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CHAPTER Diet 100 ORGANIZATIONAL RULES

PART Diet 101 PURPOSE

Diet 101.01 Purpose. These rules implement the statutory responsibilities of the New Hampshire board of licensed dietitians created under RSA 326-H:7.

Source #7771, eff 10-3-02

PART Diet 102 DEFINITIONS

Diet 102.01 Terms Used. The following terms shall have the following definitions:

(a) "Administrator" means the person with delegated authority to perform administrative and clerical functions for the board.

(b) "Board" means "board" as defined in RSA 326-H:3, I, namely, "the board of licensed dietitians."

(c) "Dietitian" means "dietitian" as defined by RSA 326-H:3, III, namely "a person who is a food and nutrition professional who meets the minimum academic and professional requirements that have enabled that individual to be credentialed by the Commission on Dietetic Registration as a registered dietitian."

(d) "Licensee" means a person who holds a license issued by the board.

Source #7771, eff 10-3-02

PART Diet 103 DESCRIPTION OF THE AGENCY

Diet 103.01 Composition of the Board. The board consists of 5 members appointed in accordance with RSA 326-H:7.

Source #7771, eff 10-3-02

Diet 103.02 Responsibilities of the Board. The board's responsibilities include:

(a) The granting and issuance of licenses to qualified applicants;

(b) The establishment of standards for the approval of continuing education programs;

(c) The granting and issuance of renewal licenses;

(d) The reinstatement of licenses;

(e) The establishment of a code of ethics for the practice of licensees; and

(f) The investigation of complaints against licensees and the subsequent undertaking of any necessary disciplinary proceedings and disciplinary actions against licensees.

Source #7771, eff 10-3-02

Diet 103.03 Officers. The board selects its chairperson from among its members.

Source #7771, eff 10-3-02

Diet 103.04 Meetings.

(a) The board shall meet no fewer than 4 times a year, and at such additional times as the board chair, or a majority of the board, shall designate.

(b) The time and place of the meetings shall be noticed to the public in accordance with RSA 91-A:2, II.

Source #7771, eff 10-3-02

Diet 103.05 Ineligibility of Board Members to Participate.

(a) A board member shall not be eligible to vote on, or substantively participate in, matters pertaining to:

(1) His or her own license application or renewal application;

(2) Any other matter regarding his or her license; or

(3) Any matter coming before the board in which the member has a personal, professional, or financial interest including, but not limited to, any matter involving the board member or the board member's spouse, parent, child, business partner or business investment.

(b) The board member shall promptly disclose to the board any interest described in paragraph (a) and shall recuse himself or herself from participating in board deliberations or actions pertaining to that matter.

Source #7771, eff 10-3-02

Diet 103.06 Records of Board Actions.

(a) Minutes shall be kept of board meetings and of official actions taken by the board.

(b) The minutes shall record the members who participate in each vote and shall separately record the position of members who choose to dissent, abstain or concur.

Source #7771, eff 10-3-02

Diet 103.07 Public Access to Minutes.

(a) Minutes of board actions which are not exempt from disclosure under RSA 91-A:3, II or RSA 91-A:5 shall be public records.

(b) The minutes shall be available for inspection during the board's ordinary office hours within 144 hours from the close of the meeting or vote in question unless the 72 hour availability requirement of RSA 91-A:3, III is applicable.

Source #7771, eff 10-3-02

PART Diet 104 PUBLIC INFORMATION

Diet 104.01 Office Location, Mailing Address, Telephone and Fax Numbers.

(a) The board's office location and mailing address and telephone and fax numbers are as follows:

Board of Licensed Dietitians
c/o Department of Health & Human Services
Office of Program Support

129 Pleasant Street
Concord, NH 03301
603-271-5127
Fax 603-271-5590

(b) Correspondence, filings and other communications intended for the board shall be addressed to "Administrator, New Hampshire Board of Licensed Dietitians" at the location stated in Diet 104.01(a).

(c) Information can be obtained by calling the telephone numbers stated in paragraphs (a) and (d).

(d) Access for in-state TTY/TDD users is through Relay New Hampshire by dialing 711 or by dialing 1-800-735-2964.

Source #7771, eff 10-3-02

Diet 104.02 Custodian of Records; Inspection and Copies of Records.

(a) The administrator shall be the custodian of the board's records, and shall make available, upon request, those records which are subject to public inspection under RSA 91-A.

(b) Persons desiring to inspect or obtain copies of board records shall identify as specifically as possible the information being sought.

(c) Persons desiring copies of board records shall pay the actual costs of copying.

(d) If records are requested which contain both public information and information exempt from disclosure pursuant to RSA 91-A or other law, the board shall delete the information exempt from disclosure and provide the remaining information.

Source #7771, eff 10-3-02

CHAPTER Diet 200 PROCEDURAL RULES

PART Diet 201 DEFINITIONS

Diet 201.01 Definitions.

(a) "Appearance" means a written notification to the board that a party, an intervenor or the representative of a party or intervenor intends to actively participate in a hearing.

(b) "Board" means the board of licensed dietitians established pursuant to RSA 326-H: 7.

(c) "Complainant" means a person who alleges action on the part of a licensee that may give rise to the board's commencement of disciplinary proceedings against the licensee.

(d) "Contested case" means "contested case" as defined in RSA 541-A: 1, IV, namely, "a proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after notice and an opportunity for hearing."

(e) "Declaratory ruling" means "declaratory ruling" as defined in RSA 541-A: 1, V, namely "an agency ruling as to the specific applicability of any statutory provision or of any rule or order of the agency."

(f) "Hearing" means "adjudicative proceeding" as defined by RSA 541-A:1, I, namely, "the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36."

(g) "Intervenor" means a person without the status of a party who participates in a hearing to the extent permitted by the presiding officer acting pursuant to RSA 541-A:32.

(h) "Motion" means a request to the presiding officer for an order or ruling directing some act to be done in favor of the party making the motion, including a statement of justification or reasons for the request.

(i) "Order" means "order" as defined in RSA 541-A: 1, XI, namely, "the whole or part of an agency's final disposition of a matter, other than a rule, but does not include an agency's decision to initiate, postpone, investigate or process any matter, or to issue a complaint or citation."

(j) "Party" means "party" as defined in RSA 541-A: 1, XII, namely, "each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party."

(k) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than the board.

(l) "Presiding officer" means "presiding officer" as defined in RSA 541-A: 1 XIV, namely, "that individual to whom the agency has delegated the authority to preside over a proceeding, if any; otherwise it shall mean the head of the agency."

(m) "Proof by a preponderance of the evidence" means a demonstration by admissible evidence that a fact or legal conclusion is more probably true than not.

(n) "Public comment hearing" means a proceeding held pursuant to RSA 541-A:11.

(o) "Record" means, in a contested case, the materials set forth in RSA 541-A: 31, VI.

(p) "Rulemaking petition" means a petition made pursuant to RSA 541-A:4, I.

Source #7937, eff 8-23-03

PART Diet 202 CONSTRUCTION OF RULES AND RIGHT TO A HEARING

Diet 202.01 Principles of Dispute Resolution. The board shall resolve by agreement or by decision after hearing all disputes about matters within the scope of RSA 326-H and the administrative rules implementing that statute.

Source #7937, eff 8-23-03

Diet 202.02 Construction of Rules. Parts Diet 203 - 213 and Parts Diet 215 - 216 shall be construed to secure the just, accurate and efficient resolution of all disputes.

Source #7937, eff 8-23-03

Diet 202.03 Right to A Hearing. Any person having a dispute with the board shall be entitled to a hearing of the dispute if:

(a) The legal rights, duties or privileges of that person will be determined in the course of deciding the outcome of the dispute; and

(b) Constitutional, statutory or case law requires the board to hold a hearing before determination of those rights, duties or privileges.

Source #7937, eff 8-23-03

PART Diet 203 CONDUCT OF HEARINGS BY PRESIDING OFFICER; WAIVER OF RULES
Diet 203.01 Presiding Officer.

- (a) Hearings shall be conducted by a presiding officer designated by the board.
- (b) The presiding officer shall, as necessary:
 - (1) Regulate and control the course of the hearing;
 - (2) Facilitate settlement of the dispute that is the subject of the hearing;
 - (3) Administer oaths and affirmations;
 - (4) Request that the board, with the approval of the attorney general, issue subpoenas to compel the attendance of witnesses or the production of documents;
 - (5) Receive relevant evidence at hearings and exclude irrelevant, immaterial or unduly repetitious evidence;
 - (6) Rule on procedural requests at the request of a party or intervenor or on the presiding officer's own motion;
 - (7) Question anyone who testifies to the extent required to make a full and fair record;
 - (8) Cause a complete record of the hearing to be made, as specified in RSA 541-A:31, VII; and
 - (9) Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.

Source #7937, eff 8-23-03

Diet 203.02 Withdrawal of Presiding Officer.

(a) Upon his or her own initiative or upon the motion of any party or intervenor, the presiding officer shall withdraw from any hearing for good cause.

(b) Good cause shall exist if the presiding officer:

- (1) Has a direct interest in the outcome of the hearing, including but not limited to, a financial or family relationship with any party or intervenor;
- (2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case; or
- (3) Personally believes that he or she cannot fairly judge the facts of the case.

(c) Mere knowledge of the issues or acquaintance with any party, intervenor or witness shall not constitute good cause for withdrawal.

Source #7937, eff 8-23-03

Diet 203.03 Waiver or Suspension of Rules by Presiding Officer. The presiding officer, upon the motion of any party or intervenor, or on his or her own initiative, shall suspend or waive any requirement or limitation imposed by this chapter when the suspension or waiver:

- (a) Appears to be lawful; and

(b) Is more likely to promote the just, accurate and efficient resolution of the pending dispute than would adherence to a particular rule or procedure.

Source #7937, eff 8-23-03

PART DIET 204 FILING, FORMAT AND DELIVERY OF DOCUMENTS

Diet 204.01 Date of Issuance or Filing.

(a) All written documents governed by this chapter shall be rebuttably presumed to have been issued on the date noted on the document.

(b) All written documents governed by this chapter shall be rebuttably presumed to have been filed with the board on the date of receipt, as evidenced by a date stamp placed on the document by the board or its staff in the normal course of business.

Source #7937, eff 8-23-03

Diet 204.02 Format of Documents.

(a) All correspondence, pleadings, motions or other documents filed shall:

- (1) Include the title and docket number of the case, if known;
- (2) Be completed using a keyboard or be legibly printed in ink on durable paper 8 1/2 by 11 inches in size;
- (3) Be signed by the proponent of the document, or, if the proponent appears by a representative, by the representative; and
- (4) Include a statement certifying that a copy of the document has been delivered to all parties and intervenors in compliance with Diet 204.03.

(b) The signature of a party or intervenor or the representative of the party or the intervenor on a document filed with the board shall constitute certification that:

- (1) The signer has read the document;
- (2) The signer is authorized to file it;
- (3) To the best of the signer's knowledge, information and belief there are good and sufficient grounds to support it; and
- (4) The document has not been filed for purposes of delay.

Source #7937, eff 8-23-03

Diet 204.03 Delivery of Documents.

(a) Copies of all petitions, motions, exhibits, memoranda, or other documents filed by any party or intervenor shall be delivered by that party or intervenor to the board and to all other parties and intervenors.

(b) All notices, orders, decisions or other documents issued by the presiding officer shall be delivered to all parties and intervenors.

(c) Delivery of documents relating to a proceeding shall be made by depositing into the United States mail a copy of the document in an envelope bearing:

- (1) The name of the person intended to receive the document;
- (2) The full address, including zip code, last provided to the board by such person;
- (3) Prepaid first class postage; or
- (4) In the case of documents issued by the presiding officer, the information noted in (1) and (2) above together with prepaid certified mail postage, return receipt requested.

(d) When a party or intervenor appears by a representative, delivery of a document to the party's or intervenor's representative at the address stated on the appearance filed by the representative shall constitute delivery to the party or intervenor.

Source #7937, eff 8-23-03

PART Diet 205 TIME PERIODS

Diet 205.01 Computation of Time.

(a) Unless otherwise specified, the unit of time for time periods referenced in this chapter shall be calendar days.

(b) Computation of any period of time referred to in this chapter shall begin with the day after the action which sets the time period in motion, and shall include the last day of the period so computed.

(c) If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, then the time period shall be extended to include the first business day following the Saturday, Sunday or legal holiday.

Source #7937, eff 8-23-03

PART Diet 206 MOTIONS

Diet 206.01 Motions; Objections.

(a) Motions shall be in written form and filed with the presiding officer, unless made in response to a matter asserted for the first time at a hearing or based on information that was not received in time to prepare a written motion.

(b) Oral motions and any oral objections to such motions shall be recorded in full in the record of the hearing. If the presiding officer finds that the motion requires additional information in order to be fully and fairly considered, the presiding officer shall direct the proponent to submit the motion in writing and provide supporting information.

(c) Except as otherwise provided by this chapter, objections to written motions shall be filed within 10 days of the date of the motion.

(d) Failure by an opposing party or an intervenor to object to a motion shall not in and of itself constitute grounds for granting the motion.

(e) When necessary to obtain information or to clarify an issue relating to the proceedings, the presiding officer shall hold a hearing on the motion.

(f) The presiding officer shall rule upon a motion after full consideration of all objections and applicable law.

PART Diet 207 COMMENCEMENT OF THE HEARING; APPEARANCES; PRE-HEARING CONFERENCE; RECORDING THE HEARING

Diet 207.01 Commencement of the Hearing.

(a) A hearing shall be commenced by:

- (1) An order of the board giving the parties the notice specified in paragraph (b) below; and
- (2) In the case of a hearing related to the board's emergency suspension of a license, the notice specified in (b) below, together with the order issued pursuant to Diet 207.03 (a).

(b) The hearing notice shall contain:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the legal authority under which the hearing is to be held;
- (3) A reference to the applicable statutes and rules;
- (4) A short and plain statement of the issues presented;
- (5) A statement that each party has the right to have representation by an attorney at the party's own expense;
- (6) The name of the presiding officer;
- (7) In the case of a hearing not related to the board's emergency suspension of a license, the statement that:
 - a. A party has the right to have the board provide a certified shorthand court reporter at the party's expense; and
 - b. The party's request for a certified shorthand court reporter shall be submitted in writing at least 10 days before the beginning of the hearing; and
- (8) In the case of a hearing related to the board's emergency suspension of a license pursuant to Diet 207.03, the statement that the board shall provide a certified shorthand court reporter at the board's expense.

Source #7937, eff 8-23-03

Diet 207.02 Complaints and Disciplinary Proceedings.

(a) The board shall not act upon any complaint against any licensee unless such complaint is in writing.

(b) Except in cases arising under Diet 207.03, at least 14 days before any hearing relative to a complaint against a licensee the board shall, either personally or by registered mail, serve the licensee and the complainant with:

- (1) A copy of the written complaint; and
- (2) The notice specified in Diet 207.01(b).

(c) Except in cases arising under Diet 207.03, unless otherwise agreed by the board, the licensee and the complainant, a hearing shall be held on all written complaints received by the board within 3 months of the date that notice of the complaint was served upon the licensee under paragraph (b) above.

Source #7937, eff 8-23-03

Diet 207.03 Procedure for Emergency Suspension of Licenses.

(a) Upon a finding that public health, safety or welfare requires emergency action, the board shall immediately and without a hearing suspend a license by issuing a written order of suspension incorporating the finding.

(b) The board shall commence a hearing no later than 10 working days after the issuance of an order pursuant to (a).

(c) Unless the 10-day deadline in (b) is expressly waived by the licensee, the failure of the board to meet the deadline shall result in the automatic vacating of the order of license suspension.

(d) After the vacating of the order pursuant to (c) above, the board shall not again suspend the license on the basis of the same conduct that formed the basis for the vacated order without giving the licensee prior notice and the opportunity for a hearing under Diet 207.01.

(e) The recording of a hearing on the emergency suspension of a license shall be made by a certified shorthand court reporter provided and paid for by the board.

Source #7937, eff 8-23-03

Diet 207.04 Appearances and Representation. A party or intervenor or the representative of the party or intervenor shall file an appearance that includes the following information:

(a) The docket number assigned by the board, if any, or a brief identification of the case;

(b) A statement as to whether or not the party or intervenor is appearing for him or herself or through a representative;

(c) A statement as to whether the person filing the appearance is an attorney licensed to practice in the State of New Hampshire;

(d) The daytime address and telephone number of the party, intervenor or representative filing the appearance and, if a representative, the name, daytime address and telephone number of the party or intervenor being represented; and

(e) A statement that the person filing the appearance agrees to abide by the statutes, rules and other applicable law relating to the adjudicative proceedings of the board.

Source #7937, eff 8-23-03

Diet 207.05 Prehearing Conference.

(a) A prehearing conference shall be scheduled on the request of any party or intervenor or on the initiative of the presiding officer if the presiding officer determines that to do so would facilitate the proceedings or encourage resolution of the dispute.

(b) One or more of the following shall be addressed at the prehearing conference:

(1) Offers of settlement;

- (2) Simplification of the issues;
- (3) Stipulations or admissions as to issues of fact or proof;
- (4) Limitations on the number of witnesses;
- (5) Changes to standard hearing procedures;
- (6) Consolidation of examination of witnesses; and
- (7) Any other matters that advance the efficiency of the proceedings.

Source #7937, eff 8-23-03

Diet 207.06 Recording the Hearing.

(a) Except as otherwise provided in (d) below, the presiding officer shall record the hearing by tape recording or other method that will provide a verbatim record.

(b) If any person requests a transcript of the taped record, the board shall cause a transcript to be prepared and, upon receipt of payment for the cost of the transcription, shall provide copies of the transcript to the person making the request.

(c) Pursuant to RSA 541-A: 31, VII, if a transcript is not provided by the board within 60 days of a request by licensee in a disciplinary hearing, the proceeding shall be dismissed with prejudice.

(d) A hearing on the emergency suspension of a license pursuant to RSA 541-A: 30, III shall be recorded by a certified shorthand court reporter provided and paid for by the board.

Source #7937, eff 8-23-03

PART Diet 208 ROLES OF BOARD STAFF AND COMPLAINANTS

Diet 208.01 Role of Complainants in Disciplinary Proceedings. Unless called as a witness, complainants alleging misconduct by a licensee shall have no role in any hearing, but may petition to intervene.

Source #7937, eff 8-23-03

Diet 208.02 Role of Board Staff in Disciplinary Proceedings. Unless called as witnesses, board staff shall have no role in any hearing.

Source #7937, eff 8-23-03

PART Diet 209 INTERVENTION

Diet 209.01 Intervention Procedure.

(a) Petitions for intervention shall:

- (1) Describe the petitioner's interest in the subject matter of the proceedings; and
- (2) Be submitted in writing to the presiding officer.

(b) A copy of a petition submitted pursuant to (a) above shall be mailed to the board and to all persons or entities identified in the notice commencing the adjudicative proceeding.

(c) A petition for intervention shall be granted by the presiding officer if:

(1) The petitioner complied with (a) and (b) above at least 3 days before the adjudicative proceeding and the presiding officer determines that:

a. The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests may be affected by the proceedings or the petitioner qualifies as an intervenor under law; and

b. The intervention sought would not impair the interests of justice and the orderly and prompt conduct of the proceedings; or

(2) The petitioner complied with (a) and (b) above at any time and the presiding officer determines that the intervention sought would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.

Source #7937, eff 8-23-03

Diet 209.02 Effect of Intervention.

(a) Approval of intervention by the presiding officer shall apply only to the proceeding in which the petition for intervention was granted.

(b) Notwithstanding the provisions of this chapter, an intervenor's right to participate in an adjudicative proceeding shall be subject to any limitations or conditions imposed by the presiding officer pursuant to RSA 541-A:32, III.

(c) An intervenor shall take the proceedings as he or she finds them and no portion of the proceeding shall be repeated because of the fact of intervention.

Source #7937, eff 8-23-03

PART Diet 210 CONTINUANCES AND FAILURE TO ATTEND HEARING

Diet 210.01 Continuances.

(a) Any party or intervenor may make an oral or written motion that a hearing, or any other proceeding, be delayed or continued to a later date or time.

(b) A motion for a delay or a continuance shall be granted if the presiding officer determines that there is good cause to do so.

(c) Good cause shall include:

(1) The unavailability of parties, intervenors, witnesses or attorneys necessary to conduct the hearing;

(2) The likelihood that a settlement will make the hearing or its continuation unnecessary; and

(3) Any other circumstances that demonstrate that a delay or continuance would assist in resolving the case fairly.

(d) If the later date, time and place are known when the hearing is being delayed or continued, the information shall be stated on the record. If the later date, time and place are not known at that time,

the presiding officer shall as soon as practicable issue a written scheduling order stating the date, time and place of the delayed or continued hearing.

Source #7937, eff 8-23-03

Diet 210.02 Failure of a Party to Attend or Participate in the Hearing.

(a) A party shall be in default if the party:

- (1) Has the overall burden of proof;
- (2) Has been given notice in accordance with Diet 207.01; and
- (3) Fails to attend the hearing.

(b) If a party is in default under (a) above, the case shall be dismissed.

(c) If a party who does not have the overall burden of proof fails to attend a hearing after having been given notice in accordance with Diet 207.01, the testimony and evidence of any other parties or intervenors shall be received and evaluated.

(d) If a party who has the overall burden of proof attends a hearing but fails to participate by presenting evidence or argument, a decision shall be entered against that party.

(e) The board shall not dismiss the case under (b) above if there exists good cause for the failure to appear.

(f) For the purposes of (e) above, good cause means circumstances which are beyond the control of the party.

Source #7937, eff 8-23-03

PART Diet 211 REQUESTS FOR INFORMATION AND DOCUMENTS

Diet 211.01 Voluntary Production of Information.

(a) Each party and intervenor shall attempt in good faith to make complete and timely response to requests for the voluntary production of information and documents relevant to the hearing.

(b) When a dispute arises concerning a request for the voluntary production of information or documents, any party or intervenor may file a motion under Diet 211.02 to compel the production of the requested information or documents.

Source #7937, eff 8-23-03

Diet 211.02 Motions to Compel Production of Information and Documents.

(a) Any party or intervenor may make a motion seeking an order for compliance with an information or document request. The motion shall be filed at least 30 days before the date scheduled for the hearing, or as soon as possible after receiving the notice of the hearing if such notice is issued less than 30 days in advance of the hearing.

(b) The motion to compel shall:

- (1) Set forth in detail those facts which justify the request for information or documents; and
- (2) List with specificity the information or documents being sought.

(c) The presiding officer shall grant the motion to compel if its proponent has demonstrated that an order for compliance is necessary for a full and fair presentation of evidence at the hearing.

Source #7937, eff 8-23-03

Diet 211.03 Mandatory Pre-Hearing Disclosure of Witnesses and Exhibits.

(a) Whether or not stated in a scheduling order issued by the presiding officer, at least 5 days before the hearing the parties and intervenors shall provide to the other parties and intervenors:

(1) A list of all witnesses that may be called at the hearing together with the address and telephone number of each witness and a brief summary of their testimony, said list separately identifying:

- a. Those witnesses that the party or intervenor intends to call; and
- b. Those witnesses that the party or intervenor reserves the right to call if the need arises.

(2) A list of all documents and exhibits that may be offered as evidence at the hearing together, said list separately identifying:

- a. Those documents and exhibits that the party or intervenor intends to submit as evidence; and
- b. Those documents and exhibits that the party or intervenor reserves the right to submit as evidence if the need arises.

(3) A copy of each document that may be offered as evidence at the hearing; and

(4) An offer to inspect at times and places of convenience to the other parties and intervenors the non-documentary exhibits that may be offered as evidence at the hearing.

(b) In the event that a party or intervenor attempts to present evidence not disclosed in accordance with paragraph (a) above, the presiding officer shall, upon the objection of a party or intervenor, prohibit the introduction of such evidence if:

- (1) The objecting party would be prejudiced by the admission of the evidence; and
- (2) No good cause has been presented by the proponent of the evidence for the failure to disclose in conformity with paragraph (a) above.

(c) Good cause shall exist under paragraph (b) above if:

- (1) The evidence was not, in the exercise of reasonable diligence, available to the proponent at least 5 days prior to the hearing;
- (2) The proponent of the evidence disclosed the evidence to all other parties and intervenors within sufficient time prior to the hearing so as to allow the objecting party to submit any necessary rebuttal evidence; and
- (3) The proponent of the evidence does not object to the submission of rebuttal evidence under subparagraph (2) above on the basis that such evidence has not been timely disclosed.

Source #7937, eff 8-23-03

Diet 212.01 Standard and Burden of Proof. The party or intervenor asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.

Source #7937, eff 8-23-03

Diet 212.02 Testimony; Order of Proceeding.

(a) Any individual offering testimony, evidence or arguments shall state for the record his or her name and role in the hearing. If the individual is representing another person, the person being represented shall also be identified.

(b) Testimony on behalf of the parties shall be offered in the following order:

(1) The testimony of the party or parties bearing the overall burden of proof and such witnesses as such party or parties may call; and

(2) Thereafter the testimony of the party or parties opposing the party who bears the overall burden of proof and such witnesses as such party or parties may call.

(c) The testimony of intervenors shall be offered at the time directed by the presiding officer.

(d) Each party may cross-examine any witness offered against that party.

Source #7937, eff 8-23-03

Diet 212.03 Evidence.

(a) Receipt of evidence shall be governed by the provisions of RSA 541-A:33.

(b) All documents, materials and objects offered as exhibits shall be admitted into evidence unless excluded by the presiding officer as irrelevant, immaterial, unduly repetitious or legally privileged.

(c) All objections to the admissibility of evidence shall be stated as early as possible in the hearing, but not later than the time when the evidence is offered.

(d) Transcripts of testimony as well as documents, materials and objects admitted into evidence shall be public records unless the presiding officer determines that all or part of them is exempt from disclosure under RSA 91-A:5 or applicable case law.

(e) All of the rules of privilege recognized under the laws of the state of New Hampshire shall apply in proceedings before the board.

Source #7937, eff 8-23-03

Diet 212.04 Proposed Findings of Fact and Conclusions of Law.

(a) Any party or intervenor may submit proposed findings of fact and conclusions of law to the presiding officer before or at the hearing.

(b) The presiding officer shall require the submission of proposed findings of fact and conclusions of law and specify a date after the close of the hearing for their submission when:

(1) Any party or intervenor has requested such action;

(2) The presiding officer determines that proposed findings of fact and conclusions of law would clarify the issues presented at the hearing.

(c) In any case where proposed findings of fact and conclusions of law are submitted, the decision shall include rulings on the proposals.

Source #7937, eff 8-23-03

Diet 212.05 Decision.

(a) The board shall issue a final decision or order, whether or not the record has been reopened pursuant to Diet 212.07, based on:

- (1) A hearing attended by a quorum of the board;
- (2) A written proposal for decision meeting the requirements of paragraph (c); or
- (3) A hearing held pursuant to paragraph (d) (2).

(b) A board member shall not participate in the board's decision if he or she has not personally heard all of the testimony in the case, unless the matter's disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.

(c) If a presiding officer has been delegated the authority to conduct the hearing in the absence of a quorum of the board, the presiding officer shall submit to the board a written proposal for decision containing:

- (1) The decision proposed by the presiding officer;
- (2) A statement of the reasons for the proposed decision; and
- (3) Findings of fact and rulings of law necessary to the proposed decision.

(d) If a proposal for decision submitted pursuant to paragraph (c) is adverse to a party or an intervenor, the board shall:

- (1) Serve a copy of the proposal for decision on each party and intervenor; and
- (2) Provide an opportunity to file objections and present briefs and oral arguments to the board.

(e) The board shall keep a final decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Source #7937, eff 8-23-03

Diet 212.06 Closing the Record. After the conclusion of the hearing and the filing of such post-hearing submissions as may be ordered by the presiding officer, the record shall be closed and no additional evidence shall be received into the record except or allowed by Diet 212.07.

Source #7937, eff 8-23-03

Diet 212.07 Reopening the Record.

(a) If no written proposal for decision pursuant to Diet 212.05 (c) or final decision pursuant to Diet 212.05 (a) has been issued, any party or intervenor may move to reopen the record for the inclusion in the record of specified evidence or claims of law.

(b) A motion pursuant to (a) above shall be granted if there no objection from any other party or intervenor and:

(1) The evidence sought to be included in the record was not available at the time of the hearing or the claim of law was inadvertently omitted; and

(2) The presiding officer determines that the evidence or claim of law is relevant, material and non-duplicative and its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.

(c) If there is an objection from a party or intervenor to a motion made pursuant to (a) above, the hearing shall be reopened for the purpose of receiving evidence, permitting cross-examination and permitting argument on the issue of reopening the record.

(d) The presiding officer shall grant a motion made pursuant to (a) above if, after the reopened hearing described in (c) above, the hearing officer determines that the evidence sought to be included in the record was not available at the time of the hearing or the claim of law was inadvertently omitted and the evidence or claim of law is relevant, material and non-duplicative and its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.

(e) If the presiding officer permits the reopening of the record for the admission of specified evidence or claim of law, the hearing officer shall extend the hearing reopened pursuant to (c) for the purpose of receiving evidence, permitting cross-examination and permitting argument on the substance of the evidence or on the claim of law.

Source #7937, eff 8-23-03

Diet 212.08 Rehearing.

(a) Any party or person directly affected by the board's decision or order pursuant to Diet 212.05 may request rehearing of any matter determined in the proceeding or covered by the decision or order by, within 10 days of the date of the decision or order, submitting a written motion specifying:

(1) The issues to be considered at the rehearing; and

(2) Every ground on which it is claimed that the decision or order is unlawful or unreasonable.

(b) Any objection to a motion for rehearing shall be submitted within 5 days of the submission of the motion.

(c) Within 10 days of submission of the motion for rehearing the board shall:

(1) Grant the motion;

(2) Deny the motion; or

(3) Suspend the board's decision or order pending further consideration.

(d) The board shall grant the motion for rehearing if it determines that, in the original hearing it:

(1) Incorrectly assessed the relevant evidence;

- (2) Incorrectly applied the relevant law; or
- (3) Failed substantially to comply with this chapter.

Source #7937, eff 8-23-03

PART Diet 213 RULEMAKING

Diet 213.01 Petitions for Rulemaking.

(a) Any person may seek the adoption, amendment or repeal of a rule by submitting to the board a petition pursuant to RSA 541-A:4.

(b) Each petition for rulemaking shall contain:

- (1) The name and address of the individual petitioner or, if the request is that of an organization or other entity, the identity of such organization or entity and the name and address of the representative authorized by the entity to file the petition;
- (2) A statement of the purpose of the petition, whether the adoption, amendment or repeal of a rule;
- (3) If amendment or adoption of a rule is sought, the text proposed;
- (4) If amendment or repeal of a rule is sought, identification of the current rule sought to be amended or repealed;
- (5) Reference to the statutory provision that authorizes or supports the rulemaking petition; and
- (6) Information or argument useful to the board when deciding whether to begin the rulemaking process.

Source #7937, eff 8-23-03

Diet 213.02 Disposition of Petitions for Rulemaking.

(a) The board shall request additional information or argument from a person petitioning for rulemaking or from others if such additional information or argument is required to reach a decision.

(b) The board shall grant the petition for rulemaking if the adoption, amendment or repeal sought would not result in:

- (1) A rule that is not within the rulemaking authority of the board;
- (2) Duplication of a rule or of a statutory provision;
- (3) Inconsistency between the existing rules and the statutory mandate of the board;
- (4) Inconsistency of administrative rules one with another; or
- (5) Excessive burden upon the board in terms of cost or a reduction in efficiency or effectiveness.

(c) Within 30 days of receipt of a sufficient petition the board shall dispose of it in the following manner:

(1) By notifying the petitioner that the petition is granted and beginning rulemaking proceedings as required by RSA 541-A:4; or

(2) By notifying the petitioner in writing that the petition is denied and the reasons for its denial.

(d) The denial of a petition for rulemaking shall not entitle the petitioner to a hearing.

Source #7937, eff 8-23-03

PART Diet 214 PUBLIC COMMENT HEARINGS

Diet 214.01 Purpose. The purpose of this part is to provide uniform procedures for the conduct of public comment hearings held pursuant to RSA 541-A:11.

Source #7937, eff 8-23-03

Diet 214.02 Public Access and Participation.

(a) Public comment hearings shall be open to the public, and members of the public shall be entitled to testify, subject to the limitations of Diet 214.03.

(b) People who wish to testify shall be asked to write on the speaker's list:

(1) Their full names and addresses; and

(2) The names and addresses of organizations, entities or other persons whom they represent, if any.

(c) Written comments, which may be submitted in lieu of or in addition to oral testimony, shall be accepted for 10 days after the adjournment of a hearing or after the adjournment of a postponed or continued hearing.

Source #7937, eff 8-23-03

Diet 214.03 Limitations on Public Participation. The board's chair or other person designated by the board to preside over a hearing shall:

(a) Refuse to recognize for speaking or revoke the recognition of any person who:

(1) Speaks or acts in an abusive or disruptive manner;

(2) Fails to keep comments relevant to the proposed rules that are the subject matter of the hearing; or

(3) Restates more than once what he or she has already stated;

(b) Limit presentations on behalf of the same organization or entity to no more than 3, provided that all those representing such organization or entity may enter their names and addresses into the record as supporting the position of the organization or entity.

Source #7937, eff 8-23-03

Diet 214.04 Media Access. Public comment hearings shall be open to print and electronic media, subject to the following limitations when such limitations are necessary to allow a hearing to go forward:

- (a) Limitation of the number of media representatives when their number together with the number of members of the public present exceeds the capacity of the hearing room;
- (b) Limitation on the placement of cameras to specific locations within the hearing room; or
- (c) Prohibition of interviews conducted within the hearing room before or during the hearing.

Source #7937, eff 8-23-03

Diet 214.05 Conduct of Public Comment Hearings.

(a) Public comment hearings shall be presided over by the board chair or a board member knowledgeable in the subject area of the proposed rules who has been designated by the board to preside over the hearing.

(b) The chair or other person presiding over a hearing shall:

- (1) Call the hearing to order;
- (2) Identify the proposed rules that are the subject matter of the hearing and provide copies of them upon request;
- (3) Cause a recording of the hearing to be made;
- (4) Recognize those who wish to be heard;
- (5) If necessary, establish limits pursuant to Diet 214.03 and Diet 214.04;
- (6) If necessary to permit the hearing to go forward in an orderly manner, effect the removal of a person who speaks or acts in a manner that is personally abusive or otherwise disrupts the hearing;
- (7) If necessary, postpone or move the hearing; and
- (8) Adjourn or continue the hearing.

(c) A hearing shall be postponed in accordance with RSA 541-A:11, IV when:

- (1) The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing will be unable to do so;
- (2) The board chair or other person designated by the board to preside over the hearing is ill or unavoidably absent; or
- (3) Postponement will facilitate greater participation by the public.

(d) A hearing shall be moved to another location in accordance with RSA 541-A:11, V when the original location is not able to accommodate the number of people who wish to attend the hearing.

(e) A hearing shall be continued past the scheduled time or to another date in accordance with RSA 541-A:11, III when:

- (1) The time available is not sufficient to give each person who wishes to speak a reasonable opportunity to do so; or
- (2) The capacity of the room in which the hearing is to be held does not accommodate the number of people who wish to attend and it is not possible to move the hearing to another location.

Source #7937, eff 8-23-03

PART Diet 215 DECLARATORY RULINGS

Diet 215.01 Requests for Declaratory Rulings by the Board.

(a) Any person directly affected by any statute or rule relating to the board may request a declaratory ruling by the board regarding the specific applicability of any statutory provision or administrative rule relating to the board.

(b) A request for a declaratory ruling shall be in a writing containing:

- (1) The name and address of the individual or entity making the request;
- (2) The text of the ruling being requested;
- (3) The reasons for the request; and
- (4) The following declaration signed by the individual making the request, the authorized representative of such individual, or the authorized representative of the entity making the request:

"I declare that I have examined the request for a declaratory ruling, including the accompanying documents, and state that, to the best of my knowledge and belief, the facts presented in support of the requested declaratory ruling are true, correct, and complete."

Source #7937, eff 8-23-03

Diet 215.02 Documents Required to Support Requests for Declaratory Rulings.

(a) A request for a declaratory ruling shall be accompanied by:

- (1) A statement citing the statutory law, regulatory law and orders believed to support the ruling being requested;
- (2) A statement of the facts believed to support the ruling being requested; and
- (3) Supplementary material necessary to establish or clarify the facts set forth in the statement of facts.

(b) A request for a declaratory ruling may be accompanied by additional material chosen by the person making the request.

Source #7937, eff 8-23-03

Diet 215.03 Processing Requests for Declaratory Rulings.

(a) Within 30 days of receiving a request for a declaratory ruling the board shall advise the person requesting it if the ruling will be delayed by the need for additional information or the complexity of the issues presented.

(b) If additional information should be needed, the board shall specify the additional information required and request that it be provided in a statement of additional information that includes the declaration specified in Diet 215.01 (b) (4), and is accompanied by any material necessary to establish or clarify the facts set forth in the statement.

Source #7937, eff 8-23-03

Diet 215.04 Issuance and Publication of Declaratory Rulings.

(a) When facts sufficient to support a declaratory ruling have been established, the board shall issue a written declaratory ruling which applies all relevant law to the established facts.

(b) When the established facts show that the board lacks subject matter or personal jurisdiction to issue a declaratory ruling, the board shall issue a written decision stating that it lacks jurisdiction to issue a declaratory ruling and identifying the lack of jurisdiction.

(c) Declaratory rulings shall be filed on the day of issuance with the director of legislative services in accordance with RSA 541-A:16, II (b)

Source #7937, eff 8-23-03

Diet 215.05 Effect of Declaratory Rulings. A declaratory ruling shall apply only to the board and to the person requesting it and shall be confined to the facts presented pursuant to Diet 215.02 (a)(2)-(a)(3) and in response to a request of the board made pursuant to Diet 215.03 (b).

Source #7937, eff 8-23-03

PART Diet 216 EXPLANATION OF ADOPTED RULES

Diet 216.01 Requests for Explanation of Adopted Rules. Any interested person may, within 30 days of the final adoption of a rule, request a written explanation of that rule by making a written request to the board including:

- (a) The name and address of the person making the request; or
- (b) If the request is that of an organization or other entity, the name and address of such organization or entity and the name and address of the representative authorized by the organization or entity to make the request.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 216.02 Contents of Explanation. The board shall, within 90 days of receiving a request in accordance with Diet 216.01, provide a written response which:

- (a) Concisely states the meaning of the rule adopted;
 - (b) Concisely states the principal reasons for and against the adoption of the rule in its final form;
- and

(c) States, if the board did so, why the board overruled any arguments and considerations presented against the rule.

Source #7938, eff 8-23-03; ss by #8336, eff 5-01-05

CHAPTER Diet 300 LICENSE REQUIREMENTS

PART Diet 301 DEFINITIONS

Diet 301.01 "Commission on Dietetic Registration (CDR)" means "Commission on Dietetic Registration" as defined in RSA 326-H:3, II, namely, "the national autonomous credentialing body."

Source. #7772, eff 10-3-02; ss by #8336, eff 5-1-05

Diet 301.02 "Registered dietitian (RD)" means an individual registered with the Commission on Dietetic Registration.

Source. #7772, eff 10-3-02; ss by #8336, eff 5-1-05

PART Diet 302 APPLICATION PROCEDURE

Diet 302.01 Application Process.

(a) Each person who wishes to apply for a license to practice as a dietitian in New Hampshire shall do so by submitting the following:

- (1) An application form provided by the board that contains the information specified by Diet 302.02;
- (2) All additional supporting materials specified by Diet 302.03; and
- (3) The license fee required by Diet 304.01.

(b) An application form shall:

- (1) Be completed using a keyboard or legibly printed in ink;
- (2) Be signed by the applicant; and
- (3) Have all sections completed or designated as not applicable to the applicant.

(c) If the board for the purpose of determining the applicant's qualification for licensure requires any information or documents additional to the materials submitted in compliance with (a) above, it shall:

- (1) So notify the applicant in writing within 60 days; and
- (2) Specify the information or documents which the applicant is required to submit.

(d) The application shall be denied if the applicant does not submit the additional information and documents requested within 120 days of receipt of the request.

(e) An application shall be considered to be on file with the board on the first date that the board's office has received:

- (1) A fully completed application form;
- (2) Proof that the applicant's check has been deposited and cleared; and
- (3) All required supporting documentation.

(f) The board shall approve or deny the application in writing within 60 days of the date that the application is on file with the board.

(g) If the application is denied, the applicant shall be provided an opportunity for a hearing to challenge the denial. Any request for a hearing shall be submitted to the board within 30 days from the date of the board's notification of denial.

(h) Pursuant to RSA 326-H: 14, II, all licenses shall expire 2 years from the date of issue, provided that licenses shall continue as valid until final action is exercised by the board on application for renewal if the application is filed before the expiration date of the license.

Source. #7772, eff 10-3-02; ss by #8336, eff 5-1-05

Diet 302.02 Application Form. On a form provided by the board the applicant shall supply the following information:

- (a) The applicant's full name and maiden or other name, if any;
- (b) The applicant's home address, business address, email address, business telephone number and home telephone number;
- (c) The applicant's date of birth;
- (d) Whether the applicant is male or female;
- (e) Pursuant to 42 USC 666 (a) (13) and RSA 161-B: 11, the applicant's Social Security number;
- (f) The applicant's registration number issued by the CDR, and whether the applicant was registered on or before December 31, 2000;
- (g) Under the preprinted heading "Educational Background":
 - (1) The applicant's highest relevant degree and the year of the degree;
 - (2) The academic major of the degree; and
 - (3) The name and location of the school granting the degree;
- (h) Whether the applicant engaged in an internship, practice program or coordinated program;
- (i) The following information with respect to the answer to (h) above:
 - (1) The name of the internship or program;
 - (2) The address of the internship or program; and
 - (3) The name and telephone number of the contact person for the internship or program;
- (j) Whether or not the applicant has ever had an application for a license, certificate or other approval to practice as a dietitian in a jurisdiction other than the state of New Hampshire denied as the result of a failure to be of good character or on any basis that would constitute cause for denial of a license application under RSA 326-H or the rules of the board;

(k) Whether or not the applicant has ever had any certification, registration or approval to practice as a dietitian revoked in any jurisdiction other than the state of New Hampshire as the result of a failure to be of good character or on any basis that would constitute cause for revocation of a license under RSA 326-H or the rules of the board, unless such revocation was reversed or overturned on appeal or unless such license was reinstated;

(l) Whether or not the applicant has ever had been convicted of, or pleaded guilty to, a class A felony that has not been annulled or which has not been reversed or overturned on appeal;

(m) Whether or not the applicant has, within the preceding 10 years, been found guilty of malpractice or gross misconduct in practice as a dietitian in this or any other jurisdiction;

(n) Whether or not the applicant has ever been found to have obtained, by fraudulent or deceitful means, a license, certification or other approval to practice as a dietitian in a jurisdiction other than the state of New Hampshire;

(o) Whether or not the applicant has ever committed an act that either caused harm to, or placed at risk, the health, safety or welfare of a person or persons under the applicant's care in the applicant's capacity as a dietitian;

(p) Whether or not the applicant is aware of any basis for a conclusion by the board that he or she is not of good character or should not otherwise be granted a license to practice as a dietitian in the state of New Hampshire and, if so, an explanation of those reasons;

(q) Whether or not the applicant has ever been permitted to resign from practice in any profession regulated by law in New Hampshire or any other jurisdiction, or has been permitted to surrender a license, certificate or other authorization to practice in any regulated profession, while under investigation for misconduct in the performance of the profession, or while an action was pending against the applicant before any professional licensing, certifying or authorizing body, or before any court, for misconduct in the performance of the profession;

(r) Whether or not, to the best of the applicant's knowledge, he or she is currently under investigation by any agency which licenses, certifies or otherwise authorizes the practice of any profession in this or any other jurisdiction;

(s) Whether or not there is currently pending against the applicant any disciplinary action before any agency which licenses, certifies, or otherwise authorizes the practice of any profession in this or any other jurisdiction;

(t) Whether or not the applicant has ever had any work-related privileges at a hospital or other health care facility denied, made conditional, curtailed, limited, restricted, suspended or revoked;

(u) Whether or not the applicant has ever been permitted to resign from employment or to surrender work-related privileges at any hospital or other health care facility while under investigation for any work-related misconduct, or while an action regarding work-related misconduct was pending against the applicant in any court or before any agency which licenses, certifies or otherwise authorizes practice by health care professionals or which regulates hospitals or other health care facilities in this or any other jurisdiction;

(v) Whether or not there is presently pending against the applicant any action or complaint of any type relating to misconduct or to the care of a patient at any hospital or health care facility;

(w) The applicant's name in print and the applicant's signature on a statement preprinted on the form certifying that:

- (1) The information provided on the application form and the documentation provided to support the application is true, accurate, complete and unaltered;
- (2) The applicant acknowledges that, pursuant to RSA 641:3, knowingly making a false representation on the application form is punishable as a class B misdemeanor; and

(x) The date of the signature described in (w) above.

Source. #7772, eff 10-3-02; ss by #8336, eff 5-1-05

Diet 302.03 Required Supporting Materials. In addition to the completed application form the applicant shall submit or cause to be submitted to the board:

- (a) A passport-type photo of the applicant taken within 90 days of the application;
- (b) If ever registered with the CDR, a letter verifying the registration sent by CDR directly to the board;
- (c) If not registered with the CDR on or before December 31, 2000:

- (1) An official transcript sent by the issuing institution directly to the board showing the highest degree earned by the applicant:
 - a. In a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, public health nutrition, or food systems management; and
 - b. At a college or university approved by the board pursuant to Diet 303.03;
- (2) A letter of verification of the applicant's completion of the requirements set forth in Diet 303.01(a)(3) written and sent by the supervisor of the internship or program directly to the board; and
- (3) Documentation of the applicant's having met the requirements of Diet 303.01(a)(4).

Source. #7772, eff 10-3-02; ss by #8336, eff 5-1-05

Diet 302.04 Notice Regarding Social Security Number. The application form described in Diet 302.02 above shall contain a notice which provides as follows:

“The Board of Licensed Dietitians will deny licensure if you refuse to submit your social security number (SSN). Your professional license will not display your SSN. Your SSN will not be made available to the public.

The Board of Licensed Dietitians is required to obtain your social security number for the purpose of child support enforcement and in compliance with 42 USC 666 (a) (13) and RSA 161-B:11. This collection of your social security number is mandatory.”

Source. #8336, eff 5-1-05

PART Diet 303 QUALIFICATIONS FOR LICENSURE

Diet 303.01 Educational and Examination Qualifications.

(a) Unless registered as a dietitian with the CDR on or before December 31, 2000, an applicant for licensure shall:

- (1) Hold a baccalaureate or higher degree from a college or university approved by the board pursuant to Diet 303.03;
- (2) Have completed a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, public health nutrition, or food systems management;
- (3) Have successfully completed one of the following as required by the CDR at the time of the applicant's first registration with the Commission:
 - a. A dietetic internship of no less than 900 hours;
 - b. A pre-professional practice program; or
 - c. A coordinated program with documented experience in the practice of dietetics under supervision of a registered, certified, or licensed dietitian; and
- (4) Have successfully passed the examination administered by the CDR.

(b) An applicant registered as a dietitian with the CDR on or before December 31, 2000 shall, pursuant to RSA 326-H:12-a, be deemed to have met the requirements of (a) above.

Source. #7772, eff 10-3-02; ss by #8336, eff 5-1-05

Diet 303.02 Additional Qualifications. In addition to the educational and examination requirements noted in Diet 303.01 above, an applicant for licensure shall:

(a) Never have had an application for a license, certificate or other approval to practice as a dietitian in any jurisdiction other than the state of New Hampshire denied as the result of a failure to be of good character or on any basis that would constitute cause for denial of a license application under RSA 326-H or the rules of the board;

(b) Never have had any certification, registration or approval to practice as a dietitian revoked in any jurisdiction other than the state of New Hampshire as the result of a failure to be of good character or on any basis that would constitute cause for revocation of a license under RSA 326-H or the rules of the board, unless such revocation was reversed or overturned on appeal or unless such license was reinstated;

(c) Never have been convicted of, or pleaded guilty to, a class A felony that has not been annulled or which has not been reversed or overturned on appeal;

(d) Not have been, within the preceding 10 years, found guilty of malpractice or gross misconduct in practice as a dietitian in this or any other jurisdiction;

(e) Never have been found to have obtained, by fraudulent or deceitful means, a license, certification or other approval to practice as a dietitian in a jurisdiction other than the state of New Hampshire;

(f) Never have committed an act that either caused harm to, or placed at risk, the health, safety or welfare of a person or persons under the applicant's care in the applicant's capacity as a dietitian;

(g) Not have answered "yes" to the question on the initial application form described at Diet 302.02 (p) above; and

(h) Not have answered "yes" to 3 or more of the questions on the initial application form identified at Diet 302.02 (q) through Diet 302.02 (v) above.

Source. #7772, eff 10-3-02; ss by #8336, eff 5-1-05

Diet 303.03 Standards for Board Approval of College or University. The board shall approve all colleges and universities that are approved by the CDR.

Source. #8336, eff 5-1-05 (from Diet 303.02)

PART Diet 304 FEES

Diet 304.01 Fee Schedule. The license fees shall be as set forth in Table 300-1:

<u>Table 300-1 Fees</u>		
CATEGORY	DURATION	FEE
License	2 years	\$150.00
License Renewal	2 years	\$100.00
License Reinstatement	2 years	\$150.00

Source #7772, eff 10-3-02; ss by #8335, eff 5-01-05

CHAPTER Diet 400 CONTINUED STATUS

PART Diet 401 DEFINITIONS

Diet 401.01 "Activity" means a program, a presentation, a course of study or independent self-study, an examination, reading or writing of peer-reviewed professional publications relating to the field of dietetics, a seminar, or a meeting, that is attended, taken, undertaken or presented by a person in fulfillment of the continuing professional education credit requirement set forth in these rules.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 401.02 "Commission on Dietetic Registration (CDR)" means "Commission on Dietetic Registration" as defined in RSA 326-H:3, II, namely, "the national autonomous credentialing body."

Source. 7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 401.03 "Peer-reviewed professional publication" means a book, magazine, journal or other publication, the primary purpose of which is to report original research or review articles in the field of dietetics and which includes citations to sources, the name of the author, a statement that the publication has been reviewed by an editorial board prior to publication, the names of the individuals on the editorial board and the name of the professional society or organization issuing the publication.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 401.04 "Quarterly course" means a college or university course, the duration of which is one fourth of the institution's academic year.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 401.05 "Semester-long course" means a college or university course, the duration of which is one half of the institution's academic year.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 401.06 "Trimester course" means a college or university course, the duration of which is one third of the institution's academic year.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

PART Diet 402 RENEWAL OF LICENSES

Diet 402.01 Procedure for Renewal of Licenses.

(a) The board shall cause notification of impending license expiration to be sent to each licensee at least 60 days prior to the expiration of the license.

(b) Any licensee wishing to renew a license shall submit the following to the board no later than the date of the expiration of the license and no earlier than 60 days prior to the date of license expiration:

- (1) The renewal application form specified in Diet 402.03; and
- (2) The renewal fee specified by Diet 304.01.

(c) A person who was previously licensed by the board but whose license expired pursuant to a settlement or agreement may obtain a new license only in accordance with the terms of the settlement or agreement.

(d) A person who was previously licensed by the board but whose license expired while under suspension may obtain a new license only in accordance with Diet 403.03(d)(2).

(e) A person who was previously licensed by the board but whose license has been revoked may obtain a new license only in accordance with Diet 403.04.

(f) In circumstances other than (c) - (e) above, any person who fails to file the renewal materials noted in Diet 402.02(d) prior to the expiration of an initial or renewed license, may obtain a new license only in accordance with Diet 405.01(a).

(g) A licensee may apply for renewal of a license during a period of suspension, but any renewed license shall be issued subject to completion of the term of suspension.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 402.02 Application for License Renewal.

(a) An application for license renewal shall:

- (1) Be completed using a keyboard or legibly printed in ink;
- (2) Be signed by the applicant; and

(3) Have all sections completed or designated as not applicable to the applicant.

(b) If, for the purpose of determining the applicant's qualifications for renewal, the board requires any information or documents additional to the materials submitted in compliance with Diet 402.01(b) it shall:

(1) So notify the licensee in writing within 60 days of receipt of the renewal application and;

(2) Specify the information or documents that the licensee is required to submit.

(c) The application for renewal shall be denied if the licensee does not submit the additional information or documents within 60 days of the board's request under (b) above.

(d) An application for renewal shall be considered on file with the board on the first date that the board's office has received:

(1) A fully completed application form;

(2) Proof that the applicant's check has been deposited and cleared; and

(3) All required supporting documentation, including that required under Diet 405.02, if any.

(e) Within 60 days of the date that the application is on file with the board, the board shall grant the application for renewal or deny the license in accordance with Diet 402.04.

(f) If the application is denied, the applicant shall be provided an opportunity for a hearing to challenge the denial. Any request for hearing shall be submitted to the board within 30 days of the date of the board's denial.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 402.03 Renewal Application Form. On a renewal application form provided by the board, an applicant for renewal shall supply the following information:

(a) Full name;

(b) The street address of the applicant's home;

(c) Mailing address, if different from the street address;

(d) Business address;

(e) Email address;

(f) Home telephone number;

(g) Business telephone number;

(h) Current New Hampshire dietitian license number;

(i) A list of the activities that the applicant has completed in fulfillment of the continuing professional education requirements of Diet 404.01, including on that list:

- (1) The name or title of each activity attended, taken, undertaken or presented in fulfillment of the 20 hour continuing professional education credit requirement;
- (2) Whether the activity has been approved for credit by the CDR;
- (3) The type of activity attended, taken, undertaken or presented;
- (4) A statement of the number of credit hours requested for each activity;
- (5) The date of the activity; and
- (6) The grade, if any, received for each activity.

(j) Whether or not the applicant has ever had an application for a license, certificate or other approval to practice as a dietitian in a jurisdiction other than the state of New Hampshire denied as the result of a failure to be of good character or on any basis that would constitute cause for denial of a license application under RSA 326-H or the rules of the board;

(k) Whether or not the applicant has ever had any certification, registration or approval to practice as a dietitian revoked in any jurisdiction other than the state of New Hampshire as the result of a failure to be of good character or on any basis that would constitute cause for revocation of a license under RSA 326-H or the rules of the board, unless such revocation was reversed or overturned on appeal or unless such license was reinstated;

(l) Whether or not the applicant has ever had been convicted of, or pleaded guilty to, a class A felony that has not been annulled or which has not been reversed or overturned on appeal;

(m) Whether or not the applicant has, within the preceding 10 years, been found guilty of malpractice or gross misconduct in practice as a dietitian in this or any other jurisdiction;

(n) Whether or not the applicant has ever been found to have obtained, by fraudulent or deceitful means, a license, certification or other approval to practice as a dietitian in a jurisdiction other than the state of New Hampshire;

(o) Whether or not the applicant has ever committed an act that either caused harm to, or placed at risk, the health, safety or welfare of a person or persons under the applicant's care in the applicant's capacity as a dietitian;

(p) Whether or not the applicant is aware of any basis for a conclusion by the board that he or she is not of good character or should not otherwise be granted a license to practice as a dietitian in the state of New Hampshire and, if so, an explanation of those reasons;

(q) The applicant's signature on a statement preprinted on the form certifying that:

- (1) The information provided on the renewal application form is true, accurate and complete; and
- (2) The applicant acknowledges that, pursuant to RSA 641:3, knowingly making a false representation on the renewal application form is punishable as a misdemeanor; and

(r) The date of the signature described in (q) above.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 402.04 Denial of Renewal.

(a) License renewal shall be denied if the board finds, by a preponderance of evidence, that the applicant has:

- (1) Failed to file a renewal application form and all required supporting documentation prior to the date of expiration of the license;
- (2) Failed to submit the renewal fee specified by Diet 304.01;
- (3) Failed to complete 20 credit hours of continuing professional education in the 24 months prior to the expiration of any license or renewed license;
- (4) Previously had his or her license revoked and has not had the license reinstated pursuant to Diet 403.04;
- (5) Failed to meet the qualification criteria of Diet 303.02 (a) through (f);
- (6) Answered “yes” to the question on the renewal application form described at Diet 402.03 (p); or
- (7) Failed to fulfill any other condition of licensure, including the terms of any settlement or agreement with the board.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

PART Diet 403 REVOCATION, SUSPENSION AND OTHER SANCTIONS

Diet 403.01 License Revocation. The board shall revoke a license if:

(a) The revocation was included as part of a settlement or agreement with the licensee; or

(b) The board finds that it is more likely than not that the licensee has:

- (1) Committed one or more acts that caused harm to the health, safety or welfare of a person or persons under the dietitian's care;
- (2) Made false, fraudulent or deceitful statements to the board regarding his or her credentials when applying for a license or a license renewal, or in any other statement or document filed with the board;
- (3) Assisted another individual in obtaining a license by false, fraudulent or deceitful means;
- (4) Sold, fraudulently obtained or furnished any license established under RSA 326-H;
- (5) Been convicted of a class A felony;
- (6) Failed to comply with an order or request of the board;
- (7) Had his or her license suspended by the board on more than one occasion in the past;
- (8) Violated the standard of conduct established by Diet 501.03(f);

- (9) Violated the standard of conduct established by Diet 501.03(g)(1) by failing to report a violation for which license revocation may be imposed under these rules;
- (10) Violated the standard of conduct established by Diet 501.03(g)(2);
- (11) Failed to meet the additional qualifications set forth in Diet 303.02 (a) through (f);
- (12) Become aware of any facts or circumstances which would result in a “yes” answer to the question on the initial application form set forth at Diet 302.02 (p) or on the renewal application set forth at Diet 402.03 (p); or
- (13) Failed to adhere to the continuing professional education requirements of these rules.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 403.02 License Suspension.

(a) The board shall suspend a license if:

- (1) The suspension was included as part of a settlement or agreement with the licensee; or
- (2) The board finds that it is more likely than not that the licensee has:
 - a. Engaged in action requiring immediate temporary suspension under Diet 207.03;
 - b. Engaged in malpractice or gross misconduct in the performance of his or her duties as a dietitian;
 - c. Failed to notify the board of the suspension, probation or revocation of any past or present license, certification or registration required to practice as a dietitian in this or any other jurisdiction;
 - d. Committed one or more acts that has placed the health, safety or welfare of a person or persons under the dietitian's care at risk;
 - e. Intentionally submitted untruthful or incorrect information regarding a matter other than his or her credentials in any application, statement or document filed with the board;
 - f. Violated the ethical obligations set forth in Diet 501.02(b); or
 - g. Violated the standards of conduct established by:
 1. Diet 501.03(b)(1);
 2. Diet 501.03(b)(2);
 3. Diet 501.03(b)(4);
 4. Diet 501.03(b)(6);
 5. Diet 501.03(b)(7);

6. Diet 501.03(b)(8);
7. Diet 501.03(c), if the licensee had a pecuniary interest in the matter or received a pecuniary gain in exchange for the statement;
8. Diet 501.03(d);
9. Diet 501.03(e); or
- h. Violated the standard of conduct established by Diet 501.03(g)(1) by failing to report a violation for which license suspension may be imposed under these rules.

(b) The period of suspension imposed under (a) above shall be:

- (1) For suspensions under subparagraph (a)(1) above, the period agreed to;
- (2) For suspensions under subparagraph (a)(2)a. above, 10 working days from the date of the order of immediate temporary suspension; and
- (3) For suspensions under subparagraph (a)(2)b. through h. above, a period of 60 days for each violation.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 403.03 Reinstatement of License Following Suspension.

(a) Any person whose license has been suspended by the board may apply to the board, in writing, for a hearing on reinstatement.

(b) The board shall reinstate a license that has been suspended under Diet 403.02(a)(1) in accordance with the terms of the settlement or agreement.

(c) The board shall reinstate a license that has been suspended under Diet 403.02(a)(2)a. in accordance with Diet 207.03.

(d) The board shall reinstate a license that been suspended under Diet 403.02(a)(2)b. through h. only in the following circumstances:

- (1) If the period of validity of the license has not expired, when either:
 - a. The period of suspension has expired; or
 - b. The person has made a written request for a hearing on reinstatement and, after a hearing, has established that it is more likely than not that:
 1. Reinstatement would assist the person in conforming his or her future conduct to the requirements of RSA 326-H, Diet chapter 500 or other applicable law;
 2. The purposes served by the disciplinary action have been fully fulfilled;

3. Reinstatement would pose no risk of potential harm to the health, safety or welfare of persons under the person's care, or to any other person; and
 4. Reinstatement would not suggest to either members of the profession or to members of the public that licensees do not possess the obligation under Diet 501.03(b)(5) to conduct themselves honorably, responsibly, ethically and lawfully so as to enhance the honor, reputation and usefulness of the profession; and
- (2) If the period of validity of the license has expired, when the person has:
- a. Made a written request for a hearing on reinstatement;
 - b. Filed an application and supporting documents in conformity with Diet 302;
 - c. Submitted the license fee required by Diet 304.01;
 - d. Completed the period of suspension; and
 - e. Submitted written documentation in conformity with Diet 405.01(b) confirming the completion of 20 hours of continuing professional education credits in the 24 months before the request for a hearing on reinstatement.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 403.04 Reinstatement of License Following Revocation.

(a) Any person whose license has been revoked by the board may apply to the board, in writing, for a hearing on reinstatement.

(b) The board shall reinstate the license of a person whose license has been revoked under Diet 403.01(a) only in accordance with the terms of the settlement or agreement.

(c) The board shall reinstate the license of a person whose license has been revoked under Diet 403.01(b) only in the following circumstances:

- (1) If the period of validity of the license would not have expired had the license not been revoked, when:
 - a. The person has made a written request for a hearing on reinstatement; and
 - b. After hearing, the board finds that it is more likely than not that the criteria listed in Diet 403.03(d)(1)b.1. through 4. have been met; and
- (2) If the period of validity of the license would have expired had the license not been revoked, when:
 - a. The person has made a written request for a hearing on reinstatement;
 - b. The person has filed an application and supporting documents in conformity with Diet 302;

- c. The person has submitted the license fee required by Diet 304.01;
- d. The person submits written documentation in conformity with Diet 405.01(b) above confirming the completion of 20 hours of continuing professional education credits in the 24 months before the request for a hearing on reinstatement; and
- e. After hearing, the board finds that it is more likely than not that the criteria listed in Diet 403.03(d)(1) b.1. through 4. have been met.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 403.05 Sanctions In Lieu of Suspension.

(a) Sanctions in lieu of suspension shall be allowed on the terms set forth in Diet 403.05 (b) through (d) below in all cases other than the following:

- (1) Matters for which revocation is prescribed as the penalty under RSA 326-H: 16 or these rules;
- (2) Matters for which suspension is prescribed as the penalty under RSA 326-H: 16, I. through III;
- (3) Matters in which suspension is included as part of a settlement or agreement with the licensee under Diet 403.02 (a) (1);
- (4) Matters in which immediate temporary suspension is required under Diet 403.02 (a) (2) a. and Diet 207.03; or
- (5) Matters for which suspension is prescribed as the penalty under Diet 403.02 (a) (2) b. through d.

(b) Sanctions in lieu of suspension shall consist of one or more of the following items noted in RSA 326-H: 10 (i):

- (1) A fine in the amount of \$150.00 for each violation of RSA 326-H and each ethical standard set forth in Diet 500;
- (2) Community service, consisting of volunteer work for a governmental unit or a nonprofit organization, which work will reduce the monetary expenditures that would otherwise be incurred by that entity or will otherwise assist the entity in the efficient performance of its duties;
- (3) Oral reprimand, consisting of an oral communication, on the record, from a member of the board to the person charged with a violation explaining the nature of the infraction and the board's findings;
- (4) Written reprimand, consisting of a written communication from a member of the board to the person charged with a violation explaining the nature of the infraction and the board's findings;
- (5) Additional education, consisting of a course or courses above and beyond the normal continuing educational requirements established by these rules, which shall:

- a. Be paid for at the expense of the licensee charged;

- b. Relate to the subject matter of the infraction charged; and
 - c. Be of a nature that would, under normal circumstances, qualify for professional education credit under these rules;
- (6) Additional training, consisting of reading, the viewing of or listening to recordings, or live instruction which:
 - a. Is related to the subject matter of the infraction charged;
 - b. Shall be above and beyond the normal continuing educational requirements established by these rules; and
 - c. Shall be paid for at the expense of the licensee charged, regardless of whether or not such training would normally qualify for professional education credit under these rules;
- (7) Supervised training, consisting of in-person instruction by a licensed New Hampshire dietitian which:
 - a. Is related to the subject matter of the infraction charged;
 - b. Shall be above and beyond the normal continuing educational requirements established by these rules; and
 - c. Shall be paid for at the expense of the licensee charged, regardless of whether or not such training would normally qualify for professional education credit under these rules;
- (8) Counseling, which shall consist of one or more of the following, at the expense of the licensee charged:
 - a. Consultation and treatment with a mental health professional regarding the licensee's reason for engaging in the infraction; or
 - b. Consultation with an alcohol and other drug abuse professional licensed under RSA 330-C.
- (c) In any case other than those noted in (a) above in which suspension is listed as a sanction under these rules, a party may request sanctions in lieu of suspension.
- (d) The board shall impose sanctions in lieu of suspension:
 - (1) When specific sanctions in lieu of suspension are requested by the licensee charged and:
 - a. The licensee charged describes the sanctions suggested, including, if applicable, the amount of any fine, the specific training or additional education to be taken, the nature of the community service offered and the specific form and place of counseling suggested, further including in such description the names of each person that will provide the activity suggested; and
 - b. The board determines that imposition of the specific sanctions in lieu of suspension suggested by the licensee charged will:

1. Assist the person in conforming his or her future conduct to the requirements of RSA 326-H, Diet 500 or other applicable law;
2. As effectively serve the purposes of disciplinary action as would the imposition of a suspension;
3. Pose no risk of potential harm to the health, safety or welfare of persons under the person's care, or to any other person; and
4. Not suggest to either members of the profession or to members of the public that licensees do not possess the obligation under Diet 501.03(b)(5) to conduct themselves honorably, responsibly, ethically and lawfully so as to enhance the honor, reputation and usefulness of the profession.

- (2) When the board determines, with or without request of the charged party, that the imposition of specifically identified sanctions in lieu of suspension would more effectively achieve the purposes set forth in (d) (1) above than would the imposition of suspension.

Source. #8336, eff 5-1-05

PART Diet 404 CONTINUING EDUCATION

Diet 404.01 Continuing Education Requirements.

(a) Except as provided in (d) and (e) below, each licensee shall complete 20 credit hours of continuing professional education during each period of licensure.

(b) Except as provided in (d) and (e) below, all 20 credit hours of continuing professional education shall be completed in the licensing period preceding the expiration date of the license being renewed.

(c) No greater than 20% of the activities submitted for continuing professional education credit during each period of licensure shall be for the reading or writing of peer-reviewed professional publications.

(d) A person wishing to renew a license that has been revoked or that has expired while under a period of suspension shall apply for reinstatement under these rules and shall complete 20 credit hours of continuing professional education in the 24 months before the request for a hearing on reinstatement.

(e) A person who has previously been licensed by the board, but whose license has expired under circumstances other than those described in (d) above, and who wishes to renew a license shall reapply for licensure under Diet 405.01 and shall complete 20 credit hours of continuing professional education in the 24 months before the reapplication.

(f) Only activities approved pursuant to these rules shall qualify for continuing professional education credit.

(g) No person requesting professional education credit under these rules shall, on his or her application or reapplication, list any single program, presentation, course of study or independent self-study, examination, reading or writing of a peer-reviewed professional publication, seminar, or meeting as

more than one activity in fulfillment of the continuing professional education credit requirement of these rules.

(h) No single program, presentation, course of study or independent self-study, examination, reading or writing of a peer-reviewed professional publication, seminar, or meeting shall be counted by the board as more than one activity in fulfillment of the continuing professional education credit requirement of these rules.

- (i) The board shall approve continuing professional education credit for activities in accordance with the criteria set forth in Diet 404.02 through Diet 404.04.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 404.02 Continuing Professional Education Credits Approved by the Commission on Dietetic Registration.

(a) Activities that have been approved by the CDR for continuing professional education credit for the purpose of continued registration with the CDR shall be approved by the board for continuing professional education credit under these rules.

(b) Activities that have been approved by the CDR for continuing professional education credit for the purpose of continued registration with the CDR shall be assigned by the board the same number of credit hours as have been assigned by the CDR.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 404.03 Continuing Professional Education Credits for College and University Courses.

(a) The board shall approve college and university courses for continuing professional education credit if those courses relate to either:

- (1) Human nutrition, nutrition education, food and nutrition, dietetics, public health nutrition, or food systems management by addressing the application of principles derived from the fields of biology or physiology, from the behavioral or social sciences, or from the study of food, nutrition, management or communication; or
- (2) Methods for achieving or maintaining optimal human health.

(b) Courses in those subjects identified in (a)(1) and (2) above shall be assigned the following credit hours by the board:

- (1) If the course was a semester-long course:
 - a. 15 credit hours per semester, provided that:
 1. The course was attended for college or university credit; and
 2. A passing grade was obtained; or
 - b. 8 credit hours per semester if the course was attended, but not for college or university credit;
- (2) If the course was a trimester course:
 - a. 14 credit hours per trimester, provided that:

1. The course was attended for college or university credit; and
 2. A passing grade was obtained; or
- b. 7 credit hours per trimester if the course was attended, but not for college or university credit.
- (3) If the course was a quarterly course:
- a. 10 credit hours per quarter, provided that:
 1. The course was attended for college or university credit; and
 2. A passing grade was obtained; or
 - b. 5 credit hours per quarter if the course was attended, but not for college or university credit.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 404.04 Continuing Professional Education Credits for Other Activities.

(a) The board shall approve activities other than those noted in Diet 404.02 or Diet 404.03 for continuing professional education credit if those activities:

- (1) Relate to the subjects set forth in Diet 404.03(a)(1) or (2);
- (2) Are not primarily designed to introduce members of the general public to the field of dietetics; and
- (3) Accomplish one or more of the following goals:
 - a. Update or enhance the professional knowledge, skill or competence of dietitians;
 - b. Assess the professional knowledge, skill or competence of dietitians;
 - c. Provide opportunities for dietitians to engage in interdisciplinary studies;
 - d. Provide dietitians with opportunities for professional growth and development; or
 - e. Build excellence in the profession of a dietitian.

(b) In determining whether the activity accomplishes one or more of the goals set forth in (a)(3) above, the board shall consider:

- (1) Whether the information provided has a direct bearing on the ability of a person to perform successfully as a dietitian;
- (2) Whether the quantity and quality of information that has a direct bearing on the ability of the person to perform successfully as a dietitian is likely to achieve one or more of the goals set forth in (a)(3) above; and
- (3) Whether the professional qualifications of the person or persons

presenting or sponsoring the activity render it likely that the instruction provided will achieve one or more of the goals set forth in (a)(3) above.

(c) The board shall assign one credit hour for each hour of actual attendance at approved courses other than those noted in Diet 404.03, programs, presentations, seminars or meetings, provided that if any grade is given the applicant receives a passing grade.

(d) The board shall assign one half of one credit hour for the reading or writing of any one peer reviewed professional publication.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 404.05 Procedure for Obtaining Approval of Activities for Continuing Professional Education Credits.

(a) Activities not previously approved for continuing professional education credits by the board or by the CDR shall be submitted by a licensee or other person for approval at least 30 days before the activity begins.

(b) Requests for approval pursuant to (a) above shall be in writing and shall include the following information about the activity:

- (1) The title;
- (2) A detailed description of the subject areas to be covered;
- (3) The dates on which it is to be held;
- (4) The name of the sponsoring organization or entity;
- (5) A description, in the form of a curriculum vitae, of the professional qualifications of the person or persons presenting or sponsoring the activity relative to one or more of the areas set forth in Diet 404.04(a)(3); and
- (6) The number of continuing professional education hours sought to be credited.

(c) Upon approving an activity for continuing professional education credits, the board shall issue to both the sponsoring organization and the licensee or other person submitting the request for approval a letter of approval containing the following information about the activity:

- (1) The title;
- (2) A brief description of the subject areas to be covered;
- (3) The dates on which it will be held; and
- (4) The number of continuing education hours credited.

(d) Activities once approved for credit under these rules shall remain approved for continuing professional education credit unless the board finds that those activities no longer meet the criteria set forth in Diet 404.04(a) and (b).

(e) The board shall:

- (1) Keep an up-dated list of board-approved activities; and

- (2) Make the list available to any person upon request.

Source. #7938, eff 8-23-03; ss by #8336

PART Diet 405 ONGOING REQUIREMENTS

Diet 405.01 Ongoing Education Requirements for Reapplications After License Expiration.

(a) In circumstances other than those noted in Diet 402.01(c) through (e), a person who has previously been licensed by the board but whose license has expired may obtain a new license only by:

- (1) Following the process for license application set forth in Diet 302.01; and
- (2) Submitting written documentation of the completion of 20 hours of continuing professional education credits in the 24 months prior to the application.

(b) The documentation noted in (a)(2) above shall consist of one or more writings from the sponsor of each activity:

- (1) Describing the subject matter of the activity;
- (2) Identifying the sponsor of the activity;
- (3) Stating the number of hours of instruction provided;
- (4) Stating whether the activity has been approved for credit by the CDR;
- (5) Verifying the applicant's attendance; and
- (6) If any grade was provided, stating the applicant's grade.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 405.02 Supporting Materials and Board Verification of Compliance with Professional Education Requirements.

(a) The board shall verify the truth and accuracy of a licensee's statements to the board concerning continued professional education credits obtained by the applicant:

- (1) Whenever it possesses information suggesting that an applicant may have inaccurately or falsely recorded or provided the information; and
- (2) Annually, by selecting up to 10% of the license renewal applications and reapplications at random and verifying that the continuing professional education information provided in those applications or reapplications is true and accurate.

(b) The board shall verify the truth and accuracy of information under paragraph (a) by requesting that the applicant provide one or more of the following forms of documentation as it determines will establish whether the applicant has complied with the continuing professional education requirements of these rules:

- (1) A certificate of attendance at, or a certificate of completion of, identified courses, programs, examinations, presentations, seminars or meetings;
- (2) A course outline, syllabus, brochure or other description of identified courses, programs, examinations, presentations, seminars or meetings;

- (3) A brochure or other description of the organizations or entities sponsoring the courses, programs, examinations, presentations, seminars or meetings submitted for continuing professional education credit;
- (4) Transcripts of courses attended;
- (5) Verification of grades received;
- (6) Verification of the duration of specified courses, programs, examinations, presentations, seminars or meetings;
- (7) Contracts or other writings documenting the applicant's involvement in independent study;
- (8) A copy of peer reviewed professional publications read or written; and
- (9) Such other material as may document the applicant's participation in specified courses, programs, examinations, presentations, seminars or meetings, or the length or nature of those courses, programs, examinations, presentations, seminars or meetings.

(c) The documentation noted in (b) above shall be in the form of dated materials prepared or produced by the organization or entity that sponsored the course, program, examination, presentation, seminar or meeting, or which published the peer reviewed professional publication.

(d) Applicants to whom a request has been directed under (b) above shall provide documentation to the board within 60 days of the request.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-1-05

Diet 405.03 Retention of Records by Licensees. All licensees shall retain in their possession, for a period of 4 years after participation in any activity that is submitted for continuing professional educational credit, such documentation noted in Diet 405.02(b) as is available from the organization or entity sponsoring the course, program, examination, presentation, seminar or meeting, or a copy of the peer reviewed professional publication written or read.

Source. #7938, eff 8-23-03; ss by #8336, eff 5-01-05

CHAPTER Diet 500 ETHICAL STANDARDS

PART Diet 501 ETHICAL OBLIGATIONS OF LICENSED DIETITIANS

Diet 501.01 Purpose.

(a) The purpose of this chapter is to safeguard the life, health and welfare of the public and to establish and maintain a high standard of integrity in the professional practice of dietetics.

(b) These rules shall be binding upon every person holding a license as a licensed dietitian in this state.

Diet 501.02 Obligation To Obey.

(a) Violation of these ethical standards shall result in disciplinary sanctions. Conduct proscribed by these ethical standards, when performed by a candidate for licensure as a dietitian in this state, or during a prior period of licensure, shall result in denying a license application.

(b) All persons licensed under RSA 326-H shall be considered to have knowledge of the existence of these rules of professional conduct, and shall be deemed to be familiar with their several provisions. Such knowledge shall encompass the understanding that the practice of the profession of dietetics is a privilege, as opposed to a right, and the licensed dietitian shall be forthright and candid in the licensee's statements or written response to the board or its representatives on matters pertaining to professional conduct.

(c) Licensees shall submit only truthful and correct information in any application or other document filed with, or statement made to, the board.

(d) Each licensee shall inform the board of a principle business or home address to which all official board communications should be directed. The establishment of a business or home address or the change or abandonment of a business or home address shall be reported by the licensee to the board within 30 days.

Source. #7773, eff 10-3-02; ss by #8336, eff 5-1-05

Diet 501.03 Standards of Conduct.

(a) The licensed dietitian shall hold paramount the safety, health and welfare of the dietitian's clients.

(b) The licensed dietitian shall:

- (1) Perform his or her services only in areas of his or her competence;
- (2) Issue statements only in an objective and truthful manner;
- (3) Act for each employer or client as a faithful agent or trustee;
- (4) Not engage in deceptive acts;
- (5) Conduct himself or herself honorably, responsibly, ethically and lawfully so as to enhance the honor, reputation and usefulness of the profession;
- (6) Undertake to perform dietetic assignments only when qualified by education or experience in the specific technical field of dietetics and nutrition involved;
- (7) Act only in an objective and truthful manner; and
- (8) When serving as an expert or technical witness before any court, commission or other tribunal, express an expert opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter and upon honest conviction of the accuracy and propriety of his or her testimony.

(c) The licensed dietitian shall issue no statement, criticism or argument on dietetic issues which is influenced or paid for by an interested party or parties, unless he or she has prefaced the statement, criticism or argument by:

- (1) Identifying himself or herself;
- (2) Disclosing the identity of the party or parties on whose behalf he or she is speaking; and
- (3) Revealing any pecuniary interest he or she may have in the matter.

(d) The licensed dietitian shall solicit or accept work only on the basis of his or her qualifications.

(e) The licensed dietitian shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another dietitian.

(f) The licensed dietitian shall not knowingly associate with, or permit the use of his or her name in a business venture by, any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices which are related to dietetics and are of a fraudulent or dishonest nature.

(g) The licensed dietitian shall:

- (1) If he or she has knowledge or reason to believe that another licensed dietitian might be in violation of any of these rules or the provisions of RSA 326-H, present such information to the board in writing and furnish any further information or assistance required by the board; and
- (2) Cooperate with investigations by the board and requests for information from the board and the board's representatives.

Source. #7773, eff 10-3-02; ss by #8336, eff 5-01-05

