

Title 10 MARYLAND DEPARTMENT OF HEALTH

Subtitle 56 BOARD OF DIETETIC PRACTICE

Chapter 01 Licensure

Authority: Health Occupations Article, §§5-205, 5-301, 5-302, and 5-310, Annotated Code of Maryland

.01 Scope.

A. Except as provided in §B, of this regulation, these regulations apply to a person seeking to practice dietetics in the State.

B. Exceptions. These regulations do not apply to a person who:

(1) Provides nonmedical nutrition services and information to the public while:

(a) Employed by or operating a health, weight loss, or fitness program,

(b) Employed by or operating a health food store,

(c) Employed by or operating a business that sells health products, including dietary supplements, foods, or food materials, or provides nonmedical nutritional information or distributes nutritional literature, or

(d) Conducting classes or disseminating information relative to nonmedical nutrition;

(2) Distributes nutritional literature; or

(3) Provides services related only to the purchasing, preparation, and service of food to groups of people.

.02 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) "Accredited institution" means a college or university accredited by a regional educational accrediting association through the Council on Post-Secondary Accreditation and the United States Department of Education.

(2) "Act" means the Maryland Dietitians and Licensed Nutritionists Act, Health Occupations Article, §§5-101—5-502, Annotated Code of Maryland.

(2-1) Aids in the Practice of Dietetics.

(a) "Aids in the practice of dietetics" means an individual directly or indirectly supervised by a licensed dietitian, licensed nutritionist, or licensed physician who assists in the practice of dietetics by following instructions in:

(i) Gathering and recording information for the purposes of assessing individual and community food practices and for assessing nutritional status using anthropometric, biochemical, clinical, dietary, and demographic data;

(ii) Providing nutrition information as part of preventive or restorative health care if the nutrition care plan, priorities, goals, and objectives for meeting nutrient needs were developed by a licensed practitioner; and

(iii) Applying standards for quality control in the areas of menu planning and procurement, food selection, production, assembly, distribution, and food safety and sanitation to ensure high quality nutritional care.

(b) "Aids in the practice of dietetics" does not include:

(i) Evaluation of nutritional status;

(ii) Formulation of nutrition standards;

(iii) Development or modification of diet instructions;

(iv) Evaluation of patient progress;

(v) Development of menu patterns for therapeutic diets; or

(vi) Establishing therapeutic diet production policies and procedures.

(3) "Applicant" means an individual who applies for licensure to practice dietetics in the State.

(4) "Board" means the State Board of Dietetic Practice.

(4-1) "Certified nutrition specialist" means an individual certified by the Certification Board for Nutrition Specialists.

(5) "Commission" means the Commission on Dietetic Registration of the American Dietetic Association.

(6) "Coordinated undergraduate program" means a dietetic program that combines didactic and clinical experience within a 4-year baccalaureate program.

(7) "Department" means the Maryland Department of Health.

(8) "Dietetic practice" means a practice through which the principles derived from integrating knowledge of food, biochemistry, physiology, management science, behavioral science, and social science to human nutrition are applied. Dietetic practice includes:

(a) Assessing individual and community food practices, and nutritional status for clinical, research, and program planning purposes using:

(i) Anthropometric data,

(ii) Biochemical data,

(iii) Clinical data,

(iv) Dietary data, and

(v) Demographic data;

(b) Developing, establishing, and evaluating nutritional care plans that establish priorities, goals, and objectives for meeting nutrient needs for individuals or groups;

(c) Conducting nutrition counseling and education as a part of preventive or restorative health care throughout the life cycle;

(d) Determining, applying, and evaluating standards for food and nutrition services; and

(e) Applying scientific research to the role of food for the maintenance of health and the treatment of disease.

(9) "License" means, unless the context requires otherwise, a license issued by the Board to practice dietetics.

(10) "Licensed dietitian (LD)" means an individual who is licensed by the Board to practice dietetics in the State.

(11) "Licensed nutritionist (LN)" means an individual who is licensed by the Board to practice dietetics in the State.

(12) Medical Device.

(a) "Medical device" means a health care product used in the diagnosis, treatment, or prevention of disease.

(b) "Medical device" does not mean:

(i) A drug;

(ii) A surgical or dental instrument;

(iii) Physical therapy equipment;

(iv) X-ray apparatus; or

(v) A component part or accessory of any of the items listed in §B(11)(b) of this regulation.

(13) "Medical nutrition" means nutritional advice or counsel provided to an individual by a licensee, in the licensee's professional capacity, that is designed for an individual to alleviate a specific physiological complaint, condition, or symptom.

(14) "Nonmedical nutrition" means the application of basic principles of nutrition to food selection for the purpose of maintaining health.

(15) "Registered dietitian (RD)" means a person registered by the Commission.

(16) "Supervision" means the management of an individual who aids in the practice of dietetics by a licensed dietitian-nutritionist who may or may not be on the premises.

.03 Application Procedures.

In order to obtain a license, the applicant shall:

- A. Submit to the Board an application on the form provided by the Board;
- B. Pay to the Board the application fee set forth in COMAR 10.56.02;
- C. Submit evidence that the applicant:
 - (1) Is a registered dietitian, or
 - (2) Meets the requirements of Regulations .04, .05, and .07 of this chapter;
- D. If the applicant is required under Regulation .07 of this chapter to take an examination, the applicant shall send to the Board a completed application form for licensure at least 90 days before the date of the examination.
- E. The Board may not consider an application completed until it has received all required materials.
- F. If the application is not complete with all required materials within 30 days after the Board receives the signed application form, the Board:
 - (1) Shall notify the applicant of the additional materials required; and
 - (2) May deny the application.

.04 Academic Requirements.

A. Degrees. For licensure as a dietitian or nutritionist, an applicant shall submit proof of one of the following to the Board:

(1) Registration through the Commission on Dietetic Registration of the American Dietetic Association and receipt of a baccalaureate or post baccalaureate degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation, including a minimum of 24 semester hours in the field of human nutrition, food and nutrition, dietetics, or food systems management with at least 3 semester hours from each of the following areas:

- (a) Upper-division human nutrition related to disease;
- (b) Upper-division food service systems management;
- (c) Biochemistry or physiological chemistry, or advanced normal human nutrition; and
- (d) Food science; or

(2) Certification by the Certification Board for Nutrition Specialists and receipt of a master's or doctoral degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation in nutrition sciences with emphasis in human nutrition, food and nutrition, dietetics, community nutrition, public health nutrition, or equivalent academic training such as nutrition education and food science.

B. Course work acquired at a foreign college or university shall be accepted by the Board only if that course work is accepted as transfer credit by an accredited institution of the United States.

C. The applicant may be required to substantiate the relevance of an academic degree, the title of which is not self-explanatory to the licensure requirements:

- (1) Through course descriptions in official school catalogs;
- (2) Through bulletins; or
- (3) By other means acceptable to the Board.

D. Recency of Education. The Board may consider an applicant to have met the academic requirements of this regulation only if the applicant:

(1) Has fulfilled the academic requirements in dietetics or human nutrition within the 5 years before the date of application; or

(2) Submits to the Board proof of continuing education as approved by the Board of at least 30 hours within the past 2 years, before the date of application.

.05 Experience Requirements.

A. Before licensure, an applicant shall have completed a preplanned professional experience program as described under Regulation .06 of this chapter.

B. An applicant for licensure shall be considered to have met the experience requirements of this regulation if the applicant is a registered dietitian or a certified nutrition specialist at the time of application.

.06 A Preplanned, Professional Experience Program.

A. An applicant shall complete a Board-approved supervised, continuous, preplanned professional experience program. The applicant shall ensure that the experience program is accomplished within a span of 30 months and includes the following:

- (1) A minimum of 100 hours shall be completed in each of the following areas:
 - (a) Assessing individual and community food practices and nutritional status using anthropometric, biochemical, clinical, dietary, and demographic data for clinical research and program planning purposes;
 - (b) Developing, establishing, and evaluating nutritional care plans that establish priorities, goals, and objectives for meeting nutrient needs for individuals or groups;
 - (c) Nutrition counseling and education as part of preventive or restorative health care throughout the life cycle;
 - (d) Determining, applying, and evaluating standards for food and nutrition services; and
 - (e) Applying scientific research to the role of food in the maintenance of health and the treatment of disease;

(2) An additional 400 hours shall be completed within any combination of the five areas described in §A(1) of this regulation;

A-1. The requirements of §A of this regulation may be satisfied in whole or in part by the clinical or research experience gained while completing a master's or doctoral degree if the experience:

(1) Is in human nutrition; and

(2) When combined with experience independently qualifying under §A(1) and (2) of this regulation, meets the overall 900-hour requirements.

B. The preplanned professional experience program shall be under the supervision of a licensed dietitian, a licensed nutritionist, a licensed physician, a registered dietitian, a certified nutrition specialist, individual with a doctoral degree with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, or food systems management that is conferred by a U.S. regionally accredited college or university.

C. Each supervisor shall:

(1) Plan all work assignments, instructions, and dietetic learning experiences to strengthen the competence of the applicant within the scope of practice as described in §A(1) and (2) of this regulation; and

(2) Keep a record of the applicant's:

(a) Activities;

(b) Program plan;

(c) Evaluation instruments, including the number of hours spent fulfilling curriculum plans; and

(d) Transcript of the final evaluation.

D. The applicant shall:

(1) Receive prior approval from the Board of the preplanned professional experience program or have the program approved by the Commission;

(2) Complete the program within 30 months after the applicant begins the program; and

(3) Submit documentation of the program on the documentation form provided by the Board.

E. The Board may waive the requirement for prior approval and preplanning under §D(1) of this regulation if it determines that either or both could not reasonably have been obtained.

.07 Examination Procedures.

A. Unless waived by the Board as provided in §§B and C of this regulation, an applicant shall pass a Board-approved written examination before licensure.

B. Waiver of Examination. The Board may waive the examination requirement for an applicant who:

(1) Pays the application fee as provided in COMAR 10.56.02; and

(2) Is:

(a) A registered dietitian;

(b) A certified nutrition specialist; or

(c) Licensed in another state or country to practice dietetics and submits to the Board proof of current licensure which was obtained after passing an examination that the Board determines to be comparable to the examination for which the applicant is seeking waiver.

C. Types of Examination. To meet the examination requirements, an applicant shall successfully pass an examination approved by the Board.

.08 Action on Application.

A. The Board shall review all completed applications within 90 days of receipt of the completed application.

B. The Board may delegate the initial review of applications to a committee of the Board.

C. At the next regular meeting of the Board, the Board may approve or deny an application reviewed by the Board or its designee.

D. Upon review of an application, the Board shall either:

(1) Approve the applicant for licensure.

(2) Deny a license.

(3) Notify the applicant that the applicant is qualified to take the examination and require the applicant to take an examination. Before the notice is given, the applicant shall have completed the:

(a) Academic requirements of Regulation .04 of this chapter; and

(b) Experience requirements of Regulation .05 of this chapter.

E. Denial of Applications.

(1) The Board may deny a license if the applicant has:

(a) Not completed the academic requirements in Regulation .04 of this chapter;

(b) Not completed the experience requirements in Regulation .05 of this chapter;

(c) Failed the examination requirements in Regulation .07 of this chapter;

(d) Failed to remit a fee;

(e) Failed to properly complete the application form;

(f) Violated the Act or any provision or these regulations; or

(g) Been shown to have a lack of good moral character.

(2) If the Board denies a license under §E(1)(f) or (g) of this regulation, the Board or the Board's designee shall:

(a) Provide the applicant written notification of the Board's intent to deny and the basis for that denial; and

(b) Notify the applicant of the applicant's right to request a formal hearing to appeal the denial.

(3) An applicant whose license has been denied may reapply and shall submit with the new application proof of compliance with:

(a) Board regulations; and

(b) The applicable provisions of the Act in effect at the time of the new application.

F. Issuance of License.

(1) If the Board approves an applicant for a license, the Board shall:

(a) Send the applicant a notice specifying that the applicant has qualified for a license; and

(b) Upon receipt of the license fee, issue a license to the applicant.

(2) The Board shall include on each license the:

(a) Full name of the licensee;

(b) Serial number assigned by the Board to the licensee; and

(c) Signature of the Chairman of the Board, under the seal of the Board.

G. Unless the Board suspends or revokes the license of a licensed dietitian or licensed nutritionist, the license is effective for at least 2 years from the date issued and authorizes the person to practice dietetics while the license is effective.

.09 Change of Address.

A dietitian or nutritionist shall give the Board written notice of any change of address within 30 days of any change in address.

Chapter 02 Fees

Authority: Health Occupations Article, §§5-205, 5-206, 5-303, and 5-308, Annotated Code of Maryland

.01 General.

The Board shall provide a copy of this chapter:

- A. Along with any application form or renewal form; and
- B. To any other person upon request.

.02 Fee Schedule.

The following fees are established by the Board for items and services provided under this subtitle:

- A. Application fee ... \$75;
- B. License fee ... \$225;
- C. License renewal fee due on or before October 31 of the renewal year ... \$250;
- D. Duplicate license fee ... \$25;
- E. License verification fee ... \$50;
- F. Reinstatement fee due in addition to renewal fee submitted after October 31 of the renewal year ... \$300;
- G. Returned check fee ... \$25;
- H. Inactive status fee ... \$75;
- I. Reactivation fee after inactive status ... \$150;
- J. Late fee for failure to notify the Board within 30 days of change of address ... \$50.

.03 Change of Fees.

Fees are subject to change by action of the Board of Dietetic Practice. Licensees and applicants shall be notified of the change.

.04 Refunds.

Fees are nonrefundable.

.05 Assessment for Health Care Professionals.

The Health Care Access and Cost Commission (HCACC) assesses a fee for health care professionals which the applicant shall pay at the time of license renewal as specified in COMAR 10.25.02.

Chapter 03 Code of Ethical Practices

Authority: Health Occupations Article, §§1-212, 5-102, and 5-205, Annotated Code of Maryland

.01 Scope.

These regulations govern any licensed dietitian (LD) or licensed nutritionist (LN) in the State.

.02 Public Protection.

Each licensee accepts the obligation to protect the public by:

- A. Upholding the Code of Ethical Practices, as set forth in this chapter; and
- B. Reporting alleged violations of this chapter to the Board.

.03 Code of Ethics.

- A. The primary concern of the licensee shall be the welfare of clients or patients.
- B. The licensee shall function with discretion and integrity in relationships with other licensees of the Board and other health professionals.
- C. The licensee shall practice dietetics or nutrition with honesty, integrity, self-respect, and fairness.
- D. The licensee may not:
 - (1) Knowingly participate in or condone behavior which is dishonest, fraudulent, or deceitful;
 - (2) Exploit relationships with clients or patients for personal advantage;
 - (3) Engage in sexual misconduct with clients or patients as set forth in Regulation .04 of this chapter;
 - (4) Accept a client or patient for treatment or continue treatment unnecessarily, if benefit cannot reasonably be expected to accrue;
 - (5) Accept or receive, or both, remuneration for making or accepting referrals; or
 - (6) Suggest the ability to improperly influence any public body, official, person, or any individual on behalf of a client or patient.
- E. A licensee shall:
 - (1) Notify a referring professional if a decision is made not to accept or continue to treat a client, because benefit cannot reasonably be expected to accrue;

(2) Permit use of the licensee's name for the purpose of certifying that nutrition or dietetic services have been rendered, only if the licensee has provided or supervised the provision of those services;

(3) Cooperate with a lawful investigation conducted by the Board;

(4) Remain free of conflicts of interest while fulfilling the objectives and maintaining the integrity of the dietetic or nutrition profession;

(5) Maintain confidentiality of information as follows:

(a) Safeguard information obtained in clinical or consulting relationships, including storage and disposal of written and electronic records;

(b) Reveal confidential information to others only with informed consent of the client or patient or the client's or patient's legal representative;

(c) Release health records only as permitted by Health-General Article, §§4-301—4-307, Annotated Code of Maryland;

(d) If supervising human research:

(i) Obtain voluntary and informed consent for participation, without any direct or implied deprivation or penalty for refusal to participate, and with due regard for a client's or patient's privacy and dignity; and

(ii) Comply with the Helsinki Declaration of 1975 as revised in 1983;

(6) Practice nutrition or dietetics based on generally accepted scientific principles so as to minimize risk of harm to clients or patients;

(7) Exercise professional judgment within the limits of the licensee's qualifications, and seek counsel or make a referral when the client's or patient's needs are beyond the parameters of the licensee's education, capabilities, experience, or scope of practice;

(8) Obtain additional education, training, and supervision as needed to perform a new technique or service in a new specialty area;

(9) Use resources available, including referral to other specialists as needed, to maximize improvements in a client or patient;

(10) Exercise professional judgment in the use of evaluation and treatment procedures, and decline to carry out treatment if the licensee believes the treatment would be harmful, contraindicated, or unjustified, and notify the referring professional, if any, of such action;

(11) Terminate a professional relationship with a client or patient in an appropriate manner and offer to assist the client or patient in obtaining services from another professional if indicated;

(12) Make arrangements for another professional to address the needs of a client or patient as appropriate, during a period of anticipated absence from professional availability;

(13) Assume responsibility and accountability for personal competence in practice as follows:

(a) Keep written treatment records of any client or patient under the licensee's care, and for a period of not less than 5 years following termination of treatment;

(b) Include in the records required by §E(13)(a) of this regulation a patient's or client's:

(i) Condition;

(ii) Assessment results;

(iii) Treatment modalities; and

(iv) Plan of care;

(c) Meet the continuing education requirements as set forth in COMAR 10.56.05;

(d) Delegate responsibilities only to the extent set forth in COMAR 10.56.01;

(e) Provide supervision as required under COMAR 10.56.01; and

(f) Take corrective action if an individual supervised by the licensee performs nutritional services incorrectly;

(14) Provide sufficient information to enable a client or a patient to make informed decisions regarding treatment, including:

(a) The purpose and nature of any evaluation, treatment, educational, or training procedure;

(b) The estimated cost of each stage of a procedure or of the entire treatment;

(c) The reasonable expectations of the professional relationship;

(d) The right to withdraw from treatment at any time; and

(e) Notification that observation, electronic taping, recording, or filming procedures may not be used unless the client consents;

(15) Promote or endorse products or procedures, or both, only in a manner that is not false or misleading;

(16) Accurately present professional qualifications and credentials including educational, experience, and certification affiliations; and

(17) Attempt to correct others who misrepresent the licensee's qualifications or affiliation.

F. Selling of nutritional products by a licensee is ethical only with the following written disclosures:

(1) That the product is sold as a convenience and the client or patient is not obligated to purchase the product;

(2) That the product may be purchased from another source; and

(3) That the price and amount of any profit gained for the product is made clear to the client or patient.

G. If a licensee experiences a substance-abuse problem that impairs professional practice, the licensee shall seek professional treatment and contact the Board's dietetic rehabilitation committee.

.04 Sexual Misconduct.

A. A licensed dietitian or licensed nutritionist may not engage in sexual misconduct in the practice of dietetics.

B. Sexual misconduct includes, but is not limited to:

(1) Sexual behavior with a client or patient in the context of a professional evaluation, treatment, procedure, or service to the client or patient, regardless of the setting in which the professional service is provided;

(2) Sexual behavior with a client or patient under the pretext of diagnostic or therapeutic intent or benefit;

(3) Requesting sexual favors of a client or patient;

(4) Inappropriate touching of a client or patient in a sexual manner;

(5) Therapeutically unnecessary discussion of sexual matters or other verbal conduct of a sexual nature while treating a client or patient;

(6) Taking photographs or video tapes of a client or patient for sexual purposes; or

(7) Sexual harassment of staff or students.

.05 Penalties.

Violation of Regulations .02—.04 of this chapter may result in the Board taking action to reprimand a licensee, place the licensee on probation, or suspend or revoke the licensee's license.

Chapter 04 Hearing Procedures

Authority: Health Occupations Article, §§5-204, 5-205, 5-312, and 5-513; State Government Article, §10-206; Annotated Code of Maryland

.01 Scope.

These regulations apply to all formal hearings before the State Board of Dietetic Practice.

.02 Notice of Hearing.

A. Written notice of a hearing shall be sent by the Board to all interested parties at least 30 days before the hearing. The notice shall state the:

(1) Date, time, and place of the hearing;

(2) Issues or charges involved in the proceeding, provided, however, that if by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable.

B. Services upon a party shall be by delivery of the charging document and copy of the complaint to the party in person. Instead of personal service, the Board may serve the charging document and a copy of the complaint by registered or certified mail, restricted delivery, return receipt requested.

.03 Representation of Parties.

Each party appearing at formal hearings shall have the right to appear in proper person or by or with counsel.

.04 Prehearing Procedures.

A. Discovery.

(1) Discovery on Request. By written request served on the other party and filed with the Board or the Office of Administrative Hearings, as appropriate, a party may require another party to produce, within 15 days, the following:

(a) A list of witnesses to be called;

(b) Copies of documents intended to be produced at the hearing; or

(c) Both §A(1)(a) and (b) of this regulation.

(2) Mandatory Discovery.

(a) Each party shall provide to the other party not later than 15 days before the prehearing conference, if scheduled, or 45 days before the scheduled hearing date, whichever is earlier:

(i) The name and curriculum vitae of any expert witness who will testify at the hearing; and

(ii) A detailed written report summarizing the expert's testimony, which includes the opinion offered and the factual basis and reasons underlying the opinion.

(b) If the Board or the Office of Administrative Hearings, as appropriate, finds that the report is not sufficiently specific, or otherwise fails to comply with the requirements of this section, the Board or the Office of Administrative Hearings, as appropriate, shall exclude from the hearing the testimony of the expert and any report of the expert.

(c) The Board or the Office of Administrative Hearings, as appropriate, shall consider and decide arguments regarding the sufficiency of the report:

(i) At the prehearing conference, if scheduled; or

(ii) Immediately before the scheduled hearing.

(d) If an expert adopts a sufficiently specific charging document as the expert's report, that adoption satisfies the requirements set forth in this section.

(3) Parties are not entitled to discovery of items other than as listed in §A(1) and (2) of this regulation.

(4) Both parties have a continuing duty to supplement their disclosures of witnesses and documents.

(5) Absent unforeseen circumstances which would otherwise impose an extraordinary hardship on a party, witnesses or documents may not be added to the list:

(a) After the prehearing conference, if scheduled; or

(b) Later than 15 days before the hearing, if no prehearing conference is scheduled.

(6) The prohibition against adding witnesses does not apply to witnesses or documents to be used for impeachment or rebuttal purposes.

(7) Construction.

(a) In hearings conducted by an administrative law judge of the Office of Administrative Hearings, this regulation shall, whenever possible, be construed as supplementing and in harmony with COMAR 28.02.01.

(b) In the event of a conflict between this regulation and COMAR 28.02.01, this regulation applies.

B. Prehearing Conferences. The Board may set prehearing conferences as it deems appropriate.

C. Oaths and Subpoenas.

(1) The Board may issue subpoenas, administer oaths and compel the attendance of witnesses and the production of physical evidence before it from witnesses upon whom process is served anywhere within the State as in civil cases in the circuit court of the county or of Baltimore city, by subpoena issued over the signature of the Chairman or Secretary and the seal of the Board.

(2) If, without lawful excuse, an individual disobeys a subpoena from the Board, or an order by the Board to take any oath, testify, or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the individual for contempt of court.

D. Motions filed by a party shall be accompanied by a memorandum of points and authorities and shall be filed with the Board at least 10 working days before the hearing and a copy served on the opposing party. Any response shall be filed with the Board at least 5 working days before the hearing and a copy shall be served on the opposing party.

E. If after due notice the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

.05 Conduct of the Hearing.

A. Board Majority. Each hearing shall be held before not less than a quorum of the Board unless the hearing authority is delegated pursuant to State Government Article, §10-207, Annotated Code of Maryland. A delegation of authority shall be subject to the provisions of State Government Article, §10-212, Annotated Code of Maryland. Board action shall be by majority vote of those Board members present at the hearing.

B. Duties of Presiding Officer.

(1) The Chairman, or in the Chairman's absence a member designated by the Chairman, shall be the presiding officer, or if in a delegated hearing, a hearing examiner shall be the presiding officer.

(2) The presiding officer shall:

- (a) Have complete charge of the hearing;
- (b) Permit the examination of witnesses;
- (c) Admit evidence;
- (d) Rule on the admissibility of evidence; and
- (e) Adjourn or recess the hearing from time to time.

(3) The presiding officer may set reasonable time limits on arguments and presentation of evidence.

(4) The presiding officer shall be responsible for decorum in hearings and can suspend the proceedings as necessary to maintain decorum.

C. Legal Advisor and Counsel for the Board.

(1) The presiding officer may request the Office of the Attorney General to participate in any hearing to present the case on behalf of the Board.

(2) The member of the Office of the Attorney General presenting the case on behalf of the Board shall have all the following rights:

- (a) The submission of evidence;
- (b) Examination and cross-examination of witnesses;
- (c) Presentation of summation and argument; and

(d) Filing of objections, exceptions, and motions.

(3) The presiding officer may also request a representative of the Office of the Attorney General to act as legal advisor to the Board as to questions of evidence and law.

D. Order of Procedure. The State shall present its case first. Then the respondent shall present his case. After this the State may present rebuttal.

E. Examination of Witnesses and Introduction of Evidence.

(1) The rules of evidence in all hearings under these regulations shall be as set forth in State Government Article, §§10-208 and 10-209, Annotated Code of Maryland.

(2) Each party has the right to:

(a) Call witnesses and present evidence;

(b) Cross-examine witnesses called by the Board or other party;

(c) Present summation and argument and file objections, exceptions, and motions.

(3) If a party is represented by counsel, the submission of evidence, examination and cross-examination of witnesses, and filing of objections, exceptions, and motions shall be done and presented solely by this counsel.

(4) Witnesses.

(a) The presiding officer, or any person designated by the presiding officer for the purpose, may examine any witness called to testify.

(b) The presiding officer may call as witness any person in attendance at the hearing.

(c) Any member of the Board may examine any witness called to testify.

.06 Records and Transcript.

A. The Board shall prepare an official record, which shall include all pleadings, testimonies, exhibits, and other memoranda or material filed in the proceeding.

B. A stenographic record of the proceedings shall be made at the expense of the Board. This record need not be transcribed unless requested by a party or by the Board. The cost of any typewritten transcripts of any proceedings or part of them shall be paid by the party requesting the transcript.

.07 Decision and Order.

A. Each decision and order rendered by the Board shall be in writing and shall be accompanied by findings of fact and conclusions of law.

B. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed promptly to each party or attorney of record.

.08 Rehearings.

A. A party aggrieved by the decision and order rendered may apply for rehearing within 10 days after service on him of the decision and order.

B. An order of the Board may not be stayed pending review.

C. The Board may consider facts not presented in the original hearing, including facts arising after the date of the original hearing, and may by new order abrogate, change, or modify its original order.

.09 Appeals.

A person whose license has been revoked or suspended by the Board, or any person placed on probation or reprimand under the regulations in this chapter, may appeal the Board's decision as provided by law.

Chapter 05 Continuing Education

Authority: Health Occupations Article, §§5-205, 5-308(d), and 5-309, Annotated Code of Maryland

.01 Scope.

A. These regulations establish continuing education requirements for licensed dietitians and licensed nutritionists in the State of Maryland.

B. The objectives of these regulations are the:

- (1) Maintenance of professional competency; and
- (2) Improvement of professional skills.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Continuing education" means additional professional education by means of academic course work, seminars, lectures, journal clubs, skills development, professional reading, independent learning, study groups, publications, research, professional presentations, case presentations, exhibits, posters, advanced certifications, and professional leadership or other forms of continuing professional education approved by the Board.

(2) "Continuing education unit" means a licensee's participation for 1 hour in an approved continuing education experience.

(3) "Renewal date" means the date upon which the license expires, as specified in the notice sent to the licensee by the Board in accordance with Health Occupations Article, §5-308(b), Annotated Code of Maryland.

(4) "Renewal period" means the 2-year period immediately before the renewal date.

.03 Conditions of Licensure Renewal; Continuing Education Units Required.

The Board shall renew a license for an additional 2-year period if the licensee:

A. Otherwise is entitled to be licensed as set forth in COMAR 10.56.02;

B. Pays to the Board the renewal fee as set forth in COMAR 10.56.02; and

C. Submits to the Board:

(1) A renewal application on the form that the Board requires, and

(2) Satisfactory evidence of having completed, within the 2-year period before the renewal date, a minimum of 30 continuing education units approved by the Board or sponsored by, but not limited to, the following organizations:

(a) The Commission on Dietetic Registration, including approved Commission on Dietetic Registration Continuing Professional Education Providers;

(b) The Certification Board for Nutrition Specialists;

(c) The American College of Nutrition;

(d) American Society for Nutrition;

(e) The Accreditation Council for Continuing Medical Education;

(f) The Accreditation Council for Pharmaceutical Education;

(g) American Osteopathic Association;

(h) The Red Cross;

(i) United States Department of Agriculture, including, but not limited to, Agricultural Research Services;

(j) National Institutes of Health;

(k) Food and Drug Administration;

(l) Accredited colleges and universities;

(m) Accredited hospitals as defined in Health-General Article, §19-301, Annotated Code of Maryland; or

(n) The Maryland Department of Health.

.04 Qualifying Continuing Education.

A. The licensee shall complete continuing education units relating to the practice of dietetics that foster improvement, advancement, and extension of the licensee's professional skill and knowledge relating to the practice of dietetics.

B. Continuing education may include the categories listed in §§C—J of this regulation per each licensure renewal period.

C. Category 1—Academic Course Work.

(1) In this category, continuing education may include:

(a) Graduate level academic course work from an accredited institution as defined in COMAR 10.56.01.02B(1) that will assist a licensee to carry out the licensee's professional responsibilities; and

(b) Not more than 15 hours of undergraduate course work that will assist a licensee to carry out the licensee's professional responsibilities, including but not limited to:

(i) Management courses;

(ii) Foreign language training for translators of relevant texts; or

(iii) Educational methodology for teachers of dietetic practice and nutrition.

(2) One semester hour of academic course work is equivalent to 15 continuing education units.

(3) One trimester hour is equivalent to 12 continuing education units.

(4) One quarter hour is equivalent to 10 continuing education units.

(5) The licensee shall submit documentation of a transcript indicating that the course was completed for credit.

D. Category 2—Seminars, Lectures, Journal Clubs.

(1) This category may include seminars, workshops, journal clubs, or a Board-approved similar program, which shall be verified by any documentation requested by the Board.

(2) One hour of attendance is equivalent to 1 continuing education unit.

E. Category 3—Skills Development. This category may not exceed more than 6 continuing education credits, including, but not limited to:

(1) Cardiopulmonary resuscitation certification;

(2) Culinary classes;

(3) Research methodology; and

(4) Anthropometry courses.

F. Category 4—Professional Reading, Independent Learning, Study Groups. This category includes formalized professional reading, independent learning, and study groups, which shall be verified by any documentation requested by the Board and may not exceed 20 hours of continuing education credit.

G. Category 5—Publications, Research, Professional Presentations, Case Presentations. This category may not exceed 15 hours for writing or editing publications, research, professional presentations, and case presentations, including, but not limited to:

(1) Books;

(2) Booklets;

(3) An original paper based on a licensee's research published in a professional peer-reviewed journal;

(4) An original technical article published in a professional journal;

(5) An abstract or book review; and

(6) Poster presentations.

H. Category 6—Exhibits, Posters. This category may not exceed 12 hours of attending exhibits and viewing posters.

I. Category 7—Initial Advanced Certifications.

(1) This category may include initial advanced certifications awarded during the first renewal as approved by the Commission on Dietetic Registration of the American Dietetic Association and the Certification Board for Nutrition Specialists.

(2) The Board shall consider advanced recertification under Category 2 as described in §D of this regulation.

J. Category 8—Professional Leadership. This category may not exceed 6 hours of professional leadership, including, but not limited to, participation at professional association and regulatory board meetings.

K. Category 9—Pro Bono Work.

(1) This category may not exceed 5 hours of pro bono work related to dietetic practice.

(2) Continuing education units may be earned for pro bono work at the rate of 1 continuing education unit for 1 hour of Board-approved pro bono work.

(3) The licensee shall provide to the Board a written application for approval of pro bono work. The application shall include:

(a) The location of the pro bono work;

(b) The type of work related to dietetic practice to be provided;

(c) The number of hours of actual work to be provided for which the licensee desires continuing education hours;

(d) A statement guaranteeing that the work provided no financial benefit to the licensee; and

(e) A description of how the work will enhance the licensee's ongoing education.

(4) Upon completion of the pro bono work, the licensee shall submit written documentation from the facility as evidence of completion of pro bono hours to the Board.

(5) Continuing education units may not be granted for work that did not receive prior approval from the Board.

.05 Obtaining Board Approval for Continuing Education Activities.

A. To obtain approval by the Board of programs and activities qualifying for continuing education units, the program's sponsor or the licensee shall complete and submit the appropriate form, along with any required supporting documentation, to the Board at the appropriate time as provided in this chapter.

B. The required supporting documentation in §A of this regulation includes the following:

(1) For a program attended, signed certification by a program leader or instructor of the licensee's credit hours of participation in the program by certificate, letter on letterhead stationery of the sponsoring agency, or official continuing education validation form of the sponsoring agency;

(2) For publications, a copy of the title page and table of contents of a book or monograph, or a copy of a journal article;

(3) For completion of academic course work from an accredited institution as defined in COMAR 10.56.01.02B(1), an official transcript indicating that the course was taken and completed; and

(4) For a presentation, a copy of the text of the presentation.

C. Prior Approval Programs.

(1) To obtain prior approval of a qualifying program, the program's sponsor shall submit the request for prior approval of the program to the Board at least 6 weeks before the date the program will be given.

(2) To obtain continuing education units for attending a program that has received the Board's prior approval, either the sponsor or the licensee shall document the licensee's attendance of the program.

D. Subsequent Approval of Programs and Activities. When there has been no prior approval by the Board of the program or activity undertaken by the licensee for which the licensee seeks continuing education units, the licensee shall submit a request for approval of the program or activity to the Board, on the appropriate form, along with documentation which shows that the program meets the qualifications for continuing education credit and that the licensee attended the program.

E. Extension of Time.

(1) A licensed dietitian-nutritionist shall file a request in writing with the Board for an extension of time within which to complete continuing education requirements before October 1 of the renewal year.

(2) The Board shall consider and render a decision on the request within 60 days of receiving the written request.

(3) The Board may grant an extension until January 31 of the following year and conditionally renew a license if the Board determines that:

(a) Failure to fulfill the requirements is clearly a result of illness or other circumstances beyond the control of the licensed dietitian-nutritionist; and

(b) The licensed dietitian-nutritionist readily and appropriately attempted to meet the requirements.

(4) Continuing education units earned after October 31 of the second year to fulfill the conditions of an extension may be credited only to the preceding 2-year period.

(5) The Board shall audit a licensed dietitian-nutritionist who has been granted an extension of time for the completion of continuing education requirements.

.06 Waiver of Documentation of Continuing Education Units.

If the Board determines that an applicant for licensure could not reasonably have anticipated the need for documentation of continuing education units at the time the work was completed, the Board may, in its discretion, consider any evidence produced by the applicant to substantiate that he has satisfied the requirements of Regulation .03 of this chapter.

.07 Inactive Status.

A. The Board shall place an active licensee on inactive status if the licensee:

(1) Submits to the Board an application for inactive status on the form required by the Board; and

(2) Pays to the Board the inactive status fee set by the Board under COMAR 10.56.02.

B. The Board shall reactivate the license of an individual placed on inactive status if the individual:

(1) Demonstrates completion of 15 continuing education units for each year the license has lapsed; and

(2) Pays to the Board a reactivation fee as provided in COMAR 10.56.02.

.08 Reinstatement.

A. Within 1 Year of Failed Renewal.

(1) Within 1 calendar year after the renewal date, the Board shall reinstate the license of a dietitian or nutritionist whose license was not renewed due to failure to complete continuing education requirements, if the dietitian or nutritionist completes within that year all or the remaining balance of 30 continuing education units required during the prior renewal period.

(2) Continuing education units applied to reinstate are not counted again toward meeting the continuing education requirement of the renewal period in which the continuing education units are taken.

B. After 1 Year of Failed Renewal.

(1) If a dietitian or nutritionist applies to reinstate the dietitian's or the nutritionist's license within 1 to 5 calendar years after the last renewal date, the dietitian or nutritionist shall demonstrate completion of 15 continuing education units for each year the license has lapsed.

(2) A dietitian or nutritionist who fails to apply for reinstatement of a license within 5 years after the expiration of the license may become licensed by meeting the requirements for obtaining an initial license as stated in COMAR 10.56.01.

Chapter 06 Compelling Purpose Disclosure

**Authority: General Provisions Article, §4-333; Health Occupations Article, §5-205;
Annotated Code of Maryland**

.01 Scope.

A. This chapter permits the Board of Dietetic Practice to disclose investigative information to other agencies, or other entities, or both, under certain circumstances.

B. A custodian may disclose information in a certification, licensing, or investigative file if the custodian determines that a compelling public purpose exists to warrant disclosure.

.02 Disclosure for Compelling Public Purpose.

A custodian may find that a compelling public purpose warrants disclosure of information in a certification, licensing, or investigative file, whether or not there has been a request for the information, under the following circumstances:

A. The information concerns possible criminal activity and is disclosed to a federal, state, or local law enforcement or prosecutorial official or authority;

B. The information concerns a possible regulatory violation and is disclosed to a federal, state, or local regulatory authority which has jurisdiction over the individual whose conduct may be a violation and the information disclosed is limited to the possible regulatory violation by that individual; or

C. The information concerns conduct by an individual which the custodian reasonably believes may pose a risk to the public health, safety, or welfare and is disclosed to a law enforcement authority, administrative official, or agency which regulates the individual, or to a hospital or other health care facility where the individual has privileges.

.03 Other Disclosures.

This chapter does not prevent or limit the ability of the Board to disclose general licensing information as provided in General Provisions Article, §4-333, Annotated Code of Maryland, or any information which the Board may otherwise disclose by law.

(7) Containing representations that the dietitian or nutritionist is willing to perform any procedure that is illegal under federal or State law or regulation;

(8) That fails to state the type of license; or

(9) That cannot be verified by the Board.

D. A dietitian or nutritionist shall be accountable under this chapter if the dietitian or nutritionist uses an agent, advertising service, employer, partnership, professional association, or health maintenance organization to implement actions prohibited by this regulation.

.04 Solicitation.

A. A dietitian or nutritionist may not engage in solicitation, including but not limited to, in-person, telephone, electronic media, or direct mail solicitation which:

(1) Is fraudulent, overreaching, intimidating, or exerts undue influence; or

(2) Contains statements which would be improper under Regulation .03C of this chapter.

B. A dietitian or nutritionist shall be accountable under this chapter if the dietitian or nutritionist uses an agent, advertising service, employer, partnership, professional association, or health maintenance organization to implement actions prohibited by this regulation.

.05 Penalties for Violation.

A violation of this chapter pertaining to the use of advertising shall constitute unprofessional conduct and may result in disciplinary action against the dietitian or nutritionist under Health Occupations Article, §5-311, Annotated Code of Maryland.

Chapter 08 Tax Compliance Regulations

Authority: Health Occupations Article, §§1-213 and 5-205, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" means the Board of Dietetic Practice.

(2) "Delinquent" means the failure by a licensee to pay all undisputed taxes and unemployment insurance contributions, as determined by the Office of the Comptroller or the Secretary of Labor, Licensing, and Regulation, that are payable to the Office of the Comptroller or the Secretary of Labor, Licensing, and Regulation in a manner satisfactory to the unit of the State responsible for collection of the payment.

(3) "Renewal license" means any license granted by the Board for the period immediately after a period for which the individual previously possessed the same or a substantially similar license.

(4) "Verification" means a written or electronic notification created by the unit of the State responsible for collection of taxes or unemployment insurance contributions attesting that the renewal applicant is no longer delinquent.

.02 Outstanding Taxes or Unemployment Insurance Contributions.

A. When a renewal applicant has been identified as delinquent by the Office of the Comptroller or the Department of Labor, Licensing, and Regulation, the Board shall issue a written notice to the renewal applicant stating that:

(1) The renewal applicant has been identified by the Office of the Comptroller or the Department of Labor, Licensing, and Regulation as delinquent in the payment of taxes or unemployment insurance contributions as applicable; and

(2) The renewal license will be withheld until verification is received by the Board from the unit of the State responsible for collection of taxes or unemployment insurance contributions.

B. If the Board does not receive a verification within 60 days after the expiration date of the current license, the licensee may be considered for reinstatement under Health Occupations Article, §5-309, Annotated Code of Maryland.