

# **RULES AND REGULATIONS**

**Louisiana Administrative Code  
Title 46, Part LXIX**



**Louisiana Board of Examiners in Dietetics and Nutrition**

Last Amended September 20, 2015

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## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

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**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**  
**Part LXIX. Registered Dietitians/Nutritionists**

**Chapter 1. Dietitians/Nutritionists**

**§101. Definitions**

A. As used in this Chapter, the following terms and phrases, which have not already been defined in the Practice Act, and R.S. 37:3081-3094 are defined as following.

*Academy*—the Academy of Nutrition and Dietetics (AND), formerly the American Dietetic Association (ADA).

*Accreditation Council for Education in Nutrition and Dietetics (ACEND)* is the AND's accrediting agency for education programs preparing students for careers as dietetic or nutrition practitioners. It is recognized by the Board as the approved credentialing evaluation agency for dietitians/nutritionists.

*Act*—Louisiana Dietetic/Nutrition Practice Act of 1987.

*Applicant*—any person who has applied to the board for a regular license or provisional license to use the title dietitian or nutritionist and to engage in the practice of dietetics/nutrition in the state of Louisiana.

*Application*—a written request directed to and received by the board, upon forms supplied by the board, for a license or provisional license to practice dietetics/nutrition in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board.

*Commission on Dietetic Registration (CDR)*—the Commission on Dietetic Registration that is a member of the National Commission for Health Certifying Agencies and is responsible for registering and/or credentialing dietetic practitioners.

*Degree*—a degree of baccalaureate or higher received from a college or university granted by a U.S. regionally accredited college or university, or foreign equivalent with a major course of study in human nutrition, food and nutrition, dietetics, or food systems management.

*Diet Instruction*—the process of imparting knowledge related to a specific nutrition plan. It does not include the dynamics of interpretation of the nutrition assessment, deliberation, development or change in a nutrition plan, all of which are within the scope of *Dietetics/Nutrition Practice*.

*Dietetic Nutrition Practice and Medical Nutrition Therapy*—may be used interchangeably.

*Dietetic Practice, Nutrition Counseling, and Medical Nutrition Therapy*—terms that may be used interchangeably.

*Dietetic Practitioner*—dietitian/nutritionist licensee practicing dietetics and nutrition according to R.S. 37:3081

to R.S. 37:3093, of the Louisiana Dietetic/Nutrition Practice Act.

*Direct Supervision*—a licensed dietitian/nutritionist providing sufficient guidance and direction to enable a provisional licensed dietitian/nutritionist to perform competently.

*Examination*—satisfactory completion of an examination in order to be licensed is required by the Dietetic/Nutrition Practice Act. The board recognizes the registration examination administered by CDR and the passing score set by CDR as the board's examination.

*Incidental to the Practice of their Profession*—as specified in that profession's practice act or licensure law in the state of Louisiana as interpreted by that profession's regulatory board or agency as referred to in R.S. 37:3093.

*Licensed Dietitian/Nutritionist*—a person licensed under R.S. 37:3081-3093. The terms “dietitian”, “dietician”, and “nutritionist” may be used interchangeably.

*Louisiana Association*—Louisiana Dietetic Association (LDA) dba Louisiana Academy of Nutrition and Dietetics (LAND), an affiliate of the Academy of Nutrition and Dietetics (AND).

*Nutrition Care Process*—as defined by the AND, as nutrition assessment, nutrition diagnosis, nutrition intervention/plan of care, and nutrition monitoring and evaluation.

*Nutrition Counseling* (also referred to as *medical nutrition therapy (MNT)*)—a therapeutic approach to treating medical conditions and their associated symptoms via the use of a specifically tailored diet devised and monitored by a licensed and/or registered dietitian/nutritionist. Nutrition counseling provides individualized guidance on appropriate food and nutrient intake for those with special metabolic needs, taking into consideration health, cultural, socioeconomic, functional and psychological facts from the nutrition assessment. Nutrition counseling may include advice to increase or decrease nutrients in the diet; to change the timing, size or composition of meals; to modify food textures; and in extreme instances, to change the route of administration.

*Nutrition Education*—imparts information about food and nutrients, diet lifestyle factors, community nutrition resources and services to the general public in order to facilitate and promote healthy eating and physical activity.

*Nutritional Assessment*—the evaluation of the nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs including enteral

and parenteral nutrition regardless of setting, including but not limited to ambulatory settings, hospitals, nursing homes and other extended care facilities.

*Provisionally Licensed Dietitian/Nutritionist*—a person provisionally licensed under the Louisiana Dietitian/Nutritionist Act.

*Registered Dietitian/Nutritionist*—a person registered by the CDR.

*Scope of Dietetic/Nutrition Practice*—the integration and application of principles derived from the sciences of nutrition, biochemistry, food, physiology, management, behavioral, and social sciences to achieve and maintain client health through the provision of nutrition care services, which shall include:

- a. assessing the nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parenteral nutrition;
- b. establishing priorities, goals and objectives that meet nutritional needs and are consistent with available resources;
- c. providing nutrition counseling by advising and assisting individuals or groups on appropriate nutritional intake by integrating information from the nutritional assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status;
- d. developing, implementing, and managing nutrition care systems; and
- e. evaluating, making changes in, and maintaining standards of quality in food and nutrition care services.

*Title*—any use of the titles “dietitian”, “dietician”, or “nutritionist”, or any abbreviation or facsimile cannot be used unless the person is licensed in accordance with the provisions of the Louisiana Dietetic/Nutrition Practice Act. The board may cause to issue a writ of injunction enjoining any person from violating this provision.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 25:1094 (June 1999), LR 37:2152 (July 2011), LR 40:302 (February 2014), LR 41:1674 (September 2015).

**§103. Qualifications for Licensure**

**A. Regular Licensure**

1. **Academic Requirements.** Persons applying for licensure must have earned a baccalaureate or post-baccalaureate degree granted by a U.S. regionally accredited college or university, or foreign equivalent and meet minimum academic requirements approved by the

Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the AND. Applicant must present verification statement from an ACEND accredited program dated no later than five years after completion of the academic requirements.

2. **Professional Experience.** An applicant for licensure shall submit to the board evidence of having successfully completed a planned continuous supervised practice program approved by the board of not less than 900 hours under the supervision of a registered dietitian or a licensed dietitian/nutritionist. The board has designated a supervised practice program accredited by ACEND of the AND as the board-approved program of planned supervised practice program.

3. **Examination for Licensure.** An applicant for licensure shall pass an examination approved by the board. The board recognizes the registration examination for dietitians administered by the CDR as the board-approved exam.

4. **Continuing Education Requirements.** The board recognizes the CDR professional development portfolio (PDP) system as fulfilling the continuing education requirement for license renewal. Requirements for continuing education are considered to be met if a current CDR card is provided by the licensee to the board annually.

5. Applicants who are currently registered by CDR are deemed to meet the academic, professional experience, examination, and continuing education requirements for licensure.

6. Applicants who hold a doctoral degree granted prior to July 1, 1988, in addition to a baccalaureate or higher degree from a regionally accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, food systems management or biochemistry shall have met the requirements for licensure, as long as the person’s application was approved by the board, and license and fees have been renewed as prescribed by the board.

**B. Provisional Licensure**

1. Applicants who are not registered by CDR but who present evidence to the board of successful completion of the academic and professional experience requirements of §103.A.1-2 for licensure no later than five years after completion of the academic and professional experience requirements may apply for a provisional license.

2. A provisional license may be issued to such a person before he/she has successfully completed the licensure examination prescribed by the board.

3. A provisional license may be issued for a period not exceeding one year and may be renewed annually for a period not to exceed five years upon payment of a fee and documentation of evidence that the provisional license holder is practicing only under the supervision of a licensed dietitian/nutritionist and also provides evidence of at least 15 hours of continuing education per license year.

### C. Licensing of Qualified Military Commissioned Applicants and Spouses of Military Personnel

1. A military-trained dietitian/nutritionist is eligible for licensure as a dietitian/nutritionist as provided for in Subsections A-B of this Section provided the applicant:

a. has completed a military program of training in dietetics and nutrition and has been awarded a military occupational specialty or similar official designation as a dietitian/nutritionist with qualifications which are substantially equivalent to or exceed the requirements of the applicable license (including the provisional license authorized by R.S. 37:3087) which is the subject of the application;

b. has performed dietetics and nutritionist services in active practice at a level that is substantially equivalent to or exceeds the requirements of the applicable license which is the subject of the application;

c. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and

d. has not received a dishonorable discharge from military service.

2. A military-trained dietitian/nutritionist, who has not been awarded a military occupational specialty or other official designation as a dietitian/nutritionist, who nevertheless holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the license for which he or she is applying, is eligible for licensure, by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and

b. has not received a dishonorable discharge from military service.

3. A spouse of a member of the active-duty military forces or a spouse of a former member of the military forces who has not received a dishonorable discharge and who holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements of Subsections A-B of this Section for the applicable license for which he or she is applying, is eligible for licensure by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice

dietetics/nutrition in this state at the time the act was committed; and

b. is in good standing and has not been disciplined by the agency that issued the license.

4. The procedures governing the applications of military-trained applicants and applicants who are spouses of military personnel, including the issuance and duration of temporary practice permits and priority processing of applications, are provided for in §109.J.

5. Military applicants who are currently registered by CDR are deemed qualified for licensure and may provide verification of CDR registration to the board in lieu of options listed above if this will expedite the licensure process.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2152 (July 2011), LR 40:302 (February 2014), LR 41:1675 (September 2015).

#### §105. Qualifications for Reciprocity

A. The board may grant a license by endorsement to any person who presents proof of current licensure as a dietitian or nutritionist in another state, District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure as prescribed in this Chapter.

B. All application materials shall be completed and the reciprocity and license fees shall be paid by the applicant. The board may contact the issuing agency to verify the applicant's status with that agency at the time of application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2152 (July 2011).

#### §107. Licensing of Dietitians/Nutritionists Trained in a Foreign Country

A. Any person who has been trained as a dietitian/nutritionist in a foreign country and who desires to be licensed under the act may make application if the individual:

1. holds a degree from an education program which has been evaluated by an approved credentialing evaluation agency, ACEND as equivalent to the baccalaureate or higher degree conferred by universities or colleges regionally accredited by the council on post-secondary accreditation and the U.S. Department of Education and meets equivalent academic requirements;

a. submits to the board any diploma or other document required for a foreign graduate applicant. A diploma or other document which is not in the English

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language must be accompanied by a certified translation thereof in English by an approved credentials evaluation service;

2. submits documentary evidence to the board that he or she has completed a course of professional experience as described in §103.A.2 of this Part;

3. successfully completed the prescribed examination for licensure;

4. demonstrates satisfactory proof of proficiency in the English language;

5. applicants who are currently registered by CDR are deemed to meet the academic, professional experience, examination, and continuing education requirements for licensure;

6. applications for licensure shall be upon the form and in the manner prescribed by the board, accompanied by the appropriate fees;

7. at the time of making such application, the applicant shall pay the fee prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 41:1676 (September 2015).

### **§109. Application for Licensure and/or Provisional Licensure**

A. Application for license or provisional license must be upon the form and in the manner and fee prescribed by the board.

B. Every application shall be typed or written in ink, signed under the penalty of perjury and accompanied by the appropriate nonrefundable application fee and by such evidence, statements or documents showing to the satisfaction of the board that applicant meets requirements of R.S. 37:3086(A), (B) or (C).

C. Applications are to be submitted to the address designated by the board.

D. Approved applications and all document files in support thereof shall be retained by the board.

E. The board will not consider an application complete until all information is received.

F. The board will send a notice to an applicant who does not fully complete the application, listing the additional materials required.

G. The application for a license shall contain such information as the board may reasonably require.

H. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted

with the applicant's application or obtained by the board from other sources as required.

I. An applicant who meets all the requirements of R.S. 37:3086 or 3087 and who has worked more than 30 days as a dietitian/nutritionist in the state of Louisiana and who has not otherwise violated any part of R.S. 37:3081-3093 or its rules and regulations, may be offered the following options in the form of a consent agreement and order to resolve the situation:

1. applicant is reprimanded for practicing as a dietitian and/or nutritionist in Louisiana without a license;

2. within 90 days of the date of the Consent Agreement and Order, applicant shall take and pass an open book examination covering the Louisiana Dietetic/Nutrition Practice Act and the board's rules and regulations to include Rules for Professional Conduct;

3. applicant must make a minimum score of 80 percent on the open book examination and will be allowed three hours to complete the examination at the board office. Applicant must pay applicable examination fee;

4. the consent agreement and order shall not be considered disciplinary action, but will be published by LBEDN.

J. Procedures for Applications of Military-trained Applicants or Spouses of Military Personnel, Issuance of Temporary Practice Permits and Priority Processing of Applications

1. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.1, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the official military document showing the award of a military occupational specialty in dietetics and nutrition and a transcript of all military course work, training and examinations in the field of dietetics and nutrition;

c. documentation showing the applicant's performance of dietetics/nutritionist services, including dates of service in active practice, at a level which is substantially equivalent to or exceeds the requirements of the license which is the subject of the application;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed.

2. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.2, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

c. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed.

3. In addition to the application procedures otherwise required by this Section, a spouse of a member of the active-duty military forces or a spouse of a former member of the military forces as specified in §103.E.3, applying for licensure, shall submit with the application:

a. a copy of the current military orders of the military spouse of the applicant and the applicant's military identification card or a copy of the military report of transfer or discharge of the military spouse of the applicant which shows an honorable discharge from military service;

b. a copy of the applicant's marriage license and an affidavit from the applicant certifying that he or she is still married to a military spouse or former military spouse;

c. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed and is in good standing and has not been disciplined by the agency that issued the license;

e. documentation demonstrating competency in dietetics/nutritionist practice at the level which is the subject of the application and/or completion of appropriate continuing education units.

4. Applicants who present completed applications and the supporting documentation required by this Rule are eligible for a temporary practice permit as a dietitian/nutritionist or provisional dietitian/nutritionist, whichever is the subject of the application. The board, through its staff, will give priority processing to such applications and, subject to verification of applications and supporting documentation, issue the appropriate temporary practice permit not later than 21 days after the completed application is submitted. The temporary practice permit authorizes the applicant to practice dietetics/nutrition at the designated level, consistent with the verified application and supporting documentation for a period of 60 days from the date of issuance.

5. As soon as practicable, but not longer than the duration of the applicant's temporary practice permit, the

board will grant the application for the applicable license which is the subject of the application or notify the applicant of its denial.

6. Military applicants and/or military spouse applicants who are currently registered by the CDR are deemed to meet all requirements for licensure. Such applicants may provide evidence of CDR registration in lieu of other documentation listed above if this is more expedient to the licensure process.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2153 (July 2011), LR 40:302 (February 2014), LR 41:1676 (September 2015).

### **§111. Issuance and Renewal of Licensure**

A. The board recognizes two distinct types of licensure. Applicants may be issued a regular license or a provisional license based on compliance with requirements stated in the Louisiana Dietitian/Nutritionist Practice Act and described in these regulations. The board shall issue a license to any person who meets the requirements upon payment of the license fee prescribed.

#### **B. Regular License**

The board may issue a regular license to any dietitian/nutritionist who qualifies in accordance with the requirements of R.S. 37:3086(A), (B) or (C), and who practices in Louisiana, whether resident or nonresident, unless otherwise exempted as stated in R.S. 37:3093 of the Dietetic/Nutritionist Practice Act and these regulations. The board will send each applicant whose credentials have been approved a license.

#### **C. Provisional License**

1. A provisional license shall permit the holder to practice only under the direct supervision of a licensed dietitian/nutritionist. The board may issue a provisional license to any dietitian/nutritionist who meets the following requirements:

a. shall have earned a baccalaureate or post-baccalaureate degree granted by a U.S. regionally accredited college or university, or foreign equivalent, and meet minimum academic requirements accredited by ACEND;

b. the board may issue a provisional license to a person before he has taken the examination prescribed by the board;

c. a provisional license may be issued for a period not exceeding one year and may be renewed annually for a period not to exceed five consecutive years upon payment of an annual fee and presentation of evidence satisfactory to the board that applicant is meeting the supervision requirements and the continuing education requirement of at least 15 hours of continuing education per license year.

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### D. Supervision of Provisional Licensed Dietitian

1. The purpose of this Section is to set out the nature and scope of the supervision provided for provisional licensed dietitians/nutritionists.

2. To meet initial licensure and license renewal requirements, a provisionally licensed dietitian/nutritionist shall practice under the direct supervision of a licensed dietitian/nutritionist. *Direct supervision* is defined as a licensed dietitian/nutritionist providing sufficient guidance and direction to enable a provisional licensed dietitian/nutritionist to perform competently. The supervising licensee needs to be readily available in person or by telecommunications and will review the provisionally licensed dietitian/nutritionist's work quarterly and submit to the board annually on a form provided by the board a written report that the applicant is in the process of meeting the experience requirements in anticipation of taking the examination.

### E. Upgrading a Provisional License

1. In order to upgrade to a regular license, the provisionally licensed dietitian/nutritionist shall submit to the board a written request, proof of successful completion of the registration examination administered by CDR or evidence of current registration with CDR, as well as the upgrade fee.

2. When the upgrade occurs, the licensee shall become subject to the renewal requirements for a regular licensed dietitian/nutritionist.

### F. License Certificates

1. The board shall prepare and provide to each licensee a license certificate and license identification card.

2. Official license certificates shall be signed by the board chairman, vice-chairman, and secretary-treasurer and be affixed with the seal of the board.

3. Any license certificate and license identification card issued by the board remains the property of the board and must be surrendered to the board on demand.

4. The license certificate must be displayed in an appropriate and public manner as follows:

a. shall be displayed in the primary place of employment of the licensee; or

b. in the absence of a primary place of employment or when the licensee is employed at multiple locations, the licensee shall carry a current, board issued license identification card.

5. Neither the licensee nor anyone else shall display a photocopy of a license certificate or carry a photocopy of a license identification card in lieu of the original license certificate or license identification card.

6. Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card issued by the board.

7. The board shall replace a lost, damaged or destroyed license certificate or ID card upon receipt of a written request from the licensee and payment of the license replacement fee.

8. The board, upon receipt of a written request, shall reissue a license certificate and/or license identification card in the case of name changes. Requests shall be accompanied by payment of the license replacement fee and appropriate documentation reflecting the change.

G. Abandonment of Application. An applicant shall be deemed to have abandoned the application if the requirements for licensure are not completed within one year of the date on which the application is received. An application submitted subsequently to an abandoned application shall be treated as a new application.

H. Disapproved Applications. The board shall disapprove the application if the applicant:

1. has not completed the requirements of §103 of these regulations including academic and experience requirements;

2. has failed to pass the examination prescribed by the board;

3. has failed to remit any applicable fees;

4. has failed to comply with requests for supporting documentation prescribed by the board;

5. has deliberately presented false information on application documents required by the board to verify the applicant's qualifications for licensure;

6. has been convicted of a felony.

### I. Renewal of Licensure

1. At least 30 days prior to the expiration date of the license, the licensee shall be sent written notice of the amount of renewal fee due, which must be returned with the required fee.

2. Licensee's application for renewal must be postmarked on or prior to the expiration date in order to avoid the late renewal fee. Failure to receive renewal notice shall not be justification for late or non-renewal.

3. The board shall not renew the license of a person who is in violation of the act, or board rules at the time of application for renewal.

#### 4. Licensed Dietitian/Nutritionist

a. Licenses will expire annually on June 30.

b. Applicants receiving an initial license in the last quarter of the fiscal year (April, May, June) are not required to renew or provide proof of continuing education until the following licensing one year period.

#### 5. Provisional License

a. Licenses will expire annually on June 30.



b. Applicants receiving an initial license in the last quarter of the fiscal year (April, May, June) will not be required to renew or provide proof of continuing education until the following one year licensing period.

6. Continuing Education Requirement for Renewing License

a. For renewal of a regular dietitian/nutritionist license, licensees must submit proof of holding current CDR registration. The board recognizes the CDR PDP system as fulfilling the continuing education requirement for licensure renewal.

b. For renewal of provisional license, provisional licensees must submit proof of at least 15 hours of continuing education per license year.

7. Renewal license identification cards and/or renewal validation documents shall be furnished to each licensee who meets all renewal requirements by the expiration date.

8. The board may provide for the late renewal of a license upon the payment of a late fee within 60 days of the expiration date, July 1 through August 31.

a. If the license has been expired for 60 days or less, the license may be renewed by returning the license renewal form with all appropriate fees and documentation to the board, postmarked on or before the end of the 60-day grace period.

9. A person whose license has expired may not use the title of dietitian or nutritionist or facsimile or present or imply that he or she has the title of "licensed dietitian/nutritionist" or "provisional licensed dietitian/nutritionist" or any abbreviation or facsimile of these titles. Additionally, the person with an expired license may not continue to engage in the practice of dietetics and/or nutrition until the expired license has been renewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January, 1984); amended by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:436 (July, 1988), LR 26:2613 (November 2000), LR 37:2153 (July 2011), LR 41:1677 (September 2015).

**§112. Gratuitous Service during a Declared Public Health Emergency**

A. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as a licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist may be suspended by the board at that time to those out of state licensed dietitians/nutritionists or provisional licensed dietitian/nutritionists, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this rule.

B. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

C. A licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist not licensed in Louisiana, whose licenses and CDR registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide dietetic/nutrition services if:

1. the licensed dietitian/nutritionist or provisional dietitian/nutritionist has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing dietetic/nutrition services in Louisiana as follows:

a. the dietitian/nutritionist or provisional dietitian/nutritionist is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he will be providing gratuitous dietetic/nutrition services;

b. the dietitian/nutritionist or provisional dietitian/nutritionist shall comply with the Louisiana Dietetic/Nutrition Practice Act, board rules and regulations, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his skill, training, and ability; and

c. the dietitian/nutritionist or provisional dietitian/nutritionist renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

D. The authority provided for in the emergency rule shall be applicable for a period of time not to exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

E. All interested licensed dietitian/nutritionists or provisional licensed dietitian/nutritionists shall submit a copy of their respective current and unrestricted licenses, or CDR registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners in Dietetics and Nutrition for registration with this agency prior to gratuitously providing dietetic/nutrition services in Louisiana.

F. Should a qualified licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist registered with the board thereafter fail to comply with any requirement or condition established by this Rule, the board may terminate his or her board registration upon notice and hearing.

G. In the event a licensed dietitian/nutritionist or provisional licensed dietitian/nutritionist fails to register with the board, but practices dietetics and/or nutrition, whether gratuitously or otherwise, then such conduct will be

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considered unlawful practice of dietetics and nutrition and prosecuted accordingly.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2153 (July 2011), amended LR 41:1678 (September 2015).

### §113. Code of Ethics for Professional Conduct

A. Licensees under the Act shall perform their professional duties using the code of ethics adopted by the board.

B. The board has adopted the following American Dietetic Association/Commission on Dietetic Registration:

1. *Code of Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues* as published: Am Diet Assoc. 2009;109 (8):1461-1467.

#### PRINCIPLES OF ETHICS

##### Fundamental Principles

1. The dietetics practitioner conducts himself/herself with honesty, integrity, and fairness.
2. The dietetics practitioner supports and promotes high standards of professional practice. The dietetics practitioner accepts the obligation to protect clients, the public, and the profession by upholding the Code of Ethics for the Profession of Dietetics and by reporting perceived violations of the Code through the processes established by ADA and its credentialing agency, CDR.

##### Responsibilities to the Public

3. The dietetics practitioner considers the health, safety, and welfare of the public at all times. The dietetics practitioner will report inappropriate behavior or treatment of a client by another dietetics practitioner or other professionals.

4. The dietetics practitioner complies with all laws and regulations applicable or related to the profession or to the practitioner's ethical obligations as described in this Code.

- a. The dietetics practitioner must not be convicted of a crime under the laws of the United States, whether a felony or a misdemeanor, an essential element of which is dishonesty.
  - b. The dietetics practitioner must not be disciplined by a state for conduct that would violate one or more of these principles.
  - c. The dietetics practitioner must not commit an act of misfeasance or malfeasance that is directly related to the practice of the profession as determined by a court of competent jurisdiction, a licensing board, or an agency of a governmental body.
5. The dietetics practitioner provides professional services with objectivity and with respect for the unique needs and values of individuals.
- a. The dietetics practitioner does not, in professional practice, discriminate against others on the basis of race, ethnicity, creed, religion, disability, gender, age, gender identity, sexual orientation, national origin, economic status, or any other legally protected category.
  - b. The dietetics practitioner provides services in a manner that is sensitive to cultural differences.
  - c. The dietetics practitioner does not engage in sexual harassment in connection with professional practice.
6. The dietetics practitioner does not engage in false or misleading practices or communications.
- a. The dietetics practitioner does not engage in false or deceptive advertising of his or her services.

b. The dietetics practitioner promotes or endorses specific goods or products only in a manner that is not false and misleading.

c. The dietetics practitioner provides accurate and truthful information in communicating with the public.

7. The dietetics practitioner withdraws from professional practice when unable to fulfill his or her professional duties and responsibilities to clients and others.

a. The dietetics practitioner withdraws from practice when he/she has engaged in abuse of a substance such that it could affect his or her practice.

b. The dietetics practitioner ceases practice when he or she has been adjudged by a court to be mentally incompetent.

c. The dietetics practitioner will not engage in practice when he or she has a condition that substantially impairs his or her ability to provide effective service to others.

##### Responsibilities to Clients

8. The dietetics practitioner recognizes and exercises professional judgment within the limits of his or her qualifications and collaborates with others, seeks counsel, or makes referrals as appropriate.

9. The dietetics practitioner treats clients and patients with respect and consideration.

a. The dietetics practitioner provides sufficient information to enable clients and others to make their own informed decisions.

b. The dietetics practitioner respects the client's right to make decisions regarding the recommended plan of care, including consent, modification, or refusal.

10. The dietetics practitioner protects confidential information and makes full disclosure about any limitations on his or her ability to guarantee full confidentiality.

11. The dietetics practitioner, in dealing with and providing services to clients and others, complies with the same principles set forth above in "Responsibilities to the Public" (Principles #3-7).

##### Responsibilities to the Profession

12. The dietetics practitioner practices dietetics based on evidence-based principles and current information.

13. The dietetics practitioner presents reliable and substantiated information and interprets controversial information without personal bias, recognizing that legitimate differences of opinion exist.

14. The dietetics practitioner assumes a life-long responsibility and accountability for personal competence in practice, consistent with accepted professional standards, continually striving to increase professional knowledge and skills and to apply them in practice.

15. The dietetics practitioner is alert to the occurrence of a real or potential conflict of interest and takes appropriate action whenever a conflict arises.

a. The dietetics practitioner makes full disclosure of any real or perceived conflict of interest.

b. When a conflict of interest cannot be resolved by disclosure, the dietetics practitioner takes such other action as may be necessary to eliminate the conflict, including recusal from an office, position, or practice situation.

16. The dietetics practitioner permits the use of his or her name for the purpose of certifying that dietetics services have been rendered only if he or she has provided or supervised the provision of those services.

17. The dietetics practitioner accurately presents professional qualifications and credentials.

a. The dietetics practitioner, in seeking, maintaining, and using credentials provided by CDR, provides accurate information and complies with all requirements imposed by CDR. The dietetics practitioner uses CDR-awarded credentials ("RD" or "Registered Dietitian"; "DTR" or "Dietetic Technician, Registered"; "CS" or "Certified Specialist"; and "FADA" or "Fellow of the American

Dietetic Association”) only when the credential is current and authorized by CDR.

b. The dietetics practitioner does not aid any other person in violating any CDR requirements, or in representing himself or herself as CDR-credentialed when he or she is not.

18. The dietetics practitioner does not invite, accept, or offer gifts, monetary incentives, or other considerations that affect or reasonably give an appearance of affecting his/her professional judgment.

**Clarification of Principle:**

a. Whether a gift, incentive, or other item of consideration shall be viewed to affect, or give the appearance of affecting, a dietetics practitioner’s professional judgment is dependent on all factors relating to the transaction, including the amount or value of the consideration, the likelihood that the practitioner’s judgment will or is intended to be affected, the position held by the practitioner, and whether the consideration is offered or generally available to persons other than the practitioner.

b. It shall not be a violation of this principle for a dietetics practitioner to accept compensation as a consultant or employee or as part of a research grant or corporate sponsorship program, provided the relationship is openly disclosed and the practitioner acts with integrity in performing the services or responsibilities.

c. This principle shall not preclude a dietetics practitioner from accepting gifts of nominal value, attendance at educational programs, meals in connection with educational exchanges of information, free samples of products, or similar items, as long as such items are not offered in exchange for or with the expectation of, and do not result in, conduct or services that are contrary to the practitioner’s professional judgment.

d. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the dietetics practitioner’s ability to carry out professional responsibilities with integrity, impartiality, and competence is impaired.

**Responsibilities to Colleagues and Other Professionals**

19. The dietetics practitioner demonstrates respect for the values, rights, knowledge, and skills of colleagues and other professionals.

a. The dietetics practitioner does not engage in dishonest, misleading, or inappropriate business practices that demonstrate a disregard for the rights or interests of others.

b. The dietetics practitioner provides objective evaluations of performance for employees and coworkers, candidates for employment, students, professional association memberships, awards, or scholarships, making all reasonable efforts to avoid bias in the professional evaluation of others.

C. All licensees shall be responsible for reporting any and all alleged misrepresentation or violation of the AND/CDR code of ethics and/or board rules to the board.

D. A failure to adhere to the above code of ethics, constitutes unprofessional conduct and a violation of lawful rules and regulations adopted by the board and further constitutes grounds for disciplinary action specified in R.S. 37:3090 of the Dietitian/Nutritionist Practice Act and these rules and regulations and also constitutes grounds for a denial of licensure or a renewal of licensure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Office of the Secretary LR 12:12 (January 1984, repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 25:1095 (June 1999), LR 41:1678 (September 2015).

**§115. Denial, Suspension or Revocation of License**

A. Certificate denial, suspension or revocation shall be accomplished in accordance with section 3090(A) of R.S. 37:3081-3093, the state Administrative Procedure Act, and the procedural rules provided in Chapter 5 hereof.

B. The board may refuse to issue a license or provisional license, or suspend, revoke or impose probationary conditions and restrictions on the license or provisional license of a person on a finding of any of the causes provided by Section 3090(A) and (B) of the Dietitian/Nutritionist Practice Act.

C. A suspended license shall be subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until he or she is reinstated, to engage in the practice of dietetics and/or nutrition, or in any other conduct or activity in violation of the order of judgment by which the license was suspended. If a license is revoked on disciplinary grounds and is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any late fee that may be applicable.

D. Disciplinary Options for Licensees Available to the Board. In accordance with R.S. 37:3085, R.S. 37:3088, and R.S. 37:3090, the following disciplinary options are available to the board.

1. Revocation. The involuntary termination of the licensee’s license.

2. Suspension. The licensee is not permitted to practice for a specified period of time. Rehabilitative conditions may be imposed to run concurrently with the suspension period.

3. Probation. The licensee is permitted to practice, but the board has imposed conditions upon the practice or the practitioner including, but not limited to, rehabilitation. Once the time period has elapsed, and the licensee has complied with the terms of probation and/or rehabilitation, the board will allow the practitioner to resume practice unconditionally.

4. Restriction of License. A reduction in the scope of practice.

5. Censure. The board makes an official statement of censure concerning the individual.

6. Reprimand. Similar to censure. The board reproves the licensee. There may be public or private reprimands.

7. Restitution. Requirement imposed upon the licensee that he or she makes financial or other restitution to a client, the board, or other injured party.

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E. Publication of Disciplinary Action. The board will notify the professional community within 30 days of any disciplinary action, including the disciplined licensee's name, location, offense and sanction imposed. A notice of disciplinary action will also be published by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:438 (July 1988), amended LR 25:1095 (June 1999), LR 37:2154 (July 2011), LR 41:1680 (September 2015).

**§117. Exemptions**

A. No person shall engage in the practice of dietetics/nutrition in the state of Louisiana unless he or she has in his or her possession a current license or provisional license duly issued by the board under the provisions of Chapter 1 of these rules, unless exempted as defined in R.S. 37:3093 of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 41:1680 (September 2015).

**§119. General**

A. In accordance with the provisions of the Act, the following fees, where applicable, are payable to the board. All fees are nonrefundable.

Application Fee	\$45
Initial License Fee	45
Provisional License Fee	50
License Renewal Fee	60
Late Renewal Fee	25
Duplicate License Fee	25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), LR 26:2613 (November 2000), LR 37:2154 (July 2011).

**Chapter 3. Board Members**

**§301. Board Members**

A. Officers. The board shall elect annually at the last meeting of the calendar year, a chairman, vice-chairman, and secretary/treasurer whose responsibilities are included in the policy and procedure manual.

B. Meetings

1. The board shall schedule meetings for the following calendar year at the last meeting of the current year.

2. A schedule of meeting dates shall be published on the board's website.

3. Any board member who misses two board meetings, barring extenuating circumstances approved by the board, during the course of one calendar year shall resign from the board.

4. Special travel requests, other than regular monthly meetings, must be approved by the board.

**C. Expense Reimbursement**

1. Expenses charged to the board must be consistent with the time frame and mission of board meetings and other functions. Expenses which are exceptions to this policy may be paid with justification and approval by the board.

2. Board members shall be reimbursed for actual traveling, incidental, and clerical expenses incurred while engaged in official duties.

a. Mileage expenses shall be reimbursed at the official state rate.

b. Airfare expenses must be at the state contract rate or economy class rate when contract rates are not available.

c. Lodging and meals shall be reimbursed at actual cost if receipts are submitted. Without receipts, lodging and meals shall be reimbursed at the appropriate state rate.

d. Incidental expenses are defined as telephone calls, fees for storage and handling of equipment, tips for baggage handling, parking fees, ferry fees, and road and bridge tolls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093, R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2155 (July 2011), amended LR 41:1680 (September 2015).

**Chapter 5. Procedural Rules**

**§501. Authority**

A. Consistent with the legislative purpose enumerated in R.S. 37:3081-3093, and to further protect the safety and welfare of the public of this state against unauthorized, unqualified and improper practice of dietetics and nutrition, the following rules of procedure are established under this board's specific rulemaking authority of R.S. 37:3085 and R.S. 49:952 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 25:1095 (June 1999).

**§503. Investigation of Complaints**

A. The board is authorized to receive complaints from any person against dietitian/nutritionist licensees or applicants or against persons engaged in the unauthorized

and unlicensed practice of dietetics and nutrition. Any complaint bearing on a licensee's professional competence, conviction of a crime, unauthorized practice, violation of provisions of the Dietitian/Nutritionist Practice Act or board rules and regulations, mental competence, neglect of practice or violation of the state law or ethical standards where applicable to the practice of dietetics and nutrition, should be submitted to the board.

B. Once a written and signed complaint is received from an individual, the board will initiate a review of the allegations. The board may dispose of the complaint informally through correspondence or conference with the individual and/or the complainant which may result in a consent agreement and order. If the party stipulates to the complaint and waives his or her right to formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint will be forwarded to the board's designated complaint investigation officer (hereinafter referred to as the CIO) for investigation.

C. The board's CIO shall have authority to investigate the nature of the complaint against a licensee through conference and correspondence directed to those parties or witnesses involved. The officer shall send the involved licensee notice of the investigation, containing a short summary of the complaint. All letters to the involved licensee, the complainant, or any other witness, shall be sent by certified mail, with the designation "personal and confidential" clearly marked on the outside of the envelope.

D. The CIO shall conclude the investigation as quickly as possible without compromising thoroughness. Unless good cause is shown by the CIO satisfactory to the board, which may extend the time for the investigation, the investigation and recommended action shall be completed within 60 days of the date the CIO first receives the complaint.

E. The CIO shall make a recommendation to the board for disposition by informal hearing, formal hearing or dismissal of the complaint. When the CIO's recommended action might lead to denial, suspension, or revocation of the certificate, the board shall immediately convene a formal adjudication hearing, pursuant to R.S. 37:3090(B) of the Dietetic/Nutrition Practice Act and §501 and §503 of these regulations. The CIO may determine that the licensee's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed. The recommended remedial action or dismissal of the complaint shall be forwarded to the involved complainant and licensee.

F. The CIO may also recommend to resolve the complaint through a consent agreement and order entered into by the licensee and the complainant. If the order contains any agreement by the licensee to some remedial course of action, the agreement must be signed by the complainant, the licensee and the board. The CIO will make note of any settlement arrived at between the complainant and the licensee, but such a settlement does not necessarily preclude further disciplinary action by the board.

G. If the CIO's recommendation for informal hearing is accepted by the board, the officer shall notify the licensee of the time and place of the conference and of the issues to be discussed. The licensee shall appear on a voluntary basis. The licensee shall be advised that the hearing will be informal, no lawyers will be utilized and no transcript of the hearing made. Any witnesses used will not be placed under oath, and no subpoenas will be issued. The licensee shall be informed that any statements made at the informal hearing may not be used or introduced at a formal hearing, unless all parties consent, in the event the complaint cannot be resolved informally. If the licensee notifies the CIO that he does not wish such an informal hearing, none shall be held. In that event, the CIO shall recommend to the board the initiation of a formal disciplinary hearing.

H. If the investigation disclosed any of the following:

1. that the complaint is sufficiently serious to require formal adjudication;
2. the licensee fails to respond to the CIO's correspondence concerning the complaint;
3. the licensee's response to the CIO's letter discloses that further action is necessary; an informal hearing is held but does not resolve all the issues; or the licensee refuses to comply with the recommended remedial action, the CIO shall recommend to the board the initiation of a formal disciplinary hearing.

I. In any recommended action submitted to the board by the CIO, the recommended action should be submitted in brief, concise language, without any reference to the particulars of the investigation, or any findings of fact or conclusions of law arrived at during the investigative process.

J. The board shall also have authority to delegate to the CIO the investigation of any alleged violations of R.S. 37:3090(A), prior to board action on such alleged violations. In that event, the CIO shall submit to the board the complete details of the investigation, including all facts and the complete investigation file, if requested by the board. Final authority for appropriate action rests solely with the board.

K. At no time shall the CIO investigate any case as authorized by the board or §503 where said officer has any personal or economic interest in the outcome of the investigation, or is personally related to or close friends with the complainant, the individual, or any of the involved witnesses. In such event, the officer shall immediately contact the board, who shall have authority to appoint a CIO ad hoc for disposition of that case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 25:1096 (June 1999), amended LR 37:2155 (July 2011), LR 41:1680 (September 2015).

**§505. Conduct of Hearing**

A. The board shall be authorized to conduct two types of hearings: compliance hearings and formal disciplinary hearings.

1. Compliance Hearing

a. The board will provide a compliance hearing to an applicant for a regular or provisional license whose application was disapproved by the board pursuant to §111.G of these Rules and Regulations, providing such applicant requests a compliance hearing in writing within 30 days after the receipt of the notice of the disapproval, in which request the applicant shall state the opposition to the disapproved application.

b. A licensee, whose license is deemed expired because of a failure to timely renew, under R.S. 37:3088, shall be entitled to a compliance hearing, provided the licensee requests same in writing, within ten days after the receipt of the notice of the expired license; or in the event the licensee did not receive notice of the expired license within 30 days of the date upon which the license would have expired by operation of law.

c. Whenever possible, the board shall schedule a compliance hearing on a disapproved application in such a manner that the applicant is given an opportunity to present evidence of compliance and the board to rule thereon in sufficient time to allow the applicant to take the next scheduled examination, if the board decides in favor of the applicant. If this is not possible, and the board has reason to believe that the applicant's opposition has merit, the applicant shall be allowed to take the examination provisionally, pending the hearing and determination of the board. In no event shall the compliance hearing be conducted later than 30 days after requested. This time limitation applies to rejected applicants, as well as licensees with lapsed certificates.

d. The purpose and intent of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence in the form of affidavits, court records, official records, letters, etc., along with under-oath testimony to establish that they do, in fact, meet the lawful requirements for the application or the retention of the license. The board shall have the authority to administer oaths, hear the testimony and conduct the hearing. No transcript of the hearing is required. The applicant or licensee may be represented by counsel, or may represent themselves in proper person.

e. In any compliance hearing, the burden shall be on the applicant or licensee to establish that he or she meets the criteria for licensure or that his or her certificate was timely renewed.

f. Within 30 days after the compliance hearing, the board will forward its final decision, including findings of fact and conclusions of law, by certified mail, to unsuccessful applicant or licensee.

g. Thereafter, the unsuccessful applicant or licensee may apply for a rehearing, as provided in R.S. 49:959, subject to further judicial review, pursuant to R.S. 49:964, 965.

2. Formal Disciplinary Hearing

a. The board shall also be authorized to conduct formal disciplinary hearings pursuant to R.S. 37:3090.B. The board shall promptly notify the Attorney General, who is authorized and requested to appear on behalf of the State.

b. The hearing shall be held before the board only after the involved licensee is given at least 30 days notice by certified mail. The content of the notice, as well as the conduct of the hearing, shall be governed by R.S. 49:955, being further provided that the licensee be advised of his right to be represented by legal counsel; and that the board shall arrange for a court reporter to make an accurate recording of all testimony presented at the hearing. By bringing a complaint, the client waives the privilege of confidentiality for the purposes of the hearing.

c. The rules of evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and control confidential or privileged information, will apply to the formal adjudication hearing in the form specified by R.S. 49:956.

d. It is the licensee's continuing obligation to keep the board informed of his whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a change of address and the new address is not provided to the board, the board may hold the hearing in the licensee's absence, after making reasonable efforts to obtain the licensee's new address.

e. When the licensee receives notice, he or she may file an answer to the notice denying some or all of the charges, or offering any explanation or assert whatever defense is deemed applicable.

f. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to present good cause.

g. The board shall elect from its membership a person to act as Presiding Officer at the hearing, to make rulings on objections, the admissibility of evidence, and to insure that the conduct of the hearing proceeds without delay and pursuant to law. The other board members may not delegate their decision-making and fact-finding duties to the Presiding Officer; nor shall the Presiding Officer have any greater weight in the decision-making process. The board's findings of fact and conclusions of law shall be signed by the majority of the board finding those findings of fact and conclusions of law. Any board member disagreeing with those findings of fact and conclusions of law may also file in the record a dissent.

h. Any board member having reason to believe that he or she is biased or prejudiced against one of the parties to

the proceeding or has a personal interest in the outcome shall immediately notify the remaining board members and request to be disqualified. Likewise, any party to such a hearing may file with the board an affidavit requesting a disqualification because of bias or personal interest. As soon as possible, but not later than the beginning of the hearing, the majority of the board must pass upon the requests for disqualification. The concerned board member shall not participate in the action to disqualify and shall not vote on the issue. If the board is quite certain that there is no merit to the requests for disqualification, the board will proceed with the hearing. However, any doubt should be resolved in favor of disqualification. In that event, the board should immediately contact the Governor to appoint a board member pro tem to replace the disqualified member for the hearing in progress only.

i. The parties to the hearing are urged to confer prior to the hearing through their respective counsel, or personally to attempt to reduce or simplify the issues to be heard. This procedure is not required. The board will, however, honor any stipulations arrived at between the parties as proven fact at the hearing. The purpose of the prehearing conference is to insure that the hearing is not unusually delayed by receiving testimony or other evidence on matters which are not seriously in dispute.

j. The board shall have discretion to consolidate one or more cases for hearing involving the same or related parties, or substantially the same questions of law or fact. The board may also grant separate hearings if such a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

k. The Presiding Officer shall consider a motion to modify or quash any subpoena issued in connection with the hearing, provided that such motion is filed, by registered mail, with the board not later than three days prior to the hearing date, or the date scheduled for the deposition. Possible grounds to quash or limit the subpoena include, but are not limited to, testimony or material protected by privilege of statute, regulation, or other law; burdensomeness that would not be justified in light of the evidence's importance to the case, undue hardship on a witness; vagueness; and immateriality.

l. The burden of proof rests upon the attorney general who is bringing the charge before the board. No sanctions shall be imposed or order be issued, except upon consideration of the whole record, as supported by and in accordance with reliable, probative and substantial evidence as cited in R.S. 49:957.

m. Any party or person deemed to be governed by or under the jurisdiction of R.S. 37:3081-3093, may apply to the board for a declaratory order or ruling in order to determine the applicability of a statutory provision or rule of this board to said party or person. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party within 30 days of the request, except that

the board may seek legal counsel or an attorney general's opinion in connection with the request, in which case the declaratory order or ruling may be issued within 60 days of its request.

n. Judicial review and appeal of any decision or order of the board shall be governed by R.S. 49:964, 965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093 and R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 25:1097 (June 1999), amended LR 41:1681 (September 2015).

## **Chapter 7. Impaired Practitioner Program**

### **§701. Purpose and Scope**

A. Upon voluntary disclosure or proof that an applicant or licensee has provided professional services while under the influence of alcohol or has used narcotic or controlled dangerous substances or other drugs in excess of therapeutic amounts or without valid medical indication, the board may offer the applicant or licensee the Impaired Practitioner Program in order to receive or renew the professional license. Participation in the program may be required as a prerequisite to initial application for licensure or continued practice in accordance with the conditions of any consent order, compliance hearing, or adjudication hearing.

B. The board may utilize its discretionary authority to require or exclude specific components of this program for participants based upon determination of the nature and severity of the impairment. Participation in the Impaired Practitioner Program may consist of all or part of the following components:

1. a substance abuse assessment performed by a qualified, licensed health care professional within a prescribed period of time;

2. monitoring, including drug/alcohol screenings, with results submitted to the board, for a specified period of time. The frequency of screening and a deadline for submission of the screening results will also be specified. The name of the monitoring agency shall be submitted as requested by the board. Monitoring shall continue for a period of up to 36 months, as specified by the board;

3. suspension of the license or other action specified by the board upon receipt of any positive, unexplained screening results during the monitoring period;

4. mandatory weekly attendance at a self-help group such as Alcoholics Anonymous for a specified period of time. Submission of a monthly log which meets the board's specifications will be required:

a. a monthly log must be submitted to and received by the board before the final business day of the month following completion of the required meetings. It is the licensee's responsibility to ensure that these logs are

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properly completed and received by the board by the designated date;

b. the monthly log requires documentation of the first name and first initial of the last name of the sponsor, and meeting dates and times;

5. therapy for substance abuse by a licensed, health care professional;

6. supervision of the licensee by a supervisor approved by the board;

7. penalties for noncompliance as determined by the board.

C. The licensee will be responsible for executing all required releases of information and authorizations required for the board to obtain information from any monitor, treatment or service provider concerning the licensee's progress and participation in the program.

D. The applicant or licensee will bear the financial burden for all costs incurred in complying with the terms of assessments, supervision, drug/alcohol screens, and reproduction of treatment or other records.

E. The licensee shall notify the board office by telephone within 48 hours and in writing within five days of any changes of licensee's home address, telephone number, employment status, employer, supervisor, and/or change in practice at a facility.

F. In the event that a licensee relocates to another jurisdiction, the licensee will within five days of relocating be required to either enroll in the other jurisdiction's impaired practitioner program and have the reports required under the agreement sent to the board, or if the other jurisdiction has no impaired practitioner program, the licensee will notify the licensing board of that jurisdiction that the licensee is impaired and enrolled in the Louisiana program. In the event the licensee fails to do so, the license will be suspended.

G. Violation of the terms or conditions of the program may result in the immediate suspension of the individual's license to practice or other penalties for noncompliance.

H. The board will, to the full extent permissible, maintain an agreement or consent order relating to the licensee's participation in the Impaired Practitioner's Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 37:2155 (July 2011).