a student or trainee.

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

Burgos, Alexander N

Subject: FW: [External] NCBDN Final Rules for 12/15/2022
Attachments: 21 NCAC 17.0101.docx; 21 NCAC 17.0103.docx; 21 NCAC 17.0104.docx; 21 NCAC 17.0108.docx; 21 NCAC 17.0110.docx; 21 NCAC 17.0112.docx; 21 NCAC 17.0114.docx; 21 NCAC 17.0201.docx; 21 NCAC 17.0202.docx; 21 NCAC 17.0203.docx; 21 NCAC 17.0302.docx; 21 NCAC 17.0303.docx; 21 NCAC 17.0304.docx; 21 NCAC 17.0401.docx; 21 NCAC 17.0402.docx; 21 NCAC 17.0403.docx; 21 NCAC 17.0501.docx; 21 NCAC 17.0502.docx; 21 NCAC 17.0503.docx; 21 NCAC 17.0116.docx; 21 NCAC 17.0504.docx; 21 NCAC 17.0505.docx; 21 NCAC 17.0506.docx; 21 NCAC 17.0507.docx; 21 NCAC 17.0508.docx; 21 NCAC 17.0509.docx; 21 NCAC 17.0510.docx; 21 NCAC 17.0511.docx; 21 NCAC 17.0512.docx; 21 NCAC 17.0513.docx; 21 NCAC 17.0514.docx; 21 NCAC 17.0515.docx; 21 NCAC 17.0516.docx; 21 NCAC 17.0517.docx; 21 NCAC 17.0106.docx; 21 NCAC 17.0304.docx

From: Charla Burill <director@ncbdn.org>
Sent: Tuesday, December 13, 2022 12:33 PM
To: Rules, Oah <oah.rules@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Duke, Lawrence <lawrence.duke@oah.nc.gov>
Cc: hjones@jordanprice.com; Holliday, Amanda S <amanda_holliday@unc.edu>; Marnie Jones <info@ncbdn.org>
Subject: [External] NCBDN Final Rules for 12/15/2022

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Please find attached all rules for consideration at the 12/15/2022 meeting. There should be 35 rules.

Of note, we are aware that some members of the public may choose to speak in opposition to these proposed rules. Thus, we would like to formally request time on the agenda for our legal counsel, Henry Jones, and/or Board representatives, to respond to such comments should a response be necessary and/or helpful.

Thank you,

Charla

Charla M. Burill
Executive Director/Secretary
1135 Kildaire Farm Road, Suite 200
Cary, NC 27511
P: (919) 678-7609
F: (919) 882-1776
www.ncbdn.org

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

2

3 **21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS**

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

5 (1) "Act" means Dietetics/Nutrition Practice Act in ~~G.S. 90, Article 25.~~ Article 25 of Chapter 90 of the
6 General Statutes.

7 (2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the
8 acts listed under G.S. 90-365(a).

9 (3) "Application" means a written request directed to and received by the Board, on forms supplied by
10 the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all
11 information, documents, and other materials necessary to demonstrate that the applicant has met the
12 requirements for licensure as specified in the Act.

13 (4) "Degree" means a degree received from a college or university that was regionally accredited at the
14 time the degree was conferred, or a validated foreign equivalent.

15 (5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.

16 (6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed
17 scope of practice includes dietetics or nutrition.

18 (7) "Nutrition assessment" means:

19 (A) ~~the evaluation of the nutrition needs of individuals and groups by licensed~~
20 ~~dietitians/nutritionists and licensed nutritionists based upon biochemical, anthropometric,~~
21 ~~nutrigenomic, physical, and food and diet history data to determine nutritional needs and~~
22 ~~the initial and ongoing, dynamic, and systematic process of obtaining, verifying, and~~
23 ~~interpreting biochemical, anthropometric, physical, nutrigenomic, clinical, and dietary data~~
24 ~~to [make decisions about the nature and cause of nutrition related problems] determine~~
25 ~~nutritional needs and order therapeutic diets, including enteral and parenteral nutrition; and~~

26 (B) ~~the ordering of laboratory tests related to the practice of nutrition and dietetics.~~ dietetics;
27 and

28 (C) ~~the conducting of a swallow screen.~~

29 (D) ~~The collection of data does not, by itself, constitute nutrition assessment.~~

30 (8) "Nutrition counseling" ~~[intervention, education, counseling, or management]~~ means the advice and
31 assistance provided ~~by licensed dietitians/nutritionists and licensed nutritionists~~ to individuals or
32 groups on nutrition intake by integrating information from the nutrition assessment with information
33 on food and other sources of nutrient and meal preparation consistent with therapeutic needs and
34 cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs,
35 education, and socioeconomic status. [The following does not constitute nutrition intervention
36 education, counseling, or management: presenting educational lectures, videos, webinars aimed at
37 mass audiences; writing books, articles, blog posts, or social media content; developing condition-

1 based training programs and treatment protocols not related to a current client; watching or listening
2 to educational lectures, videos, or webinars; teaching classes in academic programs; and conducting
3 research that is not related to a current client.]

4 (9) "Nutrition education" means a formal process to instruct or train a client, patient, or population
5 group in a skill or to impart knowledge to help clients, patients, or population groups voluntarily
6 manage or modify food, nutrition, and physical activity choices and behavior to maintain or improve
7 health.

8 (10) "Nutrition intervention" means planned actions and nutrition counseling by a provider of nutrition
9 care, intended to improve a nutrition-related behavior, risk factor, environmental condition, or
10 aspect of the health status, consistent with therapeutic needs and cultural background.

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;]~~ assessments, nutrition intervention, education, counseling, or ~~[management;]~~
18 management, and nutrition monitoring 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)]~~ for the purposes of nutrition, hydration,
24 and administration of ~~[medication;]~~ 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)]~~ involving development and delivery of education to a specific
35 ~~[population;]~~ population; supervisor grand rounds and one-on-one meetings with one's supervisor
36 to discuss current patient or client care; or direct hours approved as part of a programmatically
37 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
3 enteral, or parenteral routes as part of treatment of disease or clinical conditions to modify,
4 eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to
5 provide mechanically 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.

1 21 NCAC 17.0103 is proposed for amendment as follows:

2

3 **21 NCAC 17 .0103 QUALIFICATIONS FOR LICENSURE**

4 Each applicant for an initial license as a licensed dietitian/nutritionist shall meet the qualifications as set forth in G.S.
5 ~~90-357. 90-357.5(a)~~ and the Rules of this Chapter. Each applicant for an initial license as a licensed nutritionist shall
6 meet the qualifications as set forth in G.S. 90-357.5(c) and the Rules of this Chapter.

7

8 *History Note: Authority G.S. 90-356; 90-357;*

9 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
10 *1992;*

11 *Eff. June 1, 1992;*

12 *Recodified from 21 NCAC 17 .0003 Eff. February 1, 1995;*

13 *Amended Eff. December 1, 2011; 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. November 1, 2022.*

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.

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, 90-357.5 and this Rule~~;~~ and the applicant is
13 not in 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.

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>, <https://www.acbn.org/apply>.

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. Four months after submission of an application,
32 After six [four] months, if an the application and any required documentation has not been completed by the applicant
33 applicant, and ready for Board review, the application shall be considered cancelled due to failure to complete.
34 Complete applications that the Board determines require additional evidence under Paragraph (m) of this Rule shall
35 be eligible for consideration for the timeline set forth in that Paragraph.

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

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

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

9 (2) Submit documentation, including official transcripts, demonstrating the course of study met the
10 competency requirements of the most current edition of the ACEND Accreditation Standards for
11 Nutrition and Dietetic Didactic Programs. Programs, which is hereby incorporated by reference.
12 Copies of these standards may be obtained at no charge from ACEND's website at:
13 [https://www.eatrightpro.org/acend/accreditation-standards-fees-and-policies/2022-standards-and-](https://www.eatrightpro.org/acend/accreditation-standards-fees-and-policies/2022-standards-and-templates)
14 [templates.](https://www.eatrightpro.org/acend/accreditation-standards-fees-and-policies/2022-standards-and-templates)

15 (i) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(c) shall submit
16 documentation, including official transcripts, demonstrating completion of the requirements stated in G.S. 90-
17 357.5(c)(1).

18 (j) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice
19 experience in G.S. 90-357.5(a)(1)(b) shall either:

20 (1) Submit a verification statement that includes the original signature of the Program Director of a
21 documented, supervised practice experience that has been accredited by the ACEND as meeting the
22 competency requirements of the most current edition of the Accreditation Standards for Nutrition
23 and Dietetics Internship Programs; or

24 (2) Submit documentation demonstrating at least 1000 hours of documented, supervised practice
25 experience, meeting the competency requirements of the most current edition of the Accreditation
26 Standards for Nutrition and Dietetics Internship Programs issued by ACEND. The scope of activities
27 may include alternate supervised experiential learning such as simulation, case studies, and role
28 playing, but must also include at least 750 hours in a professional work setting, of direct supervised
29 experiential learning. The 1000 hours must be concurrent with or following completion of the
30 academic requirements for licensure and need not be a paid experience. ~~The following shall be~~
31 ~~necessary to determine and verify supervised practice experience:~~

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

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

1 ~~(B)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice
2 experience, information and verification of each ~~part~~ part, as provided in (k)(2) and (k)(d) of this
3 Rule, is required.

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

5 ~~(i)~~(A) the name and address of the facility providing the supervised practice experience;

6 ~~(ii)~~(B) the name, address, phone, and title of the supervisor who supervised the supervised practice
7 experience;

8 ~~(iii)~~(C) a summary of nutrition services performed, along with dates and hours spent performing
9 them;

10 ~~(iv)~~(D) evidence that the supervisor met the requirements stated in G.S. 90-357.5(a)(1)(b) at the
11 time of supervision; and

12 ~~(v)~~(E) an attestation that the supervisor is not related to, married to, or domestic partners with the
13 supervisee.

14 ~~(D)~~(3) Each supervisor shall review the evidence provided by the applicant and verify that the information
15 is true, including: shall:

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

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

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

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

25 ~~(ii)~~(E) ~~providing~~ provide a summary of the nutrition services ~~provided~~ completed under his or her
26 supervision; and

27 ~~(iii)~~(F) ~~providing~~ provide an evaluation of the applicant for the Board to be able to assess the
28 applicant's performance in completion of the competencies required by ACEND.

29 ~~(k)~~(l) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice
30 experience in G.S. 90-357.5(c)(2) ~~shall~~ must submit documentation demonstrating at least 1000 hours of documented,
31 supervised practice experience, meeting the requirements as stated in G.S. 90-357.5(c)(2). The scope of activities may
32 include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also
33 include at least 750 hours in a professional work setting, of direct supervised experiential learning. The 1000 hours
34 must be concurrent with or following completion of the academic requirements for licensure and need not be a paid
35 experience. Learning experiences must prepare students to [work with] provide nutrition care services for various
36 populations of diverse cultures, genders, and across the life cycle, which may include infants, children, adolescents,
37 adults, pregnant/lactating females, and older adults and to be able to competently formulate actionable medical

1 nutrition therapies and interventions, education, counseling, and ongoing care for the prevention, modulation, and
2 management of a range of acute and chronic medical conditions, including:

- 3 (1) underweight, overweight, malnutrition, and obesity;
- 4 (2) cardiometabolic;
- 5 (3) endocrine;
- 6 (4) immune and autoimmune; and
- 7 (5) gastrointestinal disorders.

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

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

14 ~~(2)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice
15 experience, information and verification of each part part, as provided in (m)(2) and (m)(3) of this
16 Rule. is required.

17 ~~(3)~~(2) The applicant shall provide to the Board for each supervisor/facility:

- 18 (A) the name and address of the facility providing the supervised practice experience;
- 19 (B) the name, address, phone, and title of the supervisor who supervised the supervised practice
20 experience;
- 21 (C) a summary of nutrition services performed, along with dates, and hours spent performing
22 them;
- 23 (D) evidence that the supervisor met the requirements as stated in G.S. 90-357.5(c)(2) at the
24 time of supervision; and
- 25 (E) an attestation that the supervisor is not related to, married to, or domestic partners with the
26 supervisee.

27 ~~(4)~~(3) Each supervisor shall review the evidence provided by the applicant and verify that the information
28 is true, including: shall:

- 29 (A) regularly, commensurate with the care provided, observe the provision of nutrition care
30 services by the student or trainee supervised, and evaluate, authorize, and approve all
31 nutrition care services of the student or trainee supervised;
- 32 (B) maintain primary responsibility for and control over all nutrition care services performed
33 by the student or trainee, including clinical record keeping;
- 34 (C) ensure the student or trainee is designated throughout the supervised practice experience
35 by a title that indicates the individual's status as a student or trainee;
- 36 ~~(A)~~(D) verify that the applicant participated in nutrition services under his or her supervision,
37 stating the total number of hours;

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

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

8 ~~(n)~~ Applicants who have obtained ~~their~~ his or her education outside of the United States and its territories shall:

9 (1) Have ~~their~~ his or her academic ~~degree(s)~~ degrees evaluated by a Board-approved foreign credential
10 evaluating service as equivalent to a baccalaureate or higher degree conferred by a U.S. college or
11 university accredited by the regional accrediting agencies recognized by the Council on Higher
12 Education Accreditation and the U.S. Department of Education; and

13 (2) All documents submitted in a language other than English shall be accompanied by a certified
14 translation thereof in English from a Board-approved translation service.

15 (3) The following foreign credential evaluating and translation services are Board-approved:

16 (A) Academic and Professional International Evaluation, Inc., which may be found at:
17 www.apie.org;

18 (B) Academic Credentials Evaluation Institute, Inc., which may be found at: [https://www.acei-](https://www.acei-global.org/)
19 [global.org/](https://www.acei-global.org/);

20 (C) American Education Research Corporation, Inc., which may be found at: [http://www.aerc-](http://www.aerc-eval.com/)
21 [eval.com/](http://www.aerc-eval.com/);

22 (D) Association of International Credential Evaluators, Inc., which may be found at: [www.aice-](http://www.aice-eval.org/)
23 [eval.org](http://www.aice-eval.org/);

24 (E) Bruscan Educational Information Services, which may be found at:
25 <http://www.bruscan.com/>;

26 (F) Center for Educational Documentation, Inc., which may be found at:
27 <http://www.cedevaluations.com/>;

28 (G) Education Credential Evaluators, Inc., which may be found at: www.ece.org;

29 (H) Educational Perspectives, which may be found at: <https://www.edperspective.org/>;

30 (I) Foundation for International Services, Inc., which may be found at: [https://www.fis-](https://www.fis-web.com/)
31 [web.com/](https://www.fis-web.com/);

32 (J) International Education Research Foundation, which may be found at: www.ierf.org;

33 (K) Josef Silny & Associates, which may be found at: <http://www.jsilny.org/>;

34 (L) SpanTran: The Evaluation Company, which may be found at: <https://www.spantran.com/>;
35 or

36 (M) World Education Services, Inc., which may be found at: <https://www.wes.org/>.

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

- 4 (1) offered the ability to place the application on hold for a time period of up to one year from the date
5 of the letter providing the Board's determination, so long as such a request is made in writing within
6 30 days of the date of the letter. During this hold time, the applicant may provide other evidence
7 demonstrating the applicant satisfied the requirements the Board determined were not met;
- 8 (2) offered the opportunity to appear for an interview before the Board. At any time during that
9 interview, the applicant may stop the interview, and request to have all or any part of requested
10 information provided in writing; and
- 11 (3) offered the ability to withdraw the application so long as such a request is made in writing within
12 30 days of the date of the letter. The applicant will be allowed to apply for licensure at a later time.

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

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

21
22 *History Note: Authority G.S. 90-356; 90-357.5; 90-357.6; 90-358;*
23 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
24 *1992;*
25 *Eff. June 1, 1992;*
26 *Recodified from 21 NCAC 17 .0004 Eff. February 1, 1995;*
27 *Amended Eff. January 1, 2021; December 1, 2011; July 18, 2002; March 1, 1996;*
28 *Readopted Eff. August 1, 2019; 2019;*
29 *Amended Eff. December 1, 2022.*

1 21 NCAC 17 .0106 proposed to be amended as published in 37:02 NCR 190-201 is now repealed as follows:

2

3 **21 NCAC 17 .0106 GRANTING LICENSE WITHOUT EXAMINATION**

4

5 *History Note: Authority G.S. 90-356; 90-360;*

6 *Filed as a Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on*
7 *September 13, 1992;*

8 *Eff. June 1, 1992;*

9 *Recodified from 21 NCAC 17 .0006 Eff. February 1, ~~1995~~. 1995;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
11 *~~2016~~-2016;*

12 *Repealed Eff. December 1, 2022.*

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

2

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 **Chapter 90 of the General Statutes**
7 **[G.S. 90]** and the rules of this Chapter.
- 8 (2) ~~has~~ Has failed to remit any applicable fees; **and**
- 9 (3) ~~has~~ Has failed to comply with requests for supporting **documentation; documentation** and ~~[or]~~
- 10 (4) ~~[has]~~ Has **presented false information on application documents required by the Board to verify**
11 **applicant's qualifications for licensure.**

12

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

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

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

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

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

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

31 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
32 *1992;*

33 *Eff. June 1, 1992;*

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

35 *Amended Eff. July 18, 2002;*

36 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
37 *2016. 2016;*

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-revoke,~~ or impose probationary conditions and
5 restrictions on the license of a person upon a finding of any of the causes provided in Article 25 of Chapter 90 of the
6 General Statutes. [General Statute Chapter 90, Article 25.]

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

12 (c) A suspended license ~~shall be~~ **is** subject to expiration and may be renewed as provided in this Section, but such
13 renewal shall not entitle the licensee to engage in the licensed activity until ~~he/she~~ **he or she[is] [they are]** reinstated.
14 If a license revoked on disciplinary grounds is **to be** reinstated, the licensee must reapply and pay all applicable fees.
15 The Board may deny or refuse to reinstate a license or may suspend or impose probationary conditions on a license if
16 the licensee has engaged in conduct listed in G.S. 90-363.

17
18 *History Note: Authority G.S. 90-356; 90-363;*

19 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
20 *1992;*

21 *Eff. August 3, 1992;*

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

23 *Amended Eff. January 1, 1996;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
25 *~~2016.~~ 2016;*

26 *Amended Eff. December 1, 2022.*

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, honesty.
- 12 (3) The licensee shall present substantiated information and assess the validity and applicability of
13 scientific evidence without personal bias, interpret controversial information without personal bias,
14 recognizing that legitimate differences of opinion exist.
- 15 (4) The licensee shall practice evidence-based ~~dietics/nutrition~~ dietics or [nutrition] nutrition, based
16 on scientific principles and current information.
- 17 (5) The licensee shall assume responsibility and accountability for personal competence in ~~practice,~~
18 practice, continuously develop and enhance expertise through education, and recognize personal
19 limitations.
- 20 (6) The licensee shall inform the public of ~~his/her~~ [their] his or her services by using accurate and
21 truthful information, factual information and shall not advertise in a false or misleading manner.
- 22 (7) The licensee shall not exercise undue influence on a ~~client, including~~ client or patient. This includes,
23 not exercising [undue influence] excessive persuasion or improper influence on a client or patient
24 in the promotion or the sale of services or products. The licensee shall be alert to any conflicts of
25 interest and shall provide full disclosure when a real or potential conflict of interest arises.
- 26 (8) The licensee shall not reveal information about a client or patient obtained in a professional capacity,
27 without prior consent of the ~~client, client or patient,~~ except as authorized or required by ~~law~~ law,
28 and shall make full disclosure about any limitations on ~~his/her~~ [their] his or her ability to guarantee
29 this.
- 30 (9) The licensee shall safeguard client or patient confidentiality according to current regulations and
31 laws, [implement appropriate measures to protect personal health information using appropriate
32 technology, such as encryption, [encryption, and HIPAA compliant software.]
- 33 ~~(9)~~(10) The licensee shall recognize and exercise professional judgment within the limits of the licensee's
34 qualifications and shall not accept or perform professional responsibilities which the licensee knows
35 or has reason to know that he or she is [they are] not qualified to perform.
- 36 (11) The licensee shall collaborate with ~~[ethers,]~~ others involved in the patient's care, obtain
37 [consultation,] consultation from health care providers when appropriate, and make referrals to

1 health care providers [as appropriate] when the licensee cannot provide the client or patient the
2 services he or she needs.

3 ~~(10)~~(12) The licensee shall take action, with prior consent of the ~~client,~~ client or patient, to inform a ~~client's~~
4 client or patient's physician or other health care practitioner in writing in cases where a ~~client's~~ client
5 or patient's nutritional status indicates a change in health ~~status.~~ status impacting the disease or
6 medical condition for which the physician or other health care practitioner is treating the client or
7 patient.

8 ~~(11)~~(13) The licensee shall ~~give~~ ensure that their client or patient has sufficient information ~~based on the~~
9 ~~client's ability to process information such that the client can make his or her own informed~~
10 ~~decisions.~~ to understand the nutrition diagnosis and the implications of nutrition intervention. [make
11 an informed decision.] The licensee shall not guarantee that nutrition care services will cause any
12 certain outcome or particular result for the ~~client.~~ client or patient.

13 ~~(12)~~(14) The licensee shall permit use of that licensee's name for the purpose of certifying that
14 ~~dietetics/nutrition~~ dietetics or nutrition services have been rendered only if the licensee has provided
15 or supervised those services.

16 (15) The licensee shall document, code, and bill nutrition services to most accurately reflect the character
17 and extent of such delivered services.

18 ~~(13)~~(16) The licensee shall notify the Board in writing within 30 days of the occurrence of any of the
19 following:

20 (A) ~~The Licensee~~ the licensee seeks any medical care or professional treatment for the chronic
21 or persistent use of intoxicants, drugs drugs, or narcotics.

22 (B) ~~The Licensee~~ the licensee is adjudicated to be mentally incompetent.

23 (C) ~~The Licensee~~ the licensee has been convicted or entered into a plea of guilty or nolo
24 contendere to any crime ~~involving moral turpitude.~~ directly related to the duties and
25 responsibilities of a dietitian or nutritionist or that was violent or sexual in nature; or

26 (D) ~~The~~ the licensee has been disciplined by an agency of another state that regulates the
27 practice of dietetics or nutrition.

28 ~~(14)~~(17) The licensee shall comply with all laws and rules concerning the profession.

29 ~~(15)~~(18) The licensee shall uphold the Code of Ethics for professional practice and conduct by reporting
30 ~~suspected violations~~ to the Board inappropriate behavior or treatment of a client or patient by the
31 licensee or others in violation of the Code and the ~~Act to the Board.~~ Act.

32 ~~(16)~~(19) The licensee shall not interfere with an investigation or disciplinary proceeding by willful
33 misrepresentation of facts to the Board or its representative or by the use of threats or harassment
34 against any person.

35 ~~(17)~~(20) The licensee shall not engage in kissing, fondling, touching touching, or in any activities, advances,
36 or comments of a sexual nature with any ~~client [or patient]~~ client, patient, or, while under the

1 licensee's supervision, ~~with any supervisee, student, trainee, or trainee, provisional licensee~~
2 ~~[licensee,] or person aiding the practice of dietetics/nutrition. [dietetics or nutrition.]~~

3 (18)(21) The licensee shall not invite, accept, or offer gifts, monetary incentives, or other considerations that
4 affect or reasonably give an appearance of affecting the licensee's professional judgment.

5 (b) Conduct and circumstances which may result in disciplinary action by the Board include the following:

6 (1) The licensee is a chronic ~~or persistent~~ user of intoxicants, ~~drugs~~ ~~drugs~~, or narcotics to the extent that
7 the same impairs ~~his/her~~ ~~[their]~~ ~~his or her~~ ability to practice ~~dietetics/nutrition.~~ ~~dietetics or~~
8 ~~[nutrition.]~~ ~~nutrition, as determined by a health care provider licensed to conduct such assessment.~~

9 (2) The licensee is mentally, emotionally, or physically unfit to practice ~~dietetics/nutrition~~ ~~dietetics or~~
10 ~~nutrition~~ and is afflicted with such a mental, ~~emotional~~ ~~emotional~~, or physical disability as to be
11 dangerous to the health and welfare of a ~~client.~~ ~~client or~~ ~~[patient.]~~ ~~patient, as determined by a health~~
12 ~~care provider licensed to conduct such assessment.~~

13 (3) The licensee has been disciplined by an agency of another state that regulates the practice of dietetics
14 or nutrition and at least one of the grounds for the discipline is the same or substantially equivalent
15 to the grounds for discipline in this state.

16 (4) The licensee has violated any provisions of the Act or any of the ~~rules in~~ ~~rules of~~ this Chapter.

17
18 *History Note:* *Authority G.S. 90-356(3); 90-356(2);*
19 *Temporary Adoption Eff. March 19, 1992 for a period of 180 days to expire on September 13, 1992;*
20 *Eff. July 1, 1992;*
21 *Recodified from 21 NCAC 17 .0014 Eff. February 1, 1995;*
22 *Amended Eff. April 1, 2010; July 1, 2004; July 18, 2002; March 1, 1996;*
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
24 *~~2016.~~ 2016;*
25 *Amended Eff. December 1, 2022.*

1 21 NCAC 17 .0116 is repealed as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0116 VIOLATIONS, COMPLAINTS, SUBSEQUENT BOARD ACTION, AND**
4 **HEARINGS**

5

6 *History Note: Authority G.S. 90-356; 90-363; 90-370;*
7 *Temporary Adoption Eff. July 16, 1992 for a period of 180 days or until the permanent rule becomes*
8 *effective, whichever is sooner;*
9 *Eff. November 30, 1992;*
10 *Recodified from 21 NCAC 17 .0016 Eff. February 1, 1995;*
11 *Amended Eff. April 1, 2010; July 18, 2002; January 1, 1996;*
12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
13 *2016;*
14 *Repealed Eff. December 1, 2022.*

1 21 NCAC 17 .0201 is proposed for repeal as follows:

2

3 **21 NCAC 17 .0201** **DEFINITIONS**

4

5 *History Note:* *Authority G.S. 90-356; 90-368;*

6 *Eff. February 1, 1995;*

7 *Amended Eff. December 1, 2011; March 1, 1996;*

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

9 ~~*2016-2016;*~~

10 *Repealed Eff. November 1, 2022.*

1 21 NCAC 17 .0202 is proposed for repeal as follows:

2

3 **21 NCAC 17 .0202 REQUIREMENT FOR REVIEW**

4

5 *History Note: Authority G.S. 90-356; 90-368;*

6 *Eff. February 1, 1995;*

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

8 *~~2016.~~ 2016.*

9 *Repealed Eff. November 1, 2022.*

1 21 NCAC 17 .0203 is proposed for repeal as follows:

2

3 **21 NCAC 17 .0203 REVIEW AND BOARD ACTION**

4

5 *History Note: Authority G.S. 90-356; 90-368;*

6 *Eff. February 1, 1995;*

7 *Amended Eff. December 1, 2011;*

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

9 *~~2016.~~ 2016;*

10 *Repealed Eff. November 1, 2022.*

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]~~ documented, supervised practice experience as required under G.S. 90-357.5,
6 not to exceed five years. The Board may approve or disapprove a ~~[request]~~ request, submitted to the Board
7 electronically or via postal mail, for an extension of the period of time if the delay is not the result of a willful or
8 negligent act, error, or omission, or a failure to exercise reasonable diligence. ~~[based upon circumstances beyond the~~
9 ~~control of the student or trainee.]~~

10

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

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.*

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]. shall: identify and document competency goals for the supervised practice~~
9 ~~experience described in G.S. 90-357.5; the supervisee's scope of practice; the assignment of clinical~~
10 ~~tasks as appropriate to the supervisee's level of competence; the supervisee's relationship and access~~
11 ~~to the 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~~
15 ~~requires physically touching the patient and is either physically onsite and available for [immediate]~~
16 ~~physical intervention or [immediately and] continuously available by means of two-way real-time~~
17 ~~audiovisual technology that allows for the direct, contemporaneous interaction by sight and sound~~
18 ~~between the qualified supervisor and the supervisee where the student or trainee is providing~~
19 ~~medical nutrition therapy not requiring touching of the patient;~~
20 (3) shall be available to render [immediate] assistance during the provision of nutrition care when
21 requested by ~~the student or trainee or~~ the patient or client, or shall have arranged for another qualified
22 practitioner lawfully able render nutrition care services, to be available in the absence of the
23 supervising practitioner;
24 (4) ~~periodically~~ regularly, commensurate with the care provided, observes the nutrition care services of
25 the student or trainee supervised, and ~~evaluates, authorizes, evaluates and approves all nutrition care~~
26 ~~services~~ medical nutrition therapy provided by the student or trainee supervised, and supervised,
27 (5) maintains primary ~~shall maintain~~ responsibility for ~~the~~ and control over all nutrition care activities
28 services performed by the student or trainee, including countersigning all clinical encounter
29 notes; and
30 (6) ensures the student or trainee is designated throughout the supervised practice experience by a title
31 that indicates the individual's status as a student or trainee.

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

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~~ use such records in determining compliance with G.S. ~~90-368~~ 90-368(2) and in approving
7 applications for a license.

8 [(b) The Board may require additional such records and reports for review at any time throughout the period of
9 completing an individual's internship or documented, supervised practice experience in nutrition services required
10 under G.S. 90-357.5 and throughout the period of application review and to provide evidence and substantiate
11 compliance with standards of education, the law [law.] Article 25 of Chapter 90 of the General Statutes and the rules
12 of the Board. this Chapter.

13

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

15 *Eff. March 1, 1996;*

16 *Amended Eff. July 18, 2002;*

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

18 *~~2016- 2016;~~*

19 *Amended Eff. December 1, 2022.*

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~~ use such records in determining compliance with G.S. ~~90-368~~ 90-368(2) and in approving
7 applications for a license.

8 [(b) The Board may require additional such records and reports for review at any time throughout the period of
9 completing an individual's internship or documented, supervised practice experience in nutrition services required
10 under G.S. 90-357.5 and throughout the period of application review and to provide evidence and substantiate
11 compliance with standards of education, the law [law.] Article 25 of Chapter 90 of the General Statutes and the rules
12 of the Board. this Chapter.

13

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

15 *Eff. March 1, 1996;*

16 *Amended Eff. July 18, 2002;*

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

18 *~~2016- 2016;~~*

19 *Amended Eff. December 1, 2022.*

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; Article 25 of Chapter 90 of the General Statutes 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.] nutrition;~~ provided that the licensed dietitian/nutritionist shall be on site at
23 ~~the service delivery site and within audible and visual range of any unlicensed personnel~~
24 ~~person 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~~ 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)~~ 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~~ 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.~~ 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.~~ 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.~~ delegated;
19 ~~The licensed 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.] therapy; and ~~The licensed~~
23 ~~dietitian/nutritionist~~
- 24 (5) shall have the responsibility for clinical record ~~keeping,~~ documentation. ~~and shall ensure that case~~
25 ~~notes and other records of services identify whether the licensed dietitian/nutritionist or the~~
26 ~~unlicensed personnel was the direct provider of the service.~~

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

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

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

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. evidence.~~ Nutrition information is not
8 ~~based on an individual nutrition assessment as referenced in G.S. 90-352 or medical nutrition~~
9 ~~therapy as referenced in 21 NCAC 17 .0101(11) and is not individualized to provide nutrition care~~
10 ~~services to prevent, manage, treat, cure or rehabilitate a for the purpose of managing or treating a~~
11 ~~medical condition, illness, or injury condition~~ for a specific person or group as referenced in G.S.
12 ~~90-352 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~~ himself or herself [themselves] out to be a dietitian or
22 nutritionist or imply orally or in writing or indicate in any way that ~~he/she~~ [they are] he or she is a
23 ~~dietitian/nutritionist; dietitian or 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~~ him or 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)(5) 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.*

1 21 NCAC 17.0403 is amended as published in 37:02 NCR 190-201 as follows:

2

3 **21 NCAC 17 .0403 ~~ELECTRONIC PRACTICE-TELEPRACTICE~~**

4 Any person, whether residing in this ~~state~~ State or not, who by use of electronic or other medium performs any of the
5 acts described as the practice of ~~dietics/nutrition, medical nutrition therapy with a client or patient located in this~~
6 State, but is not licensed pursuant to ~~Article 25 of G.S. 90~~ Article 25 of Chapter 90 of the General Statutes shall be
7 deemed by the Board as being engaged in the practice of ~~dietics/nutrition~~ medical nutrition therapy and subject to
8 the enforcement provisions available to the Board. Among other remedies, the Board shall report violations of this
9 Rule to any occupational licensing board having issued an occupational license to a person who violates this Rule.
10 This Rule does not apply to persons licensed pursuant to, or exempt from licensure pursuant to, Article 25 of G.S. 90.

11

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

13 *Eff. February 1, 2006;*

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.*

1 21 NCAC 17 .0501 is proposed for adoption as follows:

2
3 **SECTION .0500 – INVESTIGATIVE PROCESS, COMPLAINTS, AND ADMINISTRATIVE HEARINGS**

4
5 **21 NCAC 17 .0501 DEFINITIONS**

6 As used in this Section:

7 (1) “Good cause” related to motions or requests to continue or for additional time for responding
8 includes:

9 (a) death or incapacitating illness of a party, or attorney of a party;

10 (b) a court order requiring a continuance;

11 (c) lack of proper notice of the hearing;

12 (d) a substitution of the representative or attorney of a party if the substitution is shown to be
13 required;

14 (e) a change in the parties or pleadings requiring postponement; and agreement for a
15 continuance by all parties if either more time is necessary to complete mandatory
16 preparation for the case, such as authorized discovery, and the parties and the

17 Board have agreed to new hearing date or parties have agreed to a settlement of the case
18 that has been or is likely to be approved by the final decision maker;

19 (f) where, for any other reason, either party has shown that the interests of justice require a
20 continuance or additional time.

21 (2) “Good cause” related to motions or requests to continue or for additional time for responding shall
22 not include:

23 (a) intentional delay;

24 (b) unavailability of a witness if the witness testimony can be taken by deposition; and

25 (c) failure of the attorney or representative to properly utilize the statutory notice period to
26 prepare for the hearing.

27 (3) “Investigative Committee” means a Board committee composed of one licensed dietitian/nutritionist
28 member of the Board, one licensed nutritionist member of the Board, and the public member of the
29 Board. This Committee is charged with the duty of reviewing cases and complaints involving
30 licensees, applicants for licensure, and all other allegations involving violations of the
31 Dietetics/Nutrition Practice Act. The Investigative Committee shall be responsible for directing
32 investigations and making recommendations to the Board regarding unresolved cases or complaints
33 at regularly scheduled meetings.

34 (4) “Licensee” means all persons to whom the Board has issued a license under [Article 25 of G.S. 90.]
35 Article 25 of Chapter 90 of the General Statutes.

36
37 History Note: Authority G.S. 90-356; G.S. 150B-38;

1 21 NCAC 17 .0502 is adopted as published in 37:04 NCR 334-340 as follows:

2
3 **21 NCAC 17 .0502 COMPLAINTS**
4

5 (a) Anyone may complain to the Board alleging that a person, applicant, or licensee has committed an action
6 prohibited by [~~Article 25, Chapter 90 of the North Carolina~~] Article 25 of Chapter 90 of the General Statutes or the
7 rules of the Board.

8 (b) Complaints may be submitted to the Board by completing the Board's complaint form online at
9 www.ncbndn.org/file-a-complaint or a paper form may be requested by contacting the Board office. Paper forms may
10 be delivered to the Board by mail or hand-delivery at 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511.

11 (c) Each complaint submitted shall set forth specific facts and circumstances known to the complainant relating to
12 the Dietetics/Nutrition Practice Act or the Board's rules, and the conduct or competence of each person who is the
13 subject of the complaint.

14 (d) Anonymous complaints are not investigated unless, if upon preliminary review of the contents of the complaint
15 by Board staff, it appears the allegation(s) indicate a violation of the Dietetics/Nutrition Practice Act or the Board's
16 rules, sufficient identification information for the person who is the subject of the complaint is provided, and there is
17 sufficient information to substantiate allegation(s).

18 (e) Investigations may be conducted by the Board staff or by other persons authorized by the Board.

19 (f) Upon receipt of a complaint, the Board shall confirm receipt of the complaint to the complainant.

20 (g) The Board staff, or its authorized Investigator, shall assign a complaint number to the initial complaint, review
21 the contents of the complaint, and conduct a preliminary review of information to determine whether an individual's
22 conduct or competence relates to the Dietetics/Nutrition Practice Act or the Board's rules.

23 (h) If preliminary information in the complaint does not relate to an individual's conduct or competence under the
24 authority of the Dietetics/Nutrition Practice Act or the Board's rules, the Board staff, or its authorized Investigator,
25 shall close the complaint and send notice to the complainant. If applicable, the Board staff may refer the complainant
26 to the appropriate governmental agency for handling such complaints. No further action shall be taken by the Board.

27 (i) If the information about an individual's conduct or competence appears to be under the authority of the
28 Dietetics/Nutrition Practice Act or the Board's rules, Board staff, or its authorized Investigator, shall open an
29 investigative case and begin an investigation of the matters described in the complaint.

30
31 History Note: Authority G.S. 90-356; 90-363;

32 Eff. December 1, 2022.

1 21 NCAC 17 .0503 is adopted as published in 37:04 NCR 334-340 as follows:

2
3 **21 NCAC 17 .0503 INVESTIGATIONS**
4

5 (a) Once an investigative case is created, the Board staff, or its authorized Investigator, shall send each person who
6 is the subject of an investigation, using the mail or electronic mail address of record in the Board's records for each
7 person, or the mail or electronic mail address provided on the complaint form if the person is not in the Board's records,
8 a summary of the complaint and a request for a written response.

9 (b) Licensees shall submit a written response to a complaint received by the Board within 45 days from the date the
10 Board confirms the licensee's receipt of notice of the complaint. The Board shall grant up to an additional 30 days for
11 the response where the licensee demonstrates good cause for the extension of time. The response shall contain accurate
12 and complete information. Where a licensee fails to respond in the time and manner provided herein, the Board may
13 proceed with making its decision in the absence of the licensee or information from the licensee, and the licensee may
14 be held by the Board to be interfering with an investigation by willful misrepresentation of facts under 21 NCAC 17
15 .0114(16) in violation of G.S. 90-363(7).

16 (c) A summary of the complaint and a request for a written response sent to a person who is not an applicant for
17 licensure or a licensee of the Board shall be accompanied by the following statement:

18 "You are hereby notified that the opinion expressed herein is not a legal determination. An occupational
19 licensing board does not have the authority to order you to discontinue your current practices. Only a court
20 may determine that you have violated or are violating any law and, if appropriate, impose a remedy or penalty
21 for the violation. Further, pursuant to G.S. 150B-4, you may have the right, prior to initiation of any court
22 action by the Board, to request a declaratory ruling regarding whether your particular conduct is lawful. You
23 are further notified that any right to a declaratory ruling supplements any other legal rights that you may
24 already have to establish the legality of your conduct with respect to the goods or services you offer or
25 provide."

26 (d) The Board staff, or its authorized Investigator, shall investigate a complaint and shall provide the Board's
27 Investigation Committee with an investigation report. The Investigative Committee shall review the report and shall
28 determine to:

- 29 (1) request further investigation of particular aspects of the matter;
30 (2) request the individual who is the subject of the complaint meet with members of the Board to be
31 interviewed if ~~they are~~ he or she is are willing to be interviewed; or
32 (3) accept the report and make a recommendation to the Board.

33 (e) The Board shall authorize the Investigative Committee to make a recommendation to the Board if an investigation
34 is complete and the complaint is unresolved.

35 (f) The Board shall consider the Investigative Committee's recommendation and shall determine whether to:

- 36 (1) conduct further investigation of particular aspects of the matter;
37 (2) close or dismiss the case or issue a non-disciplinary letter of caution;

1 (3) issue a consent order to the subject of an investigation, specifying any disciplinary sanctions to be
2 applied and, if the consent order is not accepted, issue a notice of hearing;

3 (4) issue a notice of hearing to a subject, specifying any disciplinary sanctions; or

4 (5) apply to the courts for injunctive relief, refer a matter to a district attorney for prosecution, or take
5 other actions, including reporting the matter to appropriate state or federal agencies.

6 (g) A copy of a notice of hearing shall be sent to the complainant.

7 (h) Whenever a complaint is dismissed or a complaint file is closed, notification of the Board's final decision shall be
8 sent to the complainant, and the accused party.

9

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

11 Eff. December 1, 2022.

1 21 NCAC 17 .0504 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0504 RIGHT TO HEARING**

4

5 (a) When the Board acts or proposes to act, other than in rule-making or declaratory ruling proceedings, in a manner
6 which will affect the rights, duties, or privileges of a specific, identifiable licensee or applicant for a license, such
7 person has the right to an administrative hearing. When the Board proposes to act in such a manner, it shall give any
8 such affected person notice of the right to a hearing by mailing to the person, by certified mail at the person's last
9 known address, a notice of the proposed action and a notice of a right to a hearing. Notice of a right to a hearing may
10 also be given by any method of service permitted in G.S. 150B-38(c), by a signed acceptance of service from such
11 person, or by delivery to the person's attorney of record who accepts service on behalf of the person.

12

13 *History Note: Authority G.S. 90-356; 150B-38(h);*

14 *Eff. December 1, 2022.*

1 21 NCAC 17 .0505 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0505 REQUEST FOR HEARING**

4

5 (a) An individual who believes that individual's rights, duties, or privileges have been affected by the Board's
6 administrative action, but who has not received notice of a right to an administrative hearing, may file a formal request
7 for a hearing.

8 (b) The individual may submit a request to the Board's office, with the request bearing the notation: "REQUEST FOR
9 ADMINISTRATIVE HEARING." The request shall contain the following information:

10 (1) name and address of the petitioner;

11 (2) a concise statement of the action taken by the Board which is challenged;

12 (3) a concise statement of the way in which the petitioner has been aggrieved; and

13 (4) a clear and specific statement of request for a hearing.

14 (c) In order to preserve a person's rights with respect to a Board action, the person shall file a request for hearing with
15 the Board within 60 days after the person receives notice of the Board action that the person challenges.

16

17 *History Note:* Authority G.S. 90-356; 150B-38;

18 Eff. December 1, 2022.

1 21 NCAC 17 .0506 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0506 GRANTING OR DENYING HEARING REQUEST**

4

5 (a) The Board shall grant a request for a hearing if it determines that the party requesting the hearing is a "person
6 aggrieved" within the meaning of G.S. 150B-2(6). Whenever the Board proposes to deny, suspend, or revoke a license,
7 or issue a letter of reprimand to a licensee, the licensee shall be deemed to be a person aggrieved.

8 (b) If the Board determines the petitioner is not a person aggrieved, the Board shall issue a denial that shall constitute
9 a final agency decision.

10 (c) Approval of a request for a hearing shall be signified by issuing a notice as required by G.S. 150B-38(b) and
11 explained in Rule .0507 of this Section.

12

13 *History Note: Authority G.S. 90-356; 150B-38; 150B-42;*

14 *Eff. December 1, 2022.*

1 21 NCAC 17 .0507 is adopted as published in 37:04 NCR 334-340 as follows:

2
3 **21 NCAC 17 .0507 NOTICE OF HEARING**
4

5 (a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the
6 hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

7 (1) the name, position, address, and telephone number of a person from the Board to contact for further
8 information or discussion;

9 (2) the date, time, and place for a pre-hearing conference, if any; and

10 (3) any other information deemed relevant to informing the parties as to the procedure of the hearing.

11 (b) A party who has been served with a notice of hearing may file a written response with the Board in accordance
12 with G.S. 150B-38(d). If the party desires to submit a written response instead of personally appearing at the hearing,
13 the party shall state that desire in the written response, and the Board shall consider the written response in lieu of a
14 personal appearance.

15 (c) If the party who has been given proper notice in accordance with Paragraph (a) of this Rule neither appears
16 pursuant to the notice nor files and serves a written response as set out in Paragraph (b) of this Rule, the Board shall
17 find the allegations of the notice admitted. The Board may continue the hearing or proceed with the hearing and make
18 its decision based on the evidence presented.

19 (d) If the Board determines that the public health, safety or welfare requires such action, it may issue an order
20 summarily suspending a license pursuant to G.S. 150B-3. Upon service of the order, the licensee to whom the order
21 is directed shall immediately cease the practice of medical nutrition therapy in North Carolina. The suspension shall
22 remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42. However,
23 pursuant to this Rule and Rule .0506 of this Section, a person subject to a summary suspension may request a hearing
24 on whether the public health, safety, or welfare permits terminating or modifying the terms of the summary suspension
25 pending a final agency decision. Neither an order of summary suspension nor a decision on whether the summary
26 suspension order shall be terminated or modified is a final agency decision.

27
28 *History Note: Authority G.S. 90-356; 150B-3; 150B-38; 150B-40; 150B-42;*

29 *Eff. December 1, 2022.*

1 21 NCAC 17 .0508 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0508 CONTESTED CASES**

4

5 All administrative hearings shall be conducted by a majority of the Board as set forth in G.S. 150B-40(b) or an
6 administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

7

8 History Note: Authority G.S. 90-356; 150B-38; 150B-40;

9 Eff. December 1, 2022.

1 21 NCAC 17 .0509 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0509** **INFORMAL PROCEDURES**

4

5 (a) Before issuing a notice of hearing, the Board may designate one or more of its members, but in all cases less than
6 a majority of the currently serving members of the Board, to meet informally via one or more conferences with the
7 party or parties and attempt to reach an informal resolution of the dispute or any other matters as may aid in the
8 disposition of the dispute. The designated Board member or members may direct one or more of the following
9 dispositions:

- 10 (1) Submission to the Board with a recommendation to dismiss with no action;
11 (2) Submission to the Board with a recommendation that Board staff provide informal, non-disciplinary
12 guidance to resolve the dispute;
13 (3) Submission to the Board with a recommendation to resolve the dispute or to expedite the hearing
14 by consent order; or
15 (4) Scheduling, with appropriate notice, for contested case hearing.

16 The majority of the Board must approve all recommendations under Subparagraph (1), (2), and (3) of this Paragraph.
17 Each Board member who is designated to serve in this capacity with regard to a party or parties' matter, whether the
18 Board member actually meets with the individual or not, may participate in Board discussions concerning any
19 recommendations made but may not vote upon the recommendation. The Board member or members who participated
20 in the informal conferences shall be disqualified from hearing any contested case when the matter designated for
21 informal resolution is any part of the subject matter of the contested case.

22 (b) The Board and the party or parties may agree to simplify the hearing by stipulation, or any other method provided
23 by G.S. 150B-41(c).

24

25 *History Note:* Authority G.S. 90-356; 150B-41;
26 Eff. December 1, 2022.

1 21 NCAC 17 .0510 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0510 INFORMAL RESOLUTION**

4

5 (a) Informal disposition may be made of a dispute, contested case, or an issue in a contested case by any method
6 specified in G.S. 150B-41(c) during the hearing of a contested case.

7 (b) All recommendations of dismissal must be approved by a majority of the Board.

8 (c) All matters contained in a consent order, which disposes of a dispute, must be agreed to by the party or parties,
9 and approved by a majority of the Board.

10

11 *History Note: Authority G.S. 90-356; 150B-41;*

12 *Eff. December 1, 2022.*

1 21 NCAC 17 .0511 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0511 DISQUALIFICATION OF BOARD MEMBERS**

4

5 (a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render that
6 member unable to hear a contested case and perform all duties in an impartial manner, that Board member shall
7 voluntarily decline to participate in the hearing or decision.

8 (b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is
9 personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party
10 may file a sworn, notarized affidavit with the Board. The title of such affidavit shall bear the notation: "AFFIDAVIT
11 OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (name of case)."

12 (c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of
13 the Board member.

14 (d) Timeliness and Effect of Affidavit. An affidavit of disqualification shall be considered timely if filed 10 days
15 before commencement of the hearing.

16 (e) A party may file and serve a motion for disqualification less than ten days before or during a hearing only when
17 the motion is based on newly discovered evidence that by due diligence could not have been discovered in time to file
18 a timely motion. Under these circumstances, the hearing shall continue with the challenged Board member sitting.
19 Petitioner shall have the opportunity to present evidence supporting their petition, and the petition and any evidence
20 relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its final
21 decision, shall decide whether the evidence justifies disqualification. The decision about the disqualification of a Board
22 member shall be made by the other Board members who are not the subject of the disqualification. The Board is not
23 required to grant a new hearing if a Board member is disqualified during the course of a hearing.

24 (f) The presiding officer, in their discretion, may determine the method of resolving the motion for disqualification
25 under G.S. 150B-40. This may include the authority to direct that the Board's Executive Director oversee an
26 investigation of the allegations and report the findings to the Board.

27 (g) In the event of disqualification, the disqualified member shall not participate in further deliberation or decision of
28 the case but may be called on to furnish information to the other members of the Board.

29 (h) If four or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of
30 Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-
31 40(e).

32

33 *History Note: Authority G.S. 90-356; 150B-40;*

34 *Eff. December 1, 2022.*

1 21 NCAC 17 .0512 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0512 SUBPOENAS**

4

5 (a) A party shall file and serve a request for a subpoena, attaching a proposed subpoena. The Board may issue the
6 subpoena in accordance with G.S. 150B-39(c). Issued subpoenas must be signed by the Presiding Officer, the Board's
7 Executive Director, the Board's legal counsel, or a Board staff member designated by the Executive Director.

8 (b) Subpoenas shall be served as permitted by Rule 45 of the North Carolina Rules of Civil Procedure, as set forth in
9 G.S. 1A-1.

10 (c) After service of the subpoena, the party serving the subpoena shall file and serve sworn proof of the method of
11 service, demonstrating compliance with G.S. 150B-39(c).

12 (d) G.S. 150B-39(c) governs the recipients' duties in responding to subpoenas. A party to the case or person subject
13 to the subpoena may object to a subpoena. Any objection to a subpoena shall be served on the party who requested
14 the subpoena simultaneously with the filing of the objection with the Board. Motions to override an objection or quash
15 or modify a subpoena shall be filed in accordance with G.S. 150B-39(c). The Board shall hear and rule on motions to
16 override an objection or quash or modify a subpoena as provided in G.S. 150B-39(c).

17

18 *History Note: Authority G.S. 90-356; 150B-39;*

19 *Eff. December 1, 2022.*

1 21 NCAC 17 .0513 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0513 WITNESSES**

4

5 All testimony at the hearing shall be under oath or affirmation and shall be recorded. The presiding officer may exclude
6 witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

7

8 *History Note: Authority G.S. 90-356; 150B-42;*

9 *Eff. December 1, 2022.*

1 21 NCAC 17 .0514 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0514 FINAL DECISION**

4

5 In a contested case, the Board shall issue a final agency decision in compliance with G.S. 150B-42. To obtain judicial
6 review, the person seeking review must file a petition with the court in accordance with the provisions of G.S. 150B-
7 45.

8

9 *History Note:* Authority G.S. 90-356; 150B-42; 150B-45;

10 Eff. December 1, 2022.

1 21 NCAC 17 .0515 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0515 PROPOSALS FOR DECISION**

4

5 (a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall
6 be rendered. The parties may file written exceptions to this "proposal for decision" and submit their own proposed
7 findings of fact and conclusions of law. The exceptions and alternative proposals must be filed within 10 days after
8 the party has received the "proposal for decision" as drafted by the administrative law judge.

9 (b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge,
10 rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise
11 precisely identify the occurrence to which exception is taken. The exceptions and alternative proposals must be filed
12 with the Board within 10 days of the receipt of the proposal for decision. The written exceptions shall bear the notation:
13 "EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (name of case)."

14 (c) Any party may present oral argument to the Board upon request. The request must be included with the written
15 exceptions.

16 (d) Upon receipt of request for further oral argument, notice shall be issued promptly to all parties designating the
17 time and place for such oral argument.

18 (e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board
19 may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered shall be a
20 part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final
21 agency decision" for the right to judicial review. Said decision shall be rendered by the Board within 60 days of the
22 next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the
23 decision shall be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the
24 written exceptions and alternative proposals.

25

26 *History Note: Authority G.S. 90-356; 150B-40;*

27 *Eff. December 1, 2022.*

1 21 NCAC 17 .0516 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0516 DISCIPLINARY COSTS**

4

5 (a) The Board may recover against a licensee or license applicant, found to be in violation of the Act or rules adopted
6 by the Board, the following costs of disciplinary actions incurred by the Board for the investigation, prosecution,
7 hearing, or other administrative action:

8 (1) witness fees and statutorily-allowed expenses for witnesses;

9 (2) direct costs of the Board in taking or obtaining of depositions of witnesses;

10 (3) costs incurred by reason of administrative or staff time of employees of the Board directly
11 attributable to the action leading to the final decision or order; and

12 (4) costs incurred by reason of legal fees charged to the Board directly attributable to the action leading
13 to the final decision or order.

14 These costs may be assessed by the Board pursuant to final decisions or orders of the Board following an
15 administrative hearing pursuant to Article 3A of Chapter 150B of the [North Carolina]General Statutes. These costs
16 may also be assessed against a licensee or license applicant for an investigation or action in the nature of disciplinary
17 action, pursuant to the express consent by the person in a consent order approved by the Board.

18

19 *History Note: Authority G.S. 90-356; 90-370;*

20 *Eff. December 1, 2022.*

1 21 NCAC 17 .0517 is adopted as published in 37:04 NCR 334-340 as follows:

2
3 **21 NCAC 17 .0517 DRUG TESTING AND INTERVENTION**

4
5 (a) When information of suspected impairment of a licensee is received by the Board, the Board shall conduct an investigation and routine inquiries to determine the validity of the report.

6
7 (b) Licensees suspected of impairment may be required to submit to personal interviews if the investigation and inquiries indicate the report may be valid.

8
9 (c) The Board shall have authority to compel a licensee to submit to a mental or physical examination, including drug and blood alcohol testing, by physicians designated by the Board, if there is a reasonable suspicion that the licensee is consuming drugs or alcohol to such an extent or with such frequency as to impair the licensee's ability to practice dietetics or nutrition. The cost of examination shall be borne by the licensee being examined. The failure of a dietitian/nutritionist or nutritionist to submit to such an examination when so directed constitutes an admission that the licensee is unable to deliver dietetics or nutrition services with reasonable skill and safety, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control. A licensee affected under this Paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that the licensee can resume the competent delivery of dietetics or nutrition services with reasonable skill and safety. Neither the record of the proceedings nor any order of the Board based solely on a licensee's failure to submit to an examination shall be deemed by the Board to constitute a conclusive determination that the licensee engaged in any particular conduct.

10
11
12
13
14
15
16
17
18
19
20
21 (d) Information received by the Board related to a mental or physical examination of a licensee conducted by a licensed health professional shall remain confidential as a medical record but shall be freely exchanged with the Board or its authorized agents, for the purposes of the investigation.

22
23
24 (e) Information gathered shall be used to determine whether the licensee is a chronic or persistent user of intoxicants, drugs, or narcotics to the extent that the same impairs their ability to practice dietetics or nutrition.

25
26 (f) The Board may make arrangements for a licensee with impairments to participate in intervention, treatment, and a monitoring program without disciplinary action.

27
28
29 *History Note: Authority G.S. 90-356;*

30 *Eff. December 1, 2022.*

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Charla Burill <director@ncbdn.org>

Sent: Monday, December 12, 2022 6:54 AM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Cc: hjones@jordanprice.com; Holliday, Amanda S <amanda_holliday@unc.edu>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Marnie Jones <info@ncbdn.org>

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thanks Lawrence. I can connect any time before 10 AM, 1:00 – 2:15 PM, or any time after 3:45 PM. I can check with our legal counsel on availability if any of those times work for you.

If we can arrive at agreeable language today, I can send the rules out for electronic review by the Board, if it is possible to have them also considered on December 15th.

Thank you again,

Charla

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Sent: Friday, December 9, 2022 5:09 PM

To: Charla Burill <director@ncbdn.org>

Cc: Marnie Jones <info@ncbdn.org>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

Charla,

Thank you for your sending these updated rules, along with your comments/questions. You can definitely put forward those rules that are ready at the meeting this month, and then the two rules that are not can be presented at the January meeting. I do think we can come to an agreeable language for those two rules at the beginning of this coming week. If we postpone on these two rules, the Commission will ask about interconnectivity issues between the Rules, so you should be prepared to speak to that. I'll touch base with you on Monday. We can get everything worked out then.

Have a good weekend.

Lawrence Duke

Counsel, NC Rules Review Commission

Office of Administrative Hearings

(984) 236-1938

From: Charla Burill <director@ncbdn.org>

Sent: Friday, December 9, 2022 2:21 PM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Cc: Marnie Jones <info@ncbdn.org>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com;
Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Lawrence,

Please note, as indicated yesterday, the NCBDN met today and discussed the feedback you provided on 12/8/22. Below is a list of the documents you should find attached with relevant notes to the extent they may be helpful.

- 21 NCAC 17 .0101 – the Board amended the definition of “nutrition education” to provide clarity as to what is intended by this definition.
- 21 NCAC 17 .0104 – the Board addressed the concerns you noted and made the change from “their” to “his or her” as advised but does call your attention again to the fact that the “their” referred to plural “Applicants.” Although you had not called it out, the concern you addressed in (k)(1) was also addressed in (m)(1).
- 21 NCAC 17 .0108 – The Board agreed with you that it made more sense to refer to G.S. 90-363 regarding your concerns related to (4). However, upon review with legal counsel, noting that G.S. 90-363 addresses actions the Board “may” take and 21 NCAC 17 .0108 addresses actions the Board “shall” take, the Board thought it best to delete the line (4) provision since this is addressed in the statute, and rely instead on what is provided in G.S. 90-363 to address such concerns.
- 21 NCAC 17 .0110 – The Board believes this small edit may address your concern.
- 21 NCAC 17 .0112 – Here you questioned if licensees just reapply if their license was revoked. The answer is “yes” and “no.” The licensee may reapply after one year as provided in the statute, but then like all applicants, based on the provisions in 90-363, the Board may choose to deny, refuse to reinstate, suspend, or impose probationary conditions and if the Board took such actions, the licensee would have a right to a hearing. Thus, the Board added the relevant language from 90-363 to make this clearer.
- 21 NCAC 17 .0304 – You had referenced 21 NCAC 17 .0303 below, but from your comments, the Board believes you intended to refer to 21 NCAC 17 .0304. The Board has made changes to maintain the language that it originally had and in response to your concerns, clarified that reports related to internships or documented, supervised practice experience must be maintained during the period of supervised practice and throughout the period of application review.
- 21 NCAC 17 .0401 – the Board made the change you requested.

If you find the changes made by the Board satisfactory to address your concerns, the Board would ask that all rules for which you do not object, be put forward for the RRC to review on December 15, 2022. The Board believes this would be all rules published in the July 15, 2022 register and the August 15, 2022 register except for 21 NCAC 17 .0114 and 21 NCAC 17 .0302. Until we can have further dialogue with you on those two rules, the Board would like to request an extension to continue to work on those two rules with you. To the extent you have concerns with any additional rules or concerns remain regarding the above noted rules, the Board would also like to continue to work with you on such rules, rather than bringing them forward on December 15, 2022.

Should you have any questions regarding the above, please feel free to contact me, or our legal counsel, Henry Jones at 919-831-4493 or at hjones@jordanprice.com.

Sincerely,

Charla

Charla M. Burill
Executive Director/Secretary
1135 Kildaire Farm Road, Suite 200
Cary, NC 27511
P: (919) 678-7609
F: (919) 882-1776
www.ncbdn.org

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

2

3 **21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS**

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

5 (1) "Act" means Dietetics/Nutrition Practice Act in ~~G.S. 90, Article 25.~~ Article 25 of Chapter 90 of the
6 General Statutes.

7 (2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the
8 acts listed under G.S. 90-365(a).

9 (3) "Application" means a written request directed to and received by the Board, on forms supplied by
10 the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all
11 information, documents, and other materials necessary to demonstrate that the applicant has met the
12 requirements for licensure as specified in the Act.

13 (4) "Degree" means a degree received from a college or university that was regionally accredited at the
14 time the degree was conferred, or a validated foreign equivalent.

15 (5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.

16 (6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed
17 scope of practice includes dietetics or nutrition.

18 (7) "Nutrition assessment" means:

19 (A) ~~the evaluation of the nutrition needs of individuals and groups by licensed~~
20 ~~dietitians/nutritionists and licensed nutritionists based upon biochemical, anthropometric,~~
21 ~~nutrigenomic, physical, and food and diet history data to determine nutritional needs and~~
22 ~~the initial and ongoing, dynamic, and systematic process of obtaining, verifying, and~~
23 ~~interpreting biochemical, anthropometric, physical, nutrigenomic, clinical, and dietary data~~
24 ~~to [make decisions about the nature and cause of nutrition related problems] determine~~
25 ~~nutritional needs and order therapeutic diets, including enteral and parenteral nutrition; and~~

26 (B) ~~the ordering of laboratory tests related to the practice of nutrition and dietetics; dietetics;~~
27 ~~and~~

28 (C) ~~the conducting of a swallow screen.~~

29 (D) ~~The collection of data does not, by itself, constitute nutrition assessment.~~

30 (8) "Nutrition counseling" ~~[intervention, education, counseling, or management]~~ means the advice and
31 assistance provided ~~by licensed dietitians/nutritionists and licensed nutritionists~~ to individuals or
32 groups on nutrition intake by integrating information from the nutrition assessment with information
33 on food and other sources of nutrient and meal preparation consistent with therapeutic needs and
34 cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs,
35 education, and socioeconomic status. [The following does not constitute nutrition intervention
36 education, counseling, or management: presenting educational lectures, videos, webinars aimed at
37 mass audiences; writing books, articles, blog posts, or social media content; developing condition

1 based training programs and treatment protocols not related to a current client; watching or listening
2 to educational lectures, videos, or webinars; teaching classes in academic programs; and conducting
3 research that is not related to a current client.]

4 (9) "Nutrition education" means a formal process to instruct or train a client, patient, or population
5 group in a skill or to impart knowledge to help clients, patients, or population groups voluntarily
6 manage or modify food, nutrition, and physical activity choices and behavior to maintain or improve
7 health.

8 (10) "Nutrition intervention" means planned actions and nutrition counseling by a provider of nutrition
9 care, intended to improve a nutrition-related behavior, risk factor, environmental condition, or
10 aspect of the health status, consistent with therapeutic needs and cultural background.

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;]~~ assessments, nutrition intervention, education, counseling, or ~~[management;]~~
18 management, and nutrition monitoring 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)]~~ for the purposes of nutrition, hydration,
24 and administration of ~~[medication;]~~ 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)]~~ involving development and delivery of education to a specific
35 ~~[population;]~~ population; supervisor grand rounds and one-on-one meetings with one's supervisor
36 to discuss current patient or client care; or direct hours approved as part of a programmatically
37 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
3 enteral, or parenteral routes as part of treatment of disease or clinical conditions to modify,
4 eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to
5 provide mechanically 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.*

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.

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~~, 90-357.5 and this Rule, ~~and~~ and the applicant is
13 not in 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.

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>, <https://www.acbn.org/apply>.

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. Four months after submission of an application,
32 After six [four] months, if an the application and any required documentation has not been completed by the applicant
33 applicant, and ready for Board review, the application shall be considered cancelled due to failure to complete.
34 Complete applications that the Board determines require additional evidence under Paragraph (m) of this Rule shall
35 be eligible for consideration for the timeline set forth in that Paragraph.

- 1 (g) Applicants providing evidence of current registration as a Registered Dietitian Nutritionist by the CDR in G.S.
2 90-357.5(a)(2) shall submit a photocopy of the applicant's registration identification card, or a copy of a CDR
3 Credential Verification certificate certifying that the applicant is a Registered Dietitian Nutritionist.
- 4 (h) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(a)(1) shall either:
- 5 (1) Submit transcripts and a verification statement that includes the original signature of the Program
6 Director of a college or university where the course of study was accredited by the ACEND as
7 meeting the competency requirements of the most current edition of the Accreditation Standards for
8 Nutrition and Dietetic Didactic Programs; or
- 9 (2) Submit documentation, including official transcripts, demonstrating the course of study met the
10 competency requirements of the most current edition of the ACEND Accreditation Standards for
11 Nutrition and Dietetic Didactic Programs. Programs, which is hereby incorporated by reference.
12 Copies of these standards may be obtained at no charge from ACEND's website at:
13 [https://www.eatrightpro.org/acend/accreditation-standards-fees-and-policies/2022-standards-and-](https://www.eatrightpro.org/acend/accreditation-standards-fees-and-policies/2022-standards-and-templates)
14 [templates.](https://www.eatrightpro.org/acend/accreditation-standards-fees-and-policies/2022-standards-and-templates)
- 15 (i) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(c) shall submit
16 documentation, including official transcripts, demonstrating completion of the requirements stated in G.S. 90-
17 357.5(c)(1).
- 18 (j) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice
19 experience in G.S. 90-357.5(a)(1)(b) shall either:
- 20 (1) Submit a verification statement that includes the original signature of the Program Director of a
21 documented, supervised practice experience that has been accredited by the ACEND as meeting the
22 competency requirements of the most current edition of the Accreditation Standards for Nutrition
23 and Dietetics Internship Programs; or
- 24 (2) Submit documentation demonstrating at least 1000 hours of documented, supervised practice
25 experience, meeting the competency requirements of the most current edition of the Accreditation
26 Standards for Nutrition and Dietetics Internship Programs issued by ACEND. The scope of activities
27 may include alternate supervised experiential learning such as simulation, case studies, and role
28 playing, but must also include at least 750 hours in a professional work setting, of direct supervised
29 experiential learning. The 1000 hours must be concurrent with or following completion of the
30 academic requirements for licensure and need not be a paid experience. ~~The following shall be~~
31 ~~necessary to determine and verify supervised practice experience:~~
- 32 (A) ~~The supervisor shall have access to all relevant patient/client records kept during the~~
33 ~~supervised practice experience. The supervisor shall review performance by periodic~~
34 ~~observation, either in real time, or by some recording of the nutrition service.~~
- 35 (k) The following shall be necessary for applicant's submitting proof of completion of a Board-approved internship
36 or a documented, supervised practice experience in nutrition services under Subparagraph (j)(2) of this Rule:

- 1 ~~(B)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice
2 experience, information and verification of each ~~part~~ part, as provided in (k)(2) and (k)(d) of this
3 Rule, is required.
- 4 ~~(C)~~(2) The applicant shall provide to the Board for each supervisor/facility:
- 5 ~~(i)~~(A) the name and address of the facility providing the supervised practice experience;
- 6 ~~(ii)~~(B) the name, address, phone, and title of the supervisor who supervised the supervised practice
7 experience;
- 8 ~~(iii)~~(C) a summary of nutrition services performed, along with dates and hours spent performing
9 them;
- 10 ~~(iv)~~(D) evidence that the supervisor met the requirements stated in G.S. 90-357.5(a)(1)(b) at the
11 time of supervision; and
- 12 ~~(v)~~(E) an attestation that the supervisor is not related to, married to, or domestic partners with the
13 supervisee.
- 14 ~~(D)~~(3) Each supervisor ~~shall review the evidence provided by the applicant and verify that the information~~
15 ~~is true, including:~~ shall:
- 16 (A) regularly, commensurate with the care provided, observe the provision of nutrition care
17 services by the student or trainee supervised, and evaluate, authorize, and approve all
18 nutrition care services of the student or trainee supervised;
- 19 (B) maintain primary responsibility for and control over all nutrition care services performed
20 by the student or trainee, including clinical record keeping;
- 21 (C) ensure the student or trainee is designated throughout the supervised practice experience
22 by a title that indicates the individual's status as a student or trainee;
- 23 ~~(i)~~(D) verify that the applicant participated in nutrition services under his or her supervision,
24 stating the total number of hours;
- 25 ~~(ii)~~(E) ~~providing provide~~ a summary of the nutrition services ~~provided~~ completed under his or her
26 supervision; and
- 27 ~~(iii)~~(F) ~~providing provide~~ an evaluation of the applicant for the Board to be able to assess the
28 applicant's performance in completion of the competencies required by ACEND.
- 29 ~~(k)~~(1) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice
30 experience in G.S. 90-357.5(c)(2) ~~shall~~ must submit documentation demonstrating at least 1000 hours of documented,
31 supervised practice experience, meeting the requirements as stated in G.S. 90-357.5(c)(2). The scope of activities may
32 include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also
33 include at least 750 hours in a professional work setting; of direct supervised experiential learning. The 1000 hours
34 must be concurrent with or following completion of the academic requirements for licensure and need not be a paid
35 experience. Learning experiences must prepare students to [work with] provide nutrition care services for various
36 populations of diverse cultures, genders, and across the life cycle, which may include infants, children, adolescents,
37 adults, pregnant/lactating females, and older adults and to be able to competently formulate actionable medical

1 nutrition therapies and interventions, education, counseling, and ongoing care for the prevention, modulation, and
2 management of a range of acute and chronic medical conditions, including:

3 (1) underweight, overweight, malnutrition, and obesity;

4 (2) cardiometabolic;

5 (3) endocrine;

6 (4) immune and autoimmune; and

7 (5) gastrointestinal disorders.

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

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

14 (2)(1) If there shall be more than one supervisor or facility for different parts of the supervised practice
15 experience, information and verification of each **part part, as provided in (m)(2) and (m)(3) of this**
16 **Rule.** is required.

17 (3)(2) The applicant shall provide to the Board for each supervisor/facility:

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

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

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

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

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

27 (4)(3) Each supervisor ~~shall review the evidence provided by the applicant and verify that the information~~
28 ~~is true, including: shall:~~

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

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

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

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

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

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

8 ~~(D)~~(n) Applicants who have obtained ~~their his or her~~ education outside of the United States and its territories shall:

9 (1) Have ~~their his or her~~ academic ~~degree(s) degrees~~ evaluated by a Board-approved foreign credential
10 evaluating service as equivalent to a baccalaureate or higher degree conferred by a U.S. college or
11 university accredited by the regional accrediting agencies recognized by the Council on Higher
12 Education Accreditation and the U.S. Department of Education; and

13 (2) All documents submitted in a language other than English shall be accompanied by a certified
14 translation thereof in English from a Board-approved translation service.

15 (3) The following foreign credential evaluating and translation services are Board-approved:

16 (A) Academic and Professional International Evaluation, Inc., which may be found at:
17 www.apie.org;

18 (B) Academic Credentials Evaluation Institute, Inc., which may be found at: [https://www.acei-](https://www.acei-global.org/)
19 [global.org/](https://www.acei-global.org/);

20 (C) American Education Research Corporation, Inc., which may be found at: [http://www.aerc-](http://www.aerc-eval.com/)
21 [eval.com/](http://www.aerc-eval.com/);

22 (D) Association of International Credential Evaluators, Inc., which may be found at: [www.aice-](http://www.aice-eval.org)
23 [eval.org](http://www.aice-eval.org);

24 (E) Bruscan Educational Information Services, which may be found at:
25 <http://www.bruscan.com/>;

26 (F) Center for Educational Documentation, Inc., which may be found at:
27 <http://www.cedevaluations.com/>;

28 (G) Education Credential Evaluators, Inc., which may be found at: www.ece.org;

29 (H) Educational Perspectives, which may be found at: <https://www.edperspective.org/>;

30 (I) Foundation for International Services, Inc., which may be found at: [https://www.fis-](https://www.fis-web.com/)
31 [web.com/](https://www.fis-web.com/);

32 (J) International Education Research Foundation, which may be found at: www.ierf.org;

33 (K) Josef Silny & Associates, which may be found at: <http://www.jsilny.org/>;

34 (L) SpanTran: The Evaluation Company, which may be found at: <https://www.spantran.com/>;
35 or

36 (M) World Education Services, Inc., which may be found at: <https://www.wes.org/>.

Commented [CB1]: Indicated this should be changed, can make, but inconsistent with plural "applicants."

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

- 4 (1) offered the ability to place the application on hold for a time period of up to one year from the date
5 of the letter providing the Board's determination, so long as such a request is made in writing within
6 30 days of the date of the letter. During this hold time, the applicant may provide other evidence
7 demonstrating the applicant satisfied the requirements the Board determined were not met;
- 8 (2) offered the opportunity to appear for an interview before the Board. At any time during that
9 interview, the applicant may stop the interview, and request to have all or any part of requested
10 information provided in writing; and
- 11 (3) offered the ability to withdraw the application so long as such a request is made in writing within
12 30 days of the date of the letter. The applicant will be allowed to apply for licensure at a later time.

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

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

21
22 *History Note: Authority G.S. 90-356; 90-357.5; 90-357.6; 90-358;*
23 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
24 *1992;*
25 *Eff. June 1, 1992;*
26 *Recodified from 21 NCAC 17.0004 Eff. February 1, 1995;*
27 *Amended Eff. January 1, 2021; December 1, 2011; July 18, 2002; March 1, 1996;*
28 *Readopted Eff. August 1, 2019. 2019;*
29 *Amended Eff. December 1, 2022.*

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

2

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 Chapter 90 of the General Statutes
7 [G.S. 90] and the rules of this Chapter.
- 8 (2) ~~has~~ Has failed to remit any applicable fees; and
- 9 (3) ~~has~~ Has failed to comply with requests for supporting documentation; documentation, and ~~[or]~~
- 10 (4) ~~[has]~~ Has presented false information on application documents required by the Board to verify
11 applicant's qualifications for licensure.

12

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

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

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

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

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

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

31 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
32 *1992;*

33 *Eff. June 1, 1992;*

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

35 *Amended Eff. July 18, 2002;*

36 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
37 *2016. 2016;*

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-revoke,~~ or impose probationary conditions and
5 restrictions on the license of a person upon a finding of any of the causes provided in Article 25 of Chapter 90 of the
6 General Statutes. [General Statute Chapter 90, Article 25.]

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

12 (c) A suspended license ~~shall be-~~ **is** subject to expiration and may be renewed as provided in this Section, but such
13 renewal shall not entitle the licensee to engage in the licensed activity until ~~he/she~~ **he or she[is] [they are]** reinstated.
14 If a license revoked on disciplinary grounds is **to be** reinstated, the licensee must reapply and pay all applicable fees.
15 The Board may deny or refuse to reinstate a license or may suspend or impose probationary conditions on a license if
16 the licensee has engaged in conduct listed in G.S. 90-363.

17
18 *History Note: Authority G.S. 90-356; 90-363;*

19 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
20 *1992;*

21 *Eff. August 3, 1992;*

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

23 *Amended Eff. January 1, 1996;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
25 *~~2016.~~ 2016;*

26 *Amended Eff. December 1, 2022.*

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~~ use such records in determining compliance with G.S. ~~90-368~~ 90-368(2) and in approving
7 applications for a license.

8 [(b) The Board may require additional such records and reports for review at any time throughout the period of
9 completing an individual's internship or documented, supervised practice experience in nutrition services required
10 under G.S. 90-357.5 and throughout the period of application review and to provide evidence and substantiate
11 compliance with standards of education, the law [law.] Article 25 of Chapter 90 of the General Statutes and the rules
12 of the Board. this Chapter.

13

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

15 *Eff. March 1, 1996;*

16 *Amended Eff. July 18, 2002;*

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

18 *~~2016- 2016;~~*

19 *Amended Eff. December 1, 2022.*

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; Article 25 of Chapter 90 of the General Statutes 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.] nutrition; provided that the licensed dietitian/nutritionist shall be on site at~~
23 ~~the service delivery site and within audible and visual range of any unlicensed personnel~~
24 ~~person 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~~ 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)~~ 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~~ 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.~~ 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.~~ 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.~~ delegated;
19 ~~The licensed 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.] therapy; and ~~The licensed~~
23 ~~dietitian/nutritionist~~
- 24 (5) shall have the responsibility for clinical record ~~keeping,~~ documentation. ~~and shall ensure that case~~
25 ~~notes and other records of services identify whether the licensed dietitian/nutritionist or the~~
26 ~~unlicensed personnel was the direct provider of the service.~~

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

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

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

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Charla Burill <director@ncbdn.org>

Sent: Thursday, December 8, 2022 2:44 PM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Cc: Marnie Jones <info@ncbdn.org>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Lawrence,

Thank you for your feedback. Our attorney, Henry Jones, and I have reviewed your comments. I plan to share this feedback with the Board along with proposed edits to address the noted concerns. It is on the Board's agenda to review your feedback and accept or make edits as needed. I have noted a few comments below, but Henry has asked if you would be willing to discuss your recommendation for rules .0114 and .0302 as we believe we need to better understand your concerns before we can address them.

Also, of note, I have inserted a few direct comments/questions below where relevant.

If we are not able to speak before tomorrow, for next week, are we able to put forward the rules the Board is able to edit and you accept and all other rules to which you do not object, at the December 15, 2022 meeting, and continue to work on .0114 and .0302 (and any other rules for which the Board's edits are not approved by you) until the January meeting? Or, how would you advise that we approach this?

Thank you again for your assistance.

Sincerely,

Charla

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Sent: Thursday, December 8, 2022 9:53 AM

To: Charla Burill <director@ncbdn.org>

Cc: Marnie Jones <info@ncbdn.org>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

Charla,

Thank you for checking in on these rules. Please see my feedback below.

.0101:

- (a)(9) is still vague. "Learning experiences designed by a provider" does not say what those required experiences are. The experiences can be handouts or any educational material. The referenced statute requires 200 hours of "nutrition intervention, education..." etc., but this only causes more confusion considering the breadth of possible "learning experiences". Can the 200 hours be satisfied by handouts made by a provider now? If the rule which implements the 200 hour requirement does not permit doing so, then it is in conflict with this definition and statute.

.0104

- In (b)(4), remove the comma after the added language "90-357.5 and this Rule".
- In (h)(2), ACEND Accreditation Standards for Nutrition and Dietetic Didactic Programs should be incorporated by reference. The incorporation is necessary for (k)(3)(F) as well and would be satisfied if done here.
- In (k)(1), specific what "information and verification" is required for each part. Reference (k)(3) if nothing is required beyond those listed.
- In (k)(3)(A), it appears a period, rather than the necessary comma, is after "authorize".
- In (n) and (n)(1), "their" needs to be changed to "his or her".

.0108

- In (4), "employed fraud, deceit, or misrepresentation" was added, which is verbatim from G.S. 90-363. The statute covers everything this rule covers. And, thus, (4) is unnecessary and allows for questions of interpretation of those standards in law and the determination. It is likely best simply to reference any reason outlined in G.S. 90-363 or remove (4).

.0110

- The response to identification cards in (e)(2) needs to be placed within the Rule. The rule suggests the Board issues the actual card itself for which licensees are to carry.

.0112

- In (a), a comma is needed after "revoke".
- To clarify (c), a licensee who had their license revoked for disciplinary reasons need not go through any alternative form of application process?

.0114

- It seems the changes to (a)(3) and (4) simply changed the wording without providing any substance. What is "personal bias" and "evidence-based dietetics or nutrition"? A reference was made to "evidence-based" science in the response. If wishing to include a framework, the agency should incorporate. But it must be clear and unambiguous.

- The explanation in (a)(5) did not actually address the issue. How can (5) be enforced? What is the standard beyond “you have continuing education” and some vague notion of being up to date on “scientific principles”?
- In (a)(7), when does it become “improper” or “excessive” influence? “Undue influence” has legal understandings and is primarily centered on it being a question of fact. Rules require more concrete standards and objectivity, rather than being subjective, case-by-case analyses.
- Also, remove the comma after “this includes” in the added language.
- Similarly to (a)(7), the standard in (9) does not actually require specific action. A rule standard has to be concrete and methods for securing client confidentiality must be objectively defined.
- In the same vein, (a)(11) was not improved on vagueness. No actual requirements on the regulated public are made, as they are suggestive of action and direction of a case based on the licensee’s beliefs or some unknown “when necessary” standard. This rule is mere policy.
- Also, (a)(15) needs to say what needs to be billed, coded, and documented, rather than saying it needs to be done “accurately to reflect... services.” The regulated public needs to be given clear direction on what needs to be documented before potentially having their license stripped.
- In (a)(20), place a comma after “touching”.
- In (b)(1) and (2), who is the “health care provider qualified to conduct such assessment”? Who makes that determination?

.0302

- The changes to when a request could not be denied did not give clarity. “Willful... act”, “negligent act”, and “reasonable diligence” are not clear, concrete standards by which a regulated public is able to distinguish certain conduct as being insufficient. This permits the Board to act arbitrarily in determining whether an omission is “negligent” or, while not negligent, was not “reasonably” diligent.

.0303

- (b) is being deleted in its entirety after being published in the NCR with minor changes. This is most likely a substantive change.

.0401

- In (d)(3), “independent clinical judgment or knowledge” needs to be modified to include “by a licensee”.
-

Let me know if you have any questions.

Thank you,

Lawrence Duke

Counsel, NC Rules Review Commission

Office of Administrative Hearings

(984) 236-1938

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Charla Burill <director@ncbdn.org>

Sent: Wednesday, December 7, 2022 3:09 PM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Lawrence,

The NCBDN is scheduled to meet on December 9, 2022 for its regularly scheduled monthly meeting. Is there any update I can provide them on the status of your feedback?

Sincerely,

Charla

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review
Attachments: 11.2022 - Board of Dietetics & Nutrition - Extension Letter.pdf

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Friday, November 18, 2022 4:06 PM
To: Charla Burill <director@ncbdn.org>
Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

Charla,

You win the prize for being the fastest to send edits in after an extension has been granted. Please see attached letter granting the extension.

I'll review these submissions and will have feedback for you at the beginning of next week. We can definitely work toward having these rules ready for the December meeting. Let me go over these and we can talk on Monday or Tuesday about timeline.

Have a good weekend! Thanks again for getting these in so quickly.

Lawrence Duke
Counsel, NC Rules Review Commission
Office of Administrative Hearings
(984) 236-1938

From: Charla Burill <director@ncbdn.org>
Sent: Friday, November 18, 2022 3:23 PM
To: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Lawrence,

First, thank you for your thorough review of the NCBND's proposed rules, and thank you again for requesting an extension yesterday to allow the Board adequate time to consider the many requested edits and concerns noted.

Please find attached a Board approved document addressing your requested technical changes, along with all Board approved rules for which you requested edits.

Again, please note, the Board's aim is to continue to work on these rules until we reach a point where you can recommend approval without objection. Thus, if there are additional changes you believe the Board should consider or you do not find the Board's explanations satisfactory, please let me know, and I will address these with the Board.

Regarding timeline for edits, will it be possible to have these rules addressed at the RRC's December meeting? If so, what is our timeline for continued editing?

Thank you again.

Sincerely,

Charla

Charla M. Burill
Executive Director/Secretary
1135 Kildaire Farm Road, Suite 200
Cary, NC 27511
P: (919) 678-7609
F: (919) 882-1776
www.ncbdn.org

Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

The imposition of a question implies that the rule as written is unclear or there is some ambiguity. If the request includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for consideration which the agency may find preferable and clarifying.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "~~a~~Association"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day, ~~and~~"
 - Right: "~~day,~~ day, and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

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.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

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”? **Yes***

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

Ongoing is utilized because although a nutrition assessment may be completed only once, if a provider continues to see a patient (inpatient or outpatient), it is an ongoing process where the provider reassesses the patient at each encounter to monitor changes and effectiveness of the care plan. It is dynamic in that an assessment is not something that stays stagnant. Rather, as a patient’s condition declines or improves, the assessment will change. It is systematic in that there is a process that trained dietitians and nutritionists follow when conducting an assessment. Below are references to the term “nutrition assessment” as utilized within the profession. This process is understood by our regulated public.

Per the definition found in the Academy of Nutrition and Dietetics Definition of Terms list (available here: <https://www.eatrightpro.org/-/media/eatrightpro-files/practice/scope-standards-of-practice/20190910-academy-definition-of-terms-list.pdf>)

Nutrition Assessment (and reassessment) is a critical component of the NCP. Nutrition Assessment is a “systematic approach for collecting, classifying, and synthesizing important and relevant data to describe nutritional status related nutritional problems, and their causes.”¹ It is an ongoing, dynamic process that involves not only initial data collection, but also reassessment and analysis of client or community needs and provides the foundation for Nutrition Diagnosis and nutritional recommendations including enteral and parenteral nutrition.^{2,3} See: Enteral Nutrition See: Parenteral Nutrition See: Nutrition Care Process Reference: Academy of Nutrition and Dietetics. Nutrition Terminology Reference Manual

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

(eNCPT): Dietetics Language for Nutrition Care 2019, Nutrition Assessment Introduction, page 001, <https://www.ncpro.org/pubs/encpt-en/page001> , Accessed March 9, 2020.

Per the Board for Certification of Nutrition Specialists, the term “nutrition assessment” is defined as:

Nutrition assessment is an ongoing, dynamic process that incorporates a systematic approach to collect, record, and interpret quantitative and qualitative inputs including diet, lifestyle, behavior, symptoms, nutritional genomics, biochemical laboratory markers, and personal and family health history. The nutrition assessment is used to identify existing manifestations of dysfunction as well as the underlying root causes of imbalance which contribute to risk factors and current nutritional health issues to enable effective treatment and prevention strategies and monitor improvements.

This definition from the American Nutrition Association website may be found at : https://theana.org/sites/default/files/pdf/SPE%20PN%20Competencies_2021.pdf.

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

When working in the field of dietetics and nutrition it is essential that providers understand cultural background and culturally appropriate nutrition guidelines. Appropriate understanding helps to improve communication and encourage dialogue. Food is at the center of many cultures. It is important that a provider understands types of food eaten or not eaten within a culture, access to culturally appropriate foods, how foods are cooked or prepared, etc. All these factors must be taken into account by a provider of nutrition care. Culture can influence how patients/clients view health, illness, and causes of disease and types of treatments patients are willing to seek. The regulated public is expected to have respect for varied cultural backgrounds and obtain necessary education to ensure clinical recommendations and counseling are culturally appropriate. Again, this is something understood by our regulated public.

Here are a few articles touching on this point that you might find helpful:

Cultural Competence in Nutrition and Dietetics: What We Need to Know, <https://www.healthline.com/nutrition/cultural-competence-in-dietetics> (last accessed Nov. 9, 2022).

Nemec, Kelley, MS, RD, CNSC, LDN, Cultural Awareness of Eating Patterns in the Health Care Setting (Nov. 2020): <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7727853/> (last accessed Nov. 9, 2022).

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

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

No, nutrition education is something provided by the nutrition practitioner to a client. Learning experiences vary from classes, handouts, presentations, one-on-one education, etc. Learning experiences are conducive to health and well-being as they are not aimed at doing harm. In line with the Code of Ethics, learning experiences provide scientific nutrition information. Reviewing the statute and rules, we believe the only place “nutrition education” is presently utilized is in the statute under N.C. Gen. Stat. § 90-357.5(c)(2), where it indicates applicants must complete “200 hours of nutrition intervention, education, counseling, or management” as part of their “Board-approved internship or [a] documented, supervised practice experience.” That said, we inserted “by a provider of nutrition care,” for clarity.

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

The individual providing the nutrition care is the acting party. This could be a licensee or it could also be a student completing their supervised practice. We inserted “by a provider of nutrition care” to provide clarity. We hesitate to specifically insert licensee or student because others outside of our regulated public may lawfully provide nutrition interventions – only those providing medical nutrition therapy are required to be licensed.

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?

They were added after publication. Per N.C. Gen. Stat. § 150B-21.2:

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons that, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.**
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.**
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.**

Comments received expressed concern that the Board had grouped nutrition counseling, intervention, education, and management together in 21 NCAC 17 .0101(8), and that these services should be delineated individually. Based on the fact that the Board had attempted to define these terms in its original publication, making the changes that were made after publication did not “affect interests of persons that, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

their interests.” Similarly, given the Board had attempted to define these terms in its original publication, by separating these terms out and adopting these changes after publication, the Board simply addressed a subject matter or issue that was addressed in the proposed text of the rule. And, finally, given the regulated public’s understanding of these terms and the plain meaning of “education” and “intervention” considered within the context of the practice of dietetics and nutrition as defined in G.S. § 90-352, these changes do not produce “an effect that could not reasonably have been expected based on the proposed text of the rule.”

Will also note that 26 NCAC 05 .0101(5), under technical changes, provides: “Technical changes shall not result in a substantive change in the meaning, interpretation, or application of a rule and include the following categories of changes: (d) Acting on agencies’ requests on behalf of citizens or agency staff to clarify the intent, requirements, or prohibition of a rule that would not result in a change in the rule’s enforcement.”

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

Done; however, will note, semicolons were used for clarity to align with how these groups are broken out in N.C. Gen. Stat. § 90-357.5(c)(2) where it provides: “The applicant must have completed a Board-approved internship or a documented, supervised practice experience in nutrition services of not less than 1000 hours involving at least 200 hours of nutrition assessment, 200 hours of nutrition intervention, education, counseling, or management, and 200 hours of nutrition monitoring or evaluation”

In (a)(13)(C). remove the parentheses. Done. Also, in (a)(13)(D), what is “nutritional or hydrational support”? The regulated public understands this. If the patient appears not to be able to consume nutrition or hydration orally (or in adequate amounts), a recommendation for enteral or parenteral nutrition or IV hydration may be recommended.

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?

They are used in the application rule under 21 NCAC 17 .0104. Under 21 NCAC 17 .0104(j) & (k) the requirements for supervised practice are provided. In completing their 1000 hours of supervised practice, “[t]he scope of activities may include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also include at least 750 hours in a professional work setting: of direct supervised experiential learning.”

Also, in (a)(15), remove the parentheses. Done. Added the word “involving” as removal of the parentheses without the additional word, did not seem to make sense.

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

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

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 .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. Done.

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. Done.

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

Ready for Board review pertains to applicants who are completing licensure requirements under G.S. § 90-357.5(a)(1) or (c). Sometimes applicants submit an application and do not submit all required documents to complete the application or do not provide complete information on their application such that the Board is not able to review it. That said, in order to make this clearer, we made changes to the wording. Please see the rule.

The deadline for completion is 4 months after initial submission. Since it seems clarity is questioned, we made changes to the rule. Please see the rule.

In entirety, it would read:

“Four months after submission of an application, if the application, and any required documentation has not been completed by the applicant, the application shall be considered cancelled due to failure to complete.”

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

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

The documentation that is required demonstrates the course of study met the competency requirements of the most current edition of the ACEND Accreditation Standards for Nutrition and Dietetic Didactic Programs or demonstration of completion of the requirements stated in G.S. 90-357.5(c)(1). The Board provides forms for this that ask for that information.

*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”? **This covers both board-approved internships or board-approved supervised practice experiences. We added this language to address this concern. Please see updated rule.***

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

The statute describes it as “a Board-approved internship or documented, supervised practice experience that meets the competency requirements of an ACEND accredited, supervised practice experience and is not less than 1000 hours” There is a lot in this short statement. The competency of an ACEND accredited program can be found here: <https://www.eatrightpro.org/-/media/eatrightpro-files/acend/accreditation-standards/2022standardsdi-82021-3.pdf?la=en&hash=3B983A9C691E858295A8B79159DD15CAD8230C80>.

The aim of 21 NCAC 17 .0104(j) and (k) is to lay out exactly what is meant by a “Board-approved internship or documented, supervised practice experience.” This is the information that this required on the forms provided by the Board.

*In (k)(1), does “information and verification of each part” require anything beyond those items listed in (k)(2)? **The information in (k)(2) is what is submitted directly by the applicant, additionally, each supervisor is required to attest to meeting the requirements listed in (k)(3) and submit the information listed in (k)(3).***

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...”

Because a student is not able to provide care independently, the student should be seeking the approval of the supervisor before any care is put into effect. Thus, the supervisor should approve all care because if it is something the supervisor does not think the student should do, the supervisor should correct the student and instruct the student on the care the supervisor authorizes and approves before it is implemented with the patient. Board members feel strongly that when supervising students in health care, this language is important. With that said, if you believe it is still confusing to utilize “approve,” with this explanation, do you have another suggestion as to how it could be rewritten? The Board is open to wordsmithing.

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

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

Since the statute requires an applicant complete a “Board-approved internship or documented, supervised practice experience that meets the competency requirements of an ACEND accredited, supervised practice experience,” the supervisor is being asked to evaluate the applicant on their performance and attainment of the ACEND competencies. This is not an academic assessment, but rather their ability to meet the competencies in their provision of care. These competencies would be known by the regulated public and can be found at the link referenced above. The Board provides a form that lists all of the competencies and asks for the supervisor’s evaluation of the applicant on each competency.

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

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.

Made changes to address this – took out “work with” and changed this to: “provide nutrition care services for”

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

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

The supervisor is being asked to assess “the applicant’s performance of the provision of nutrition services, as defined in 21 NCAC 17 .0101(10), to address, at a minimum, the acute and chronic medical conditions listed in Paragraph (l) of this Rule.” Important to keep in mind that this is assessing their performance in their internship or supervised practice experience not in the academic setting. Thus, the evaluation conducted is actually an evaluation of the student doing these activities. The supervisor will complete a form provided by the Board asking them to rate the student on their provision of the nutrition services as provided in the rule and also described in 21 NCAC 17 .0104(l). This evaluation feeds into whether the Board approves the internship or supervised practice under G.S. § 90-357.5.

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

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?

If one has never been issued a license, even if one withdraws, when one applies again, this would be an application for initial licensure. The key to prong (3) is that if the applicant withdraws, the withdrawn application does not potentially become a denial for licensure. In the licensure world, although a denial because one did not meet the requirements is not that significant, generally individuals like to avoid any sort of denial on their record. The word denial tends to be associated with having done something wrong. Thus, the aim here is to make clear that one can

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

withdraw their application, no denial will be issued, and they can simply reapply at a later date when they believe they have met the requirements. If the applicant was to reapply, it would still be an initial application.

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 .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.

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

*In (4), does “false information” include inaccurate information or any other standard for information being proffered? **The aim is to address intentional false information. This stems from the authority in G.S. § 90-363. For clarity, we went back and utilized the statutory language noting that employed in this context means to “make use of” which would imply intention. Please see revised rule.***

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 .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". **Done.***

*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? **Applicants are expected to print the cards that they obtain electronically. Surveyors in hospitals will often ask to see a copy of their license. If they do not have access to a printer, they can request a copy be mailed to them.***

*In (h), what "documentation" is required of licensees to show a name change? **We inserted "government-issued documentation." Generally, applicants submit copies of marriage certificates, drivers' licenses, passports, or court order (reinstating use of maiden name generally).***

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 .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..."?

Looking at this again, we are not sure why the list included a person. This has been removed and it now just lists applicant or licensee.

*In (c), change "must" to "shall". Use the active voice. **Done, but changed to "is" as must did not read correctly.***

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"?

There is no set procedure as it depends on the facts. Rather, like all applicants, a licensee whose license was revoked may reapply. Like all applicants they will be asked the same questions in the application. Depending upon the situation, the Board may issue a license, ask an applicant to participate in an interview, seek character references, seek an evaluation or statement from their medical provider, etc. It depends on the situation. The Board will decide whether to grant the license based on the information presented. The applicant then has all the due process rights provided in section 500 of the rules should the Board deny an applicant reinstatement of their license – right to appeal, right to a hearing, etc.

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 .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? Deleted “integrity”

(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”?

Made change to be more consistent with intent. Within the field of science there can be varying opinions and more than one method may be correct. Science can be controversial as science changes. Science is based on many studies – not just one idea.

For (4) changed to evidence-based which is an understood term in science and within our regulated public. See here for discussion: <https://www.andeal.org/evidence-based-practice>.

And here: [https://www.jandonline.org/article/S2212-2672\(20\)30460-3/fulltext](https://www.jandonline.org/article/S2212-2672(20)30460-3/fulltext)

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?

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

Licensees do have continuing education requirements laid out in 21 NCAC 17 .0109. Additionally, with science, practice changes. In order to provide safe practice, licensees have a duty to ensure their knowledge is keeping pace with changes in practice and changes in science.

This rule is also addressing the fact that in health care, providers are often asked to provide services they may not be competent to provide or they encounter clients with disease states or medical conditions they have not yet had experience treating. Similar to the rules for attorneys, it is not that one cannot take on something one has not seen before, but given a licensee's duty to practice safely, a licensee has a duty to provide competent care. This may mean that a licensee seeks out a mentor or does additional research to ensure they are providing appropriate treatment. With that said, some disease states or medical conditions may be too complicated or too urgent such that time for study is not allowed – thus a licensee would need to recognize their personal limitations (i.e. lack of experience/knowledge) and refer a patient out rather than treat.

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

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?

Undue influence is a term of art. The aim of use of this term is to address undue influence as it is commonly understood.

According to the Webster dictionary: “improper influence that deprives a person of freedom of choice or substitutes another's choice or desire for the person's own.” This is an appropriate understanding of what is intended.

According to the American Bar Association it is: “Undue influence” means excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity. “

With the above said, we have added some language to help clarify what is meant by “undue influence.” Please see rule. When (7) is read in its entirety, the intent seems clear.

*In (9), what “appropriate measures” shall be implemented? **Made changes to address – please see rule.***

(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?

Our regulated public understands that nutrition care is not provided in a vacuum. Rather, a licensee provides care as part of a team. Licensees collaborate with other health care providers and food service staff in order to

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

provide clients or patients with optimal nutrition. We have added language to provide clarity, but generally in medicine, the idea of making a referral “when appropriate” is understood. Please see changes.

*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? **Made changes to help clarify – please see rule.***

*(13) is vague. What information is a licensee required to give a client or patient and what is the “informed decision” standard? Made changes for clarity. **Please see rule changes..***

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

Licensees are required to document in the medical record, code (if billing), and then bill accurately to reflect the services they actually provided. The requirement laid out in (15) is understood within our regulated community and within the medical community in general.

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

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”?

Adjudicated would mean by any court. Important to keep in mind that this is just a trigger for the licensee to report to the Board. This would not necessarily result in any action by the Board. Rather, this would trigger the Board to inquire and investigate and most likely seek a medical opinion as to the ability to practice dietetics and nutrition safely.

Regarding “convicted” and “violent or sexual in nature” this is language from the Right to Work bill passed in 2019; it was SL 2019-91. In this bill it provided:

Unless federal law governing a particular board provides otherwise, a board may deny an applicant on the basis of a conviction of a crime only if the board finds that the applicant's criminal conviction history is directly related to the duties and responsibilities for the licensed occupation or the conviction is for a crime that is violent or sexual in nature. Notwithstanding any other provision of law, a board shall not automatically deny licensure on the basis of an applicant's criminal history, and no board may deny an applicant a license based on a determination that a conviction is for a crime of moral turpitude. The board shall make its determination based on the factors specified in subsection (b1).

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

(b1) Before a board may deny an applicant a license due to a criminal conviction under subsection (b) of this section, the board must specifically consider all of the following factors: (1) The level and seriousness of the crime. (2) The date of the crime. (3) The age of the person at the time of the crime. (4) The circumstances surrounding the commission of the crime, if known. (5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee. (6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed. (6a) The completion of, or active participation in, rehabilitative drug or alcohol treatment. (6b) A Certificate of Relief granted pursuant to G.S. 15A-173.2. (7) The subsequent commission of a crime by the applicant. (8) Any affidavits or other written documents, including character references.

(b2) If the board denies an applicant a license under this section, the board shall: (1) Make written findings specifying the factors in subsection (b1) of this section the board deemed relevant to the applicant and explaining the reason for the denial. The board's presiding officer must sign the findings. (2) Provide or serve a signed copy of the written findings to the applicant within 60 days of the denial. (3) Retain a signed copy of the written findings for no less than five years

<https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H770v7.pdf>

As noted in other sections, notification by a licensee does not trigger action against a license. Rather, it would trigger board investigation, which may or may not result in action. If action was taken, the licensee would have due process rights as provided in the rules (right to appeal, right to a hearing, etc.).

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)?

As health professionals, licensees not only need to practice in compliance with the Practice Act and its corresponding regulations, but also must follow all Federal laws related to health care (i.e. Medicare and Medicaid regulations) and State laws (i.e. hospital regulations, long-term care regulations, school nutrition regulations, etc.).

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

*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. **Done. Also rephrased noting that supervisee would cover those aiding the practice working under a licensee and provisional licensees.***

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

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?

Clarified in rule – please review. This would include short term unfitness if the licensee practiced and potentially put the public at risk of harm or harmed the public during such time of unfitness.

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 .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. **Done.***

*What are “circumstances beyond the control of the student or trainee”? How is a student or trainee to file an extension? **Changes have been made to clarify what is meant by “circumstances beyond the control of the student or trainee.” Please see rule.***

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 .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. **Done.***

How is the standard of “immediate” going to be used in the context of compliance? How quickly should the supervising practitioner be available?

Removed immediate in (2) since the supervisor must be available for physical intervention and must be onsite. In (3), changed to “during the provision of nutrition care” as the assistance should be available at this time. Also considered “prompt” or “without delay” but was not sure if this raised the same question as “immediate” did. Please see revised rule.

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...”

Because a student is not able to provide care independently, the student should be seeking the approval of the supervisor before any care is put into effect. Thus, the supervisor should approve all care because if it is something the supervisor does not think the student should do, the supervisor should correct the student and instruct the student on the care the supervisor authorizes and approves before it is implemented with the patient. Board members feel strongly that when supervising students in health care, this language is important. With that said, if you believe it is still confusing to utilize “approve,” with this explanation, do you have another suggestion as to how it could be rewritten? The Board is open to wordsmithing.

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

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

Lawrence R. Duke
Commission Counsel
Date submitted to agency: November 8, 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...” **Done.***

*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? **Deleted this section as upon review, what is intended seems to be covered by section (a). Please see rule.***

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 .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.

It is different because in 90-368(2) this addresses the supervision of students who are completing their internship to become qualified to be licensed and as such they will actually render medical nutrition therapy, but only if it is authorized and approved by their supervisor. In 90-368(4) this addresses “a person aiding the practice of dietetics or nutrition “ and who “performs only support activities that do not require formal academic training . . . in the practice of dietetics or nutrition.”

For each exemption, they are providing different levels of service and for very different purposes.

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...”

Because an individual aiding the practice is not able to provide care independently, the unlicensed person should be seeking the approval of the supervisor before any care is put into effect. Thus, the supervisor should approve all care because if it is something the supervisor does not think the unlicensed person should do, the supervisor should correct the unlicensed person and instruct the unlicensed person on the care the supervisor authorizes and approves before it is implemented with the patient. Board members feel strongly that when supervising unlicensed persons in health care, this language is important. With that said, if you believe it is still confusing to utilize “approve,” with this explanation, do you have another suggestion as to how it could be rewritten? The Board is open to wordsmithing and could possibly consider just “authorize” here rather than “approve” as unlike

Lawrence R. Duke
Commission Counsel

Date submitted to agency: November 8, 2022

students, unlicensed persons are only aiding the practice and not actually providing the full scope of medical nutrition therapy.

In (a)(1)(C), place an Oxford comma after “safety”. Deleted given comment below regarding vagueness.

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

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

This depends on the level of skill of the unlicensed personnel. Some individuals may hold a degree in nutrition or have special certification such as a “dietetic technician, registered.” Thus, the licensed professional must use their professional judgement when working with unlicensed persons to determine the unlicensed persons level of knowledge and skill and assign support activities that match that skill level. When delegating, the licensed professional must consider the factors in (c) and (d).

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?

The licensed professional will know the mark by following the guidance provided in (c) and (d) and the guidance provided in the statute in exemption 90-468(4). Our regulated public is familiar with working with support personnel. This is most prevalent in long-term care where dietetic technicians collect data that is then used by the licensed professional to determine nutrition needs.

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

What is meant by (d)(3)?

These are factors for a licensee to consider when delegating nutrition care activities. This is again mainly aimed at long-term care and assisted living settings where support personnel are often employed. The licensee needs to consider how complicated patients are and whether they require close monitoring (i.e. hospital for severe medical reasons, long-term care) of their nutrition status or if the patient population is fairly healthy (i.e. mental health facility, assisted living, elective surgery, etc.). The licensee also needs to consider the policies and procedures of the facility and the channels of communication – does the care team meet regularly, who participates in these meetings, does the unlicensed personnel have sufficient knowledge to share the licensee’s care plan or communicate concerns. Is it appropriate for the unlicensed personnel to participate in team meetings? What do the established policies of a facility require?

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

Lawrence R. Duke
Commission Counsel
Date submitted to agency: November 8, 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)? Deleted as upon review, the context seems sufficient.

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

It is persons that do not have a known disease state or medical condition. This is a known term in science. For example, the dietary reference intakes are based on the intakes of “healthy people.” See: <https://health.gov/our-work/nutrition-physical-activity/dietary-guidelines/dietary-reference-intakes-drns>. Also, the dietary guidelines are centered on recommendations to promote health. See: <https://www.dietaryguidelines.gov/about-dietary-guidelines>. This seems clarified by the information at the end of the definition. If this still seems confusing, we could perhaps change it to: “which is designed to promote health.”

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? Deleted “valid.”

In (b)(5), who determines whether information is “false or misleading” and “safe” and on what bases is such a determination made? False would be not in accordance with truth. Misleading means to give the wrong idea. Because supplements are not closely regulated, much of the information provided related to them is often misleading or false. However, because the definition of “nutrition information” already indicates it is based on scientific evidence and studies, it seems okay to just delete this requirement as redundant.

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:

2

3 **21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS**

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

5 (1) "Act" means Dietetics/Nutrition Practice Act in ~~G.S. 90, Article 25.~~ Article 25 of Chapter 90 of the
6 General Statutes.

7 (2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the
8 acts listed under G.S. 90-365(a).

9 (3) "Application" means a written request directed to and received by the Board, on forms supplied by
10 the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all
11 information, documents, and other materials necessary to demonstrate that the applicant has met the
12 requirements for licensure as specified in the Act.

13 (4) "Degree" means a degree received from a college or university that was regionally accredited at the
14 time the degree was conferred, or a validated foreign equivalent.

15 (5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.

16 (6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed
17 scope of practice includes dietetics or nutrition.

18 (7) "Nutrition assessment" means:

19 (A) ~~the evaluation of the nutrition needs of individuals and groups by licensed~~
20 ~~dietitians/nutritionists and licensed nutritionists based upon biochemical, anthropometric,~~
21 ~~nutrigenomic, physical, and food and diet history data to determine nutritional needs and~~
22 ~~the initial and ongoing, dynamic, and systematic process of obtaining, verifying, and~~
23 ~~interpreting biochemical, anthropometric, physical, nutrigenomic, clinical, and dietary data~~
24 ~~to [make decisions about the nature and cause of nutrition related problems] determine~~
25 ~~nutritional needs and order therapeutic diets, including enteral and parenteral nutrition; and~~

26 (B) ~~the ordering of laboratory tests related to the practice of nutrition and dietetics.~~ dietetics;
27 and

28 (C) ~~the conducting of a swallow screen.~~

29 (D) ~~The collection of data does not, by itself, constitute nutrition assessment.~~

30 (8) "Nutrition counseling" ~~[intervention, education, counseling, or management]~~ means the advice and
31 assistance provided ~~by licensed dietitians/nutritionists and licensed nutritionists~~ to individuals or
32 groups on nutrition intake by integrating information from the nutrition assessment with information
33 on food and other sources of nutrient and meal preparation consistent with therapeutic needs and
34 cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs,
35 education, and socioeconomic status. [The following does not constitute nutrition intervention
36 education, counseling, or management: presenting educational lectures, videos, webinars aimed at
37 mass audiences; writing books, articles, blog posts, or social media content; developing condition-

1 based training programs and treatment protocols not related to a current client; watching or listening
2 to educational lectures, videos, or webinars; teaching classes in academic programs; and conducting
3 research that is not related to a current client.]

4 (9) "Nutrition education" means any set of learning experiences designed by a provider of nutrition care
5 to facilitate the voluntary adoption of eating and other nutrition-related behaviors, conducive to
6 health and well-being, consistent with therapeutic needs and cultural background.

7 (10) "Nutrition intervention" means planned actions and nutrition counseling by a provider of nutrition
8 care, intended to improve a nutrition-related behavior, risk factor, environmental condition, or
9 aspect of the health status, consistent with therapeutic needs and cultural background.

10 (11) [(9)] "Nutrition monitoring or evaluation" means regular re-evaluation of ~~medical nutrition~~
11 ~~therapy~~ the nutrition care treatment and prevention plan, which may include review of clinical
12 research and standards of care, to compare the outcomes with the patient's previous health status,
13 intervention goals, or reference standards to determine the progress made in achieving desired
14 outcomes of nutrition care and whether planned interventions should be continued or revised.

15 (12) [(10)] "Nutrition services" for purposes of G.S. 90-357.5(c)(2) means the provision of nutrition
16 ~~[assessments;]~~ assessments, nutrition intervention, education, counseling, or ~~[management;]~~
17 management, and nutrition monitoring or evaluation.

18 (13) [(11)] "Swallow screen" means a minimally invasive evaluation procedure conducted by a
19 licensed dietitian/nutritionist that provides for the determination of:

20 (A) the likelihood that dysphagia exists;

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

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

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

25 (14) [(12)] "Alternate supervised experiential learning" means observational hours that do not involve
26 direct patient or client care or the discussion thereof. Such hours are limited to: observing videos of
27 client and practitioner interactions; shadowing an experienced clinician; participating in simulation
28 exercises or role playing; or utilizing case studies to prepare treatment plans.

29 (15) [(13)] ~~["Professional work setting"]~~ "Direct supervised experiential learning" means nutrition
30 care services provided for the benefit of patients or clients. Such hours are limited to: counseling
31 individuals and groups; researching and developing patient or client treatment plans for current
32 patients or clients; researching, preparing, and presenting patient or client workshops; community
33 education ~~[(development)]~~ involving development and delivery of education to a specific
34 ~~[population;]~~ population; supervisor grand rounds and one-on-one meetings with one's supervisor
35 to discuss current patient or client care; or direct hours approved as part of a programmatically
36 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]
3 enteral, or parenteral routes as part of treatment of disease or clinical conditions to modify,
4 eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to
5 provide mechanically 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.*

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.

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, 90-357.5 and this Rule, and the applicant is not
13 in 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.

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>, <https://www.acbn.org/apply>.

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. Four months after submission of an application,
32 After six [four] months, if an the application and any required documentation has not been completed by the applicant
33 applicant, and ready for Board review, the application shall be considered cancelled due to failure to complete.
34 Complete applications that the Board determines require additional evidence under Paragraph (m) of this Rule shall
35 be eligible for consideration for the timeline set forth in that Paragraph.

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

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

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

9 (2) Submit documentation, including official transcripts, demonstrating the course of study met the
10 competency requirements of the most current edition of the ACEND Accreditation Standards for
11 Nutrition and Dietetic Didactic Programs.

12 (i) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(c) shall submit
13 documentation, including official transcripts, demonstrating completion of the requirements stated in G.S. 90-
14 357.5(c)(1).

15 (j) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice
16 experience in G.S. 90-357.5(a)(1)(b) shall either:

17 (1) Submit a verification statement that includes the original signature of the Program Director of a
18 documented, supervised practice experience that has been accredited by the ACEND as meeting the
19 competency requirements of the most current edition of the Accreditation Standards for Nutrition
20 and Dietetics Internship Programs; or

21 (2) Submit documentation demonstrating at least 1000 hours of documented, supervised practice
22 experience, meeting the competency requirements of the most current edition of the Accreditation
23 Standards for Nutrition and Dietetics Internship Programs issued by ACEND. The scope of activities
24 may include alternate supervised experiential learning such as simulation, case studies, and role
25 playing, but must also include at least 750 hours in a professional work setting, of direct supervised
26 experiential learning. The 1000 hours must be concurrent with or following completion of the
27 academic requirements for licensure and need not be a paid experience. ~~The following shall be~~
28 ~~necessary to determine and verify supervised practice experience:~~

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

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

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

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

37 ~~(i)(A)~~ the name and address of the facility providing the supervised practice experience;

- ~~(ii)~~(B) the name, address, phone, and title of the supervisor who supervised the supervised practice experience;
- ~~(iii)~~(C) a summary of nutrition services performed, along with dates and hours spent performing them;
- ~~(iv)~~(D) evidence that the supervisor met the requirements stated in G.S. 90-357.5(a)(1)(b) at the time of supervision; and
- ~~(v)~~(E) an attestation that the supervisor is not related to, married to, or domestic partners with the supervisee.

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

- (A) regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize, and approve all nutrition care services of the student or trainee supervised;
- (B) maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;
- (C) ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;
- ~~(ii)~~(D) verify that the applicant participated in nutrition services under his or her supervision, stating the total number of hours;
- ~~(ii)~~(E) ~~providing provide~~ a summary of the nutrition services ~~provided~~ completed under his or her supervision; and
- ~~(iii)~~(F) ~~providing provide~~ an evaluation of the applicant for the Board to be able to assess the applicant's performance in completion of the competencies required by ACEND.

~~(k)~~(l) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice experience in G.S. 90-357.5(c)(2) ~~shall~~ must submit documentation demonstrating at least 1000 hours of documented, supervised practice experience, meeting the requirements as stated in G.S. 90-357.5(c)(2). The scope of activities may include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also include at least 750 hours in a professional work setting, of direct supervised experiential learning. The 1000 hours must be concurrent with or following completion of the academic requirements for licensure and need not be a paid experience. Learning experiences must prepare students to [work with] provide nutrition care services for various populations of diverse cultures, genders, and across the life cycle, which may include infants, children, adolescents, adults, pregnant/lactating females, and older adults and to be able to competently formulate actionable medical nutrition therapies and interventions, education, counseling, and ongoing care for the prevention, modulation, and management of a range of acute and chronic medical conditions, including:

- (1) underweight, overweight, malnutrition, and obesity;
- (2) cardiometabolic;
- (3) endocrine;

1 (4) immune and autoimmune; and

2 (5) gastrointestinal disorders.

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

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

9 ~~(2)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice
10 experience, information and verification of each part is required.

11 ~~(3)~~(2) The applicant shall provide to the Board for each supervisor/facility:

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

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

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

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

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

21 (4)(3) Each supervisor ~~shall review the evidence provided by the applicant and verify that the information~~
22 ~~is true, including: shall:~~

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

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

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

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

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

34 ~~(C)~~(F) providing provide an evaluation of the applicant for the Board to be able to assess the
35 applicant's performance in the ~~areas of nutrition assessment; nutrition intervention,~~
36 ~~education, counseling, or management; and nutrition monitoring or evaluation.~~ provision

1 of nutrition services, as defined in 21 NCAC 17 .0101(10), to address, at a minimum, the
2 acute and chronic medical conditions listed in Paragraph (l) of this Rule.

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

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

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

- 35 (1) offered the ability to place the application on hold for a time period of up to one year from the date
36 of the letter providing the Board's determination, so long as such a request is made in writing within

1 30 days of the date of the letter. During this hold time, the applicant may provide other evidence
2 demonstrating the applicant satisfied the requirements the Board determined were not met;

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

6 (3) offered the ability to withdraw the application so long as such a request is made in writing within
7 30 days of the date of the letter. The applicant will be allowed to apply for licensure at a later time.

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

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

16
17 *History Note: Authority G.S. 90-356; 90-357.5; 90-357.6; 90-358;*
18 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
19 *1992;*
20 *Eff. June 1, 1992;*
21 *Recodified from 21 NCAC 17 .0004 Eff. February 1, 1995;*
22 *Amended Eff. January 1, 2021; December 1, 2011; July 18, 2002; March 1, 1996;*
23 *Readopted Eff. August 1, 2019. 2019;*
24 *Amended Eff. December 1, 2022.*

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

2

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 Chapter 90 of the General Statutes
7 [G.S. 90] and the rules of this Chapter.
- 8 (2) has ~~Has~~ failed to remit any applicable fees;
- 9 (3) has ~~Has~~ failed to comply with requests for supporting documentation; ~~and or~~
- 10 (4) has ~~Has~~ ~~[presented false information]~~ employed fraud, deceit, or misrepresentation on application
11 documents required by the Board to verify the applicant's qualifications for licensure.

12

13 *History Note: Authority G.S. 90-356; 90-358; 90-363;*
14 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
15 *1992;*
16 *Eff. June 1, 1992;*
17 *Recodified from 21 NCAC 17 .0008 Eff. February 1, 1995;*
18 *Amended Eff. July 18, 2002;*
19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
20 *~~2016~~; 2016;*
21 *Amended Eff. December 1, 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~~] 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 government-issued
24 documentation reflecting the name change ~~within 30 days of a name change~~ to the ~~Board~~ Board. Upon receipt of the
25 request and documentation the Board ~~who~~ shall re-issue a license certificate and license identification card. ~~Requests~~
26 If an official licensure certificate reflecting the name change is requested, the request shall be accompanied by
27 ~~duplicate license fee and 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.*

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 Article 25 of Chapter 90 of the General Statutes.
6 [General Statute Chapter 90, Article 25.]

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

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

15

16 *History Note: Authority G.S. 90-356; 90-363;*
17 *Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13,*
18 *1992;*
19 *Eff. August 3, 1992;*
20 *Recodified from 21 NCAC 17 .0012 Eff. February 1, 1995;*
21 *Amended Eff. January 1, 1996;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
23 *~~2016.~~ 2016;*
24 *Amended Eff. December 1, 2022.*

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

1 providers [as appropriate.] when the licensee cannot provide the client or patient the services he or
2 she needs.

3 ~~(10)~~(12) The licensee shall take action, with prior consent of the ~~client,~~ client or patient, to inform a ~~client's~~
4 client or patient's physician or other health care practitioner in writing in cases where a ~~client's~~ client
5 or patient's nutritional status indicates a change in health ~~status.~~ status impacting the disease or
6 medical condition for which the physician or other health care practitioner is treating the client or
7 patient.

8 ~~(11)~~(13) The licensee shall ~~give~~ ensure that their client or patient has sufficient information ~~based on the~~
9 ~~client's ability to process information such that the client can make his or her own informed~~
10 ~~decisions.~~ to understand the nutrition diagnosis and the implications of nutrition intervention. [make
11 an informed decision.] The licensee shall not guarantee that nutrition care services will cause any
12 certain outcome or particular result for the ~~client.~~ client or patient.

13 ~~(12)~~(14) The licensee shall permit use of that licensee's name for the purpose of certifying that
14 ~~dietetics/nutrition~~ dietetics or nutrition services have been rendered only if the licensee has provided
15 or supervised those services.

16 (15) The licensee shall document, code, and bill to most accurately reflect the character and extent of
17 delivered services.

18 ~~(13)~~(16) The licensee shall notify the Board in writing within 30 days of the occurrence of any of the
19 following:

20 (A) ~~The Licensee~~ the licensee seeks any medical care or professional treatment for the chronic
21 or persistent use of intoxicants, ~~drugs~~ drugs, or narcotics.

22 (B) ~~The Licensee~~ the licensee is adjudicated to be mentally incompetent.

23 (C) ~~The Licensee~~ the licensee has been convicted or entered into a plea of guilty or nolo
24 contendere to any crime ~~involving moral turpitude.~~ directly related to the duties and
25 responsibilities of a dietitian or nutritionist or that was violent or sexual in nature; or

26 (D) ~~The~~ the licensee has been disciplined by an agency of another state that regulates the
27 practice of dietetics or nutrition.

28 ~~(14)~~(17) The licensee shall comply with all laws and rules concerning the profession.

29 ~~(15)~~(18) The licensee shall uphold the Code of Ethics for professional practice and conduct by reporting
30 ~~suspected violations~~ to the Board inappropriate behavior or treatment of a client or patient by the
31 licensee or others in violation of the Code and the ~~Act to the Board.~~ Act.

32 ~~(16)~~(19) The licensee shall not interfere with an investigation or disciplinary proceeding by willful
33 misrepresentation of facts to the Board or its representative or by the use of threats or harassment
34 against any person.

35 ~~(17)~~(20) The licensee shall not engage in kissing, fondling, touching or in any activities, advances, or
36 comments of a sexual nature with any ~~client [or patient]~~ client, patient, or, while under the licensee's

1 supervision, ~~with any supervisee, student, trainee, or trainee, provisional licensee [licensee,] or~~
2 ~~person aiding the practice of dietetics/nutrition. [dietetics or nutrition.]~~

3 (18)(21) The licensee shall not invite, accept, or offer gifts, monetary incentives, or other considerations that
4 affect or reasonably give an appearance of affecting the licensee's professional judgment.

5 (b) Conduct and circumstances which may result in disciplinary action by the Board include the following:

6 (1) The licensee is a chronic ~~or persistent~~ user of intoxicants, ~~drugs~~ ~~drugs~~, or narcotics to the extent that
7 the same impairs ~~his/her~~ ~~[their]~~ ~~his or her~~ ability to practice ~~dietetics/nutrition. dietetics or~~
8 ~~[nutrition.] nutrition, as determined by a health care provider qualified to conduct such assessment.~~

9 (2) The licensee is mentally, emotionally, or physically unfit to practice ~~dietetics/nutrition dietetics or~~
10 ~~nutrition~~ and is afflicted with such a mental, ~~emotional~~ ~~emotional~~, or physical disability as to be
11 dangerous to the health and welfare of a ~~client. client or~~ ~~[patient.] patient, as determined by a health~~
12 ~~care provider qualified to conduct such assessment.~~

13 (3) The licensee has been disciplined by an agency of another state that regulates the practice of dietetics
14 or nutrition and at least one of the grounds for the discipline is the same or substantially equivalent
15 to the grounds for discipline in this state.

16 (4) The licensee has violated any provisions of the Act or any of the ~~rules in~~ rules of this Chapter.

17
18 *History Note: Authority G.S. 90-356(3); 90-356(2);*
19 *Temporary Adoption Eff. March 19, 1992 for a period of 180 days to expire on September 13, 1992;*
20 *Eff. July 1, 1992;*
21 *Recodified from 21 NCAC 17 .0014 Eff. February 1, 1995;*
22 *Amended Eff. April 1, 2010; July 1, 2004; July 18, 2002; March 1, 1996;*
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
24 *~~2016.~~ 2016;*
25 *Amended Eff. December 1, 2022.*

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]~~ documented, supervised practice experience as required under G.S. 90-357.5,
6 not to exceed five years. The Board may approve or disapprove a ~~[request]~~ request, submitted to the Board
7 electronically or via postal mail, for an extension of the period of time if the delay is not the result of a willful or
8 negligent act, error, or omission, or a failure to exercise reasonable diligence. ~~[based upon circumstances beyond the~~
9 ~~control of the student or trainee.]~~

10

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

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.*

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] shall: identify and document competency goals for the supervised practice~~
9 ~~experience described in G.S. 90-357.5; the supervisee's scope of practice; the assignment of clinical~~
10 ~~tasks as appropriate to the supervisee's level of competence; the supervisee's relationship and access~~
11 ~~to the 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~~
15 ~~requires physically touching the patient and is either physically onsite and available for [immediate]~~
16 ~~physical intervention or [immediately and] continuously available by means of two-way real-time~~
17 ~~audiovisual technology that allows for the direct, contemporaneous interaction by sight and sound~~
18 ~~between the qualified supervisor and the supervisee where the student or trainee is providing~~
19 ~~medical nutrition therapy not requiring touching of the patient;~~
20 (3) shall be available to render [immediate] assistance during the provision of nutrition care when
21 requested by ~~the student or trainee or~~ the patient or client, or shall have arranged for another qualified
22 practitioner lawfully able render nutrition care services, to be available in the absence of the
23 supervising practitioner;
24 (4) ~~periodically~~ regularly, commensurate with the care provided, observes the nutrition care services of
25 the student or trainee supervised, and ~~evaluates, authorizes, evaluates and approves all nutrition care~~
26 ~~services~~ medical nutrition therapy provided by the student or trainee supervised, and supervised,
27 (5) maintains primary ~~shall maintain~~ responsibility for ~~the~~ and control over all nutrition care activities
28 services performed by the student or trainee, including countersigning all clinical encounter
29 notes; and
30 (6) ensures the student or trainee is designated throughout the supervised practice experience by a title
31 that indicates the individual's status as a student or trainee.

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

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~~ use such records in determining compliance with G.S. ~~90-368~~ 90-368(2) and in approving
7 applications for 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.*

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; Article 25 of Chapter 90 of the General Statutes 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.] nutrition; provided that the licensed dietitian/nutritionist shall be on site at~~
23 ~~the service delivery site and within audible and visual range of any unlicensed personnel~~
24 ~~person 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~~ 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)~~ 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~~ 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.~~ ~~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.~~ ~~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.~~ ~~delegated;~~
19 The licensed 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.] ~~therapy;~~ ~~and~~ The licensed
23 dietitian/nutritionist
- 24 (5) shall have the responsibility for clinical record ~~keeping,~~ documentation, ~~and shall ensure that case~~
25 ~~notes and other records of services identify whether the licensed dietitian/nutritionist or the~~
26 ~~unlicensed personnel was the direct provider of the service.~~

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

- 30 (1) knowledge and skills of the unlicensed personnel which include both basic educational and
31 experience preparation and continuing education and experience;
- 32 (2) the competence of the unlicensed personnel for the activity or function;
- 33 (3) the variables in each service setting which include:
 - 34 (A) the complexity and frequency of nutrition care needed by a given client population;
 - 35 (B) the acuity and stability of the client's condition; and
 - 36 (C) established policies, procedures, practices, and channels of communication of the facilities
37 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.*

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. evidence.~~ Nutrition information is not
8 ~~based on an individual nutrition assessment as referenced in G.S. 90-352 or medical nutrition~~
9 ~~therapy as referenced in 21 NCAC 17 .0101(11) and is not individualized to provide nutrition care~~
10 ~~services to prevent, manage, treat, cure or rehabilitate a for the purpose of managing or treating a~~
11 ~~medical condition, illness, or injury~~ condition for a specific person or group as referenced in G.S.
12 ~~90-352 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~~ himself or herself [themselves] out to be a dietitian or
22 nutritionist or imply orally or in writing or indicate in any way that ~~he/she~~ [they are] he or she is a
23 ~~dietitian/nutritionist; dietitian or 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~~ him or 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)~~(5) 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.*

1 21 NCAC 17.0403 is amended as published in 37:02 NCR 190-201 as follows:

2

3 **21 NCAC 17 .0403 ~~ELECTRONIC PRACTICE-TELEPRACTICE~~**

4 Any person, whether residing in this ~~state~~ State or not, who by use of electronic or other medium performs any of the
5 acts described as the practice of ~~dietetics/nutrition~~, medical nutrition therapy with a client or patient located in this
6 State, but is not licensed pursuant to ~~Article 25 of G.S. 90~~ Article 25 of Chapter 90 of the General Statutes shall be
7 deemed by the Board as being engaged in the practice of ~~dietetics/nutrition~~ medical nutrition therapy and subject to
8 the enforcement provisions available to the Board. Among other remedies, the Board shall report violations of this
9 Rule to any occupational licensing board having issued an occupational license to a person who violates this Rule.
10 This Rule does not apply to persons licensed pursuant to, or exempt from licensure pursuant to, Article 25 of G.S. 90.

11

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

13 *Eff. February 1, 2006;*

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.*

1 21 NCAC 17 .0501 is proposed for adoption as follows:

2
3 **SECTION .0500 – INVESTIGATIVE PROCESS, COMPLAINTS, AND ADMINISTRATIVE HEARINGS**

4
5 **21 NCAC 17 .0501 DEFINITIONS**

6 As used in this Section:

7 (1) “Good cause” related to motions or requests to continue or for additional time for responding
8 includes:

9 (a) death or incapacitating illness of a party, or attorney of a party;

10 (b) a court order requiring a continuance;

11 (c) lack of proper notice of the hearing;

12 (d) a substitution of the representative or attorney of a party if the substitution is shown to be
13 required;

14 (e) a change in the parties or pleadings requiring postponement; and agreement for a
15 continuance by all parties if either more time is necessary to complete mandatory
16 preparation for the case, such as authorized discovery, and the parties and the

17 Board have agreed to new hearing date or parties have agreed to a settlement of the case
18 that has been or is likely to be approved by the final decision maker;

19 (f) where, for any other reason, either party has shown that the interests of justice require a
20 continuance or additional time.

21 (2) “Good cause” related to motions or requests to continue or for additional time for responding shall
22 not include:

23 (a) intentional delay;

24 (b) unavailability of a witness if the witness testimony can be taken by deposition; and

25 (c) failure of the attorney or representative to properly utilize the statutory notice period to
26 prepare for the hearing.

27 (3) “Investigative Committee” means a Board committee composed of one licensed dietitian/nutritionist
28 member of the Board, one licensed nutritionist member of the Board, and the public member of the
29 Board. This Committee is charged with the duty of reviewing cases and complaints involving
30 licensees, applicants for licensure, and all other allegations involving violations of the
31 Dietetics/Nutrition Practice Act. The Investigative Committee shall be responsible for directing
32 investigations and making recommendations to the Board regarding unresolved cases or complaints
33 at regularly scheduled meetings.

34 (4) “Licensee” means all persons to whom the Board has issued a license under [Article 25 of G.S. 90.]
35 Article 25 of Chapter 90 of the General Statutes.

36
37 History Note: Authority G.S. 90-356; G.S. 150B-38;

1 21 NCAC 17 .0502 is adopted as published in 37:04 NCR 334-340 as follows:

2
3 **21 NCAC 17 .0502 COMPLAINTS**
4

5 (a) Anyone may complain to the Board alleging that a person, applicant, or licensee has committed an action
6 prohibited by [~~Article 25, Chapter 90 of the North Carolina~~] Article 25 of Chapter 90 of the General Statutes or the
7 rules of the Board.

8 (b) Complaints may be submitted to the Board by completing the Board's complaint form online at
9 www.ncbndn.org/file-a-complaint or a paper form may be requested by contacting the Board office. Paper forms may
10 be delivered to the Board by mail or hand-delivery at 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511.

11 (c) Each complaint submitted shall set forth specific facts and circumstances known to the complainant relating to
12 the Dietetics/Nutrition Practice Act or the Board's rules, and the conduct or competence of each person who is the
13 subject of the complaint.

14 (d) Anonymous complaints are not investigated unless, if upon preliminary review of the contents of the complaint
15 by Board staff, it appears the allegation(s) indicate a violation of the Dietetics/Nutrition Practice Act or the Board's
16 rules, sufficient identification information for the person who is the subject of the complaint is provided, and there is
17 sufficient information to substantiate allegation(s).

18 (e) Investigations may be conducted by the Board staff or by other persons authorized by the Board.

19 (f) Upon receipt of a complaint, the Board shall confirm receipt of the complaint to the complainant.

20 (g) The Board staff, or its authorized Investigator, shall assign a complaint number to the initial complaint, review
21 the contents of the complaint, and conduct a preliminary review of information to determine whether an individual's
22 conduct or competence relates to the Dietetics/Nutrition Practice Act or the Board's rules.

23 (h) If preliminary information in the complaint does not relate to an individual's conduct or competence under the
24 authority of the Dietetics/Nutrition Practice Act or the Board's rules, the Board staff, or its authorized Investigator,
25 shall close the complaint and send notice to the complainant. If applicable, the Board staff may refer the complainant
26 to the appropriate governmental agency for handling such complaints. No further action shall be taken by the Board.

27 (i) If the information about an individual's conduct or competence appears to be under the authority of the
28 Dietetics/Nutrition Practice Act or the Board's rules, Board staff, or its authorized Investigator, shall open an
29 investigative case and begin an investigation of the matters described in the complaint.

30
31 History Note: Authority G.S. 90-356; 90-363;

32 Eff. December 1, 2022.

1 21 NCAC 17 .0503 is adopted as published in 37:04 NCR 334-340 as follows:

2
3 **21 NCAC 17 .0503 INVESTIGATIONS**
4

5 (a) Once an investigative case is created, the Board staff, or its authorized Investigator, shall send each person who
6 is the subject of an investigation, using the mail or electronic mail address of record in the Board's records for each
7 person, or the mail or electronic mail address provided on the complaint form if the person is not in the Board's records,
8 a summary of the complaint and a request for a written response.

9 (b) Licensees shall submit a written response to a complaint received by the Board within 45 days from the date the
10 Board confirms the licensee's receipt of notice of the complaint. The Board shall grant up to an additional 30 days for
11 the response where the licensee demonstrates good cause for the extension of time. The response shall contain accurate
12 and complete information. Where a licensee fails to respond in the time and manner provided herein, the Board may
13 proceed with making its decision in the absence of the licensee or information from the licensee, and the licensee may
14 be held by the Board to be interfering with an investigation by willful misrepresentation of facts under 21 NCAC 17
15 .0114(16) in violation of G.S. 90-363(7).

16 (c) A summary of the complaint and a request for a written response sent to a person who is not an applicant for
17 licensure or a licensee of the Board shall be accompanied by the following statement:

18 "You are hereby notified that the opinion expressed herein is not a legal determination. An occupational
19 licensing board does not have the authority to order you to discontinue your current practices. Only a court
20 may determine that you have violated or are violating any law and, if appropriate, impose a remedy or penalty
21 for the violation. Further, pursuant to G.S. 150B-4, you may have the right, prior to initiation of any court
22 action by the Board, to request a declaratory ruling regarding whether your particular conduct is lawful. You
23 are further notified that any right to a declaratory ruling supplements any other legal rights that you may
24 already have to establish the legality of your conduct with respect to the goods or services you offer or
25 provide."

26 (d) The Board staff, or its authorized Investigator, shall investigate a complaint and shall provide the Board's
27 Investigation Committee with an investigation report. The Investigative Committee shall review the report and shall
28 determine to:

- 29 (1) request further investigation of particular aspects of the matter;
30 (2) request the individual who is the subject of the complaint meet with members of the Board to be
31 interviewed if ~~they are~~ he or she is are willing to be interviewed; or
32 (3) accept the report and make a recommendation to the Board.

33 (e) The Board shall authorize the Investigative Committee to make a recommendation to the Board if an investigation
34 is complete and the complaint is unresolved.

35 (f) The Board shall consider the Investigative Committee's recommendation and shall determine whether to:

- 36 (1) conduct further investigation of particular aspects of the matter;
37 (2) close or dismiss the case or issue a non-disciplinary letter of caution;

1 (3) issue a consent order to the subject of an investigation, specifying any disciplinary sanctions to be
2 applied and, if the consent order is not accepted, issue a notice of hearing;

3 (4) issue a notice of hearing to a subject, specifying any disciplinary sanctions; or

4 (5) apply to the courts for injunctive relief, refer a matter to a district attorney for prosecution, or take
5 other actions, including reporting the matter to appropriate state or federal agencies.

6 (g) A copy of a notice of hearing shall be sent to the complainant.

7 (h) Whenever a complaint is dismissed or a complaint file is closed, notification of the Board's final decision shall be
8 sent to the complainant, and the accused party.

9

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

11 Eff. December 1, 2022.

1 21 NCAC 17 .0516 is adopted as published in 37:04 NCR 334-340 as follows:

2

3 **21 NCAC 17 .0516 DISCIPLINARY COSTS**

4

5 (a) The Board may recover against a licensee or license applicant, found to be in violation of the Act or rules adopted
6 by the Board, the following costs of disciplinary actions incurred by the Board for the investigation, prosecution,
7 hearing, or other administrative action:

8 (1) witness fees and statutorily-allowed expenses for witnesses;

9 (2) direct costs of the Board in taking or obtaining of depositions of witnesses;

10 (3) costs incurred by reason of administrative or staff time of employees of the Board directly
11 attributable to the action leading to the final decision or order; and

12 (4) costs incurred by reason of legal fees charged to the Board directly attributable to the action leading
13 to the final decision or order.

14 These costs may be assessed by the Board pursuant to final decisions or orders of the Board following an
15 administrative hearing pursuant to Article 3A of Chapter 150B of the [North Carolina]General Statutes. These costs
16 may also be assessed against a licensee or license applicant for an investigation or action in the nature of disciplinary
17 action, pursuant to the express consent by the person in a consent order approved by the Board.

18

19 *History Note: Authority G.S. 90-356; 90-370;*

20 *Eff. December 1, 2022.*

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Sent: Wednesday, November 16, 2022 11:16 AM

To: Charla Burill <director@ncbdn.org>

Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

Charla,

I have never seen the Commission deny an initial request for an extension or ask for a response from an agency or board, but that does not mean it is not within the Commission's prerogative to do so. I would recommend that you monitor the meeting via Webex and be prepared to respond if it becomes necessary. Again, I have never seen that become necessary, but I would recommend being prepared.

Lawrence Duke

Counsel, NC Rules Review Commission

Office of Administrative Hearings

(984) 236-1938

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Charla Burill <director@ncbdn.org>

Sent: Tuesday, November 15, 2022 6:26 PM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com

Subject: Re: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Lawrence,

Thank you for your email. Is there any need for us to plan to be in attendance on Thursday for the RRC meeting?

Thank you,

Charla

Charla M. Burill

Executive Director/Secretary

North Carolina Board of Dietetics/Nutrition

director@ncbdn.org

1135 Kildare Farm Road, Suite 200

Cary, NC 27511

Phone: 919-678-7609

Fax: 919-882-1776

Web: www.ncbdn.org

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Sent: Tuesday, November 15, 2022 10:26 AM

To: Charla Burill <director@ncbdn.org>

Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

Charla,

Thank you for this update. I will advocate for an extension at the RRC meeting on Thursday, which will give you time to work with the Board.

I look forward to working with you and your Board after its November 18 meeting. If you have any questions between now and then, please let me know.

Thanks,

Lawrence Duke

Counsel, NC Rules Review Commission

Office of Administrative Hearings

(984) 236-1938

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

From: Charla Burill <director@ncbdn.org>

Sent: Monday, November 14, 2022 12:54 PM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Holliday, Amanda S <amanda_holliday@unc.edu>; hjones@jordanprice.com

Subject: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Lawrence,

My Board Chair has concerns that not all Board members have reviewed the proposed edits. Thus, noting we have a regularly scheduled board meeting on Friday, November 18, 2022, she has directed me to ask for an extension and advised the Board members to plan to discuss your concerns and any proposed changes then. I anticipate that we will be able to provide you with updated rules and explanations early next week.

Thus, if you can please plan to advocate for an extension for our rules published on July 15, 2022 and August 15, 2022, until the December 15, 2022 meeting, that would be appreciated.

I also have copied our Board Chair and legal counsel.

Sincerely,

Charla

Charla M. Burill
Executive Director/Secretary
1135 Kildaire Farm Road, Suite 200
Cary, NC 27511
P: (919) 678-7609
F: (919) 882-1776
www.ncbdn.org

Burgos, Alexander N

From: Charla Burill <director@ncbdn.org>
Sent: Thursday, November 10, 2022 3:48 PM
To: Duke, Lawrence
Cc: Marnie Jones; Burgos, Alexander N
Subject: [External] RE: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Lawrence,

We are presently working through the rules and should be able to have the proposed changes and explanations to you on Monday as I would like to give my Board members the weekend to review. Should you still have concerns with any of the rules after your review, noting we do not have much time before the meeting on Thursday, we would be interested in seeking an extension on those rules for which you still have concerns if we cannot come to an understanding before the meeting deadline. Our aim is to get to a point where you can recommend approval of all rules, and we recognize that may take some additional changes and correspondence. That said, to the extent you approve of our changes, we would like to put those rules before the Commission on November 17, 2022.

Are there any concerns to note with the above proposal?

Thank you for your assistance,

Charla

Charla M. Burill
Executive Director/Secretary
1135 Kildaire Farm Road, Suite 200
Cary, NC 27511
P: (919) 678-7609
F: (919) 882-1776
www.ncbdn.org

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Tuesday, November 8, 2022 5:43 PM
To: Charla Burill <director@ncbdn.org>
Cc: Marnie Jones <info@ncbdn.org>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 21 NCAC 17 Rules for Brd. of Dietetics/Nutrition - RRC Review

Charla,

I hope you are doing well. I have reviewed the Rules submitted by the Board of Dietetics/Nutrition for the November 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, November 17, 2022, at 9:00 a.m. Per usual, the meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as

we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

I have attached my requests for changes. Please submit the revised Rules and forms to me via email, no later than 5:00 p.m. on Monday, November 14, 2022. I understand that this may not be sufficient time for corrections to be made, and so I would be happy to advocate for an extension if you feel it is necessary. In the meantime, please let me know if you have any questions or concerns.

Thanks,
Lawrence Duke

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1938
Lawrence.Duke@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.