

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 17 – BOARD OF DIETETICS, NUTRITION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dietetics/Nutrition intends to amend the rules cited as 21 NCAC 17 .0101, .0103, .0104, .0106, .0108, .0110, .0113, .0114, .0302-.0304, .0401-.0403 and repeal the rules cited as 21 NCAC 17 .0201-.0203.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://www.ncbdn.org/proposed-rule-changes>

Proposed Effective Date: November 1, 2022

Public Hearing:

Date: September 7, 2022

Time: 1:00 p.m.

Location:

Join Zoom Meeting <https://us02web.zoom.us/j/86158203823?pwd=YnVkUG5TbHhPZHRmU21ySzMzNQMzljQT09> Meeting

ID: 861 5820 3823 Passcode: eRF3Hp

One tap mobile +19292056099,,86158203823#,,, *490019# US (New York) +13017158592,,86158203823#,,, *490019# US (Washington DC)

Dial by your location +1 929 205 6099 US (New York) +1 301 715 8592 US (Washington DC) +1 312 626 6799 US (Chicago) +1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston)

Meeting ID: 861 5820 3823

Passcode: 490019

Find your local number: <https://us02web.zoom.us/j/86158203823?pwd=YnVkUG5TbHhPZHRmU21ySzMzNQMzljQT09>

Reason for Proposed Action: In 2018 the North Carolina Dietetics/Nutrition Practice Act was modernized via Session Law 2018-91. Pursuant to G.S. § 150B-21.3A(d)(2), select rules were readopted in 2019 to implement some of the changes instigated by the 2018 statutory changes. With the current proposed adoptions, amendments, and repeals, the North Carolina Board of Dietetics/Nutrition (hereinafter “the Board”) seeks to align all of its rules with the statutory authority provided in Article 25, Chapter 90, ensure clarity, streamline the application process, and ensure its ability to continue operations.

The Board has proposed an increase in its fees. Recognizing the Board has not increased its fees since 2003, the Board finds such increases necessary due to significant increases in legal costs related to implementing the 2018 statutory changes, a substantial rise in insurance premiums, and increases in the costs of doing business. Since 2016, when the Board pulled from its savings to invest in an online licensure system, most application and renewal fees have been paid via credit card. The Board has historically absorbed all credit card fees, but at an approximate cost of \$13,000 for fiscal year 2021-2022, this number is no longer insignificant. Additionally, the premium for the Board’s directors’ and officer’s policy has increased from a premium of \$1,061 in 2011 to a premium of \$18,519 in year 2021-2022. As deemed necessary, the Board has also added more robust cyber insurance. Noting the significant sum the Board is paying each year toward insurance premiums, the Board has been advised by its legal counsel that it would be prudent, at least for its directors’ and officers’ policy, to aim to self-insure. Under its current fees, this would not be attainable, but may be attainable in eight to ten years under the proposed adopted rules.

The Board does not believe these rule changes will have a substantial economic impact as that term is defined in G.S. § 150B-21.4(b1). In general, most of the adopted rules simply provide clarification to the licensure, complaint, and appeal processes. Regarding direct impact of fee increases, as of the date of submission of this notice of text the Board has 3657 active licensees. For fiscal year 2022-2023 the Board budgeted approximately 400 new licensure applicants. Based on these numbers, the fee increases would allow the Board to bring in approximately \$87,000 more in revenue in 2022-2023 through initial licensure fees and annual renewals. Although with growth in the number of licensees, the revenue impact of the proposed fee increases may rise each year, the total impact remains well below what may be deemed a “substantial economic impact.”

The examination fee historically has not been collected by the Board, but rather, has been paid directly to Board-approved examination bodies. The Board anticipates this will continue, and thus the examination fee increase is only made to bring this fee more in line with current rates; no revenue will be realized by the Board due to the examination fee increase. It is rare this fee is paid as most applicants apply for licensure having already passed a Board-approved examination.

Additionally, because of the exemption for State employees found in G.S. § 90-368(5), the Board does not believe the proposed changes would require expenditure or distribution of funds subject to the State Budget Act.

In summation, in consultation with the Board for Certification of Nutrition Specialists and the Academy of Nutrition and Dietetics, the North Carolina Board of Dietetics/Nutrition has spent almost three years working to draft these rule changes. The Board is satisfied that these adoptions, amendments, and repeals are necessary, will provide clarity, and will ensure consistency and objectivity in the licensure process better enabling the Board to achieve its mission.

Comments may be submitted to: Charla M. Burill, 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511; phone (919) 678-7609; fax (919) 882-1776; email info@ncbdn.org

Comment period ends: September 13, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
 Local funds affected
 Substantial economic impact (\geq \$1,000,000)
 Approved by OSBM
 No fiscal note required

SECTION .0100 – LICENSURE

21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS

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

- (1) "Act" means Dietetics/Nutrition Practice Act in G.S. 90, Article 25.
- (2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the acts listed under G.S. 90-365(a).
- (3) "Application" means a written request directed to and received by the Board, on forms supplied by the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all information, documents, and other materials necessary to demonstrate that the applicant has met the requirements for licensure as specified in the Act.
- (4) "Degree" means a degree received from a college or university that was regionally accredited at the time the degree was conferred, or a validated foreign equivalent.
- (5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.
- (6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed scope of practice includes dietetics or nutrition.
- (7) "Nutrition assessment" means:
 - (A) ~~the evaluation of the nutrition needs of individuals and groups by licensed dietitians/nutritionists and licensed nutritionists based upon biochemical, anthropometric, nutrigenomic, physical, and food and diet history data to determine nutritional needs and the ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition related problems and order therapeutic diets, including enteral and parenteral nutrition; and~~
 - (B) the ordering of laboratory tests related to the practice of nutrition and ~~dietetics.~~ dietetics; and
 - (C) the conducting of a swallow screen.
 - (D) The collection of data does not, by itself, constitute nutrition assessment.
- (8) ~~"Nutrition counseling" intervention, education, counseling, or management" means the advice and assistance provided by licensed dietitians/nutritionists and licensed nutritionists to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with therapeutic needs and cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs, education, and socioeconomic status. The following does not constitute nutrition intervention education, counseling, or management: presenting educational lectures, videos, webinars aimed at mass audiences; writing books, articles, blog posts, or social media content; developing condition-based training programs and treatment protocols not related to a current client; watching or listening to educational lectures, videos, or webinars; teaching classes in academic programs; and conducting research that is not related to a current client.~~
"Nutrition counseling" intervention, education, counseling, or management" means the advice and assistance provided by licensed dietitians/nutritionists and licensed nutritionists to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with therapeutic needs and cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs, education, and socioeconomic status. The following does not constitute nutrition intervention education, counseling, or management: presenting educational lectures, videos, webinars aimed at mass audiences; writing books, articles, blog posts, or social media content; developing condition-based training programs and treatment protocols not related to a current client; watching or listening to educational lectures, videos, or webinars; teaching classes in academic programs; and conducting research that is not related to a current client.
- (9) "Nutrition monitoring or evaluation" means regular re-evaluation of medical nutrition therapy treatment and prevention plan, which may include review of clinical research and standards of care, to compare the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether planned interventions should be continued or revised.
- (10) "Nutrition services" for purposes of G.S. 90-357.5(c)(2) means the provision of nutrition assessments; nutrition intervention, education, counseling, or management; and nutrition monitoring or evaluation.
- (11) "Swallow screen" means a minimally invasive evaluation procedure conducted by a licensed dietitian/nutritionist that provides for the determination of:
 - (A) the likelihood that dysphagia exists;
 - (B) whether the patient requires referral for further swallowing assessment;
 - (C) whether it is safe to feed the patient orally (for the purposes of nutrition, hydration, and administration of medication); and
 - (D) whether the patient requires referral for nutritional or hydrational support.

- (12) "Alternate supervised experiential learning" means observational hours that do not involve direct patient or client care or the discussion thereof. Such hours are limited to: observing videos of client and practitioner interactions; shadowing an experienced clinician; participating in simulation exercises or role playing; or utilizing case studies to prepare treatment plans.
- (13) "Professional work setting" means nutrition care services provided for the benefit of patients or clients. Such hours are limited to: counseling individuals and groups; researching and developing patient or client treatment plans for current patients or clients; researching, preparing, and presenting patient or client workshops; community education (development and delivery of education to a specific population); supervisor grand rounds and one-on-one meetings with one's supervisor to discuss current patient or client care; or direct hours approved as part of a programmatically accredited supervised practice program.
- (14) "Therapeutic diet" means a nutrition intervention prescribed by a physician or other authorized non-physician practitioner that provides food, fluid, or nutrients via oral, enteral or parenteral routes as part of treatment of disease or clinical conditions to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to provide mechanically altered food when indicated.
- (15) "Weight control services" as used in G.S. 90-368(7) means a general program of instruction with food, supplements, food products, or a food plan designed for one or more healthy population groups in order to achieve or maintain a healthy weight. A weight control program is not individualized to provide medical nutrition therapy as defined in G.S. 90-352(3a) or nutrition care services as defined in G.S. 90-352(4) to manage or treat a medical condition for a specific person or group.
- (b) As used in this Chapter, the following acronyms and initialisms shall mean:
- (1) "ACBN" means the American Clinical Board of Nutrition, whose Diplomate of the American Clinical Board of Nutrition credential is accredited by the National Commission for Certifying Agencies.
 - (2) "ACEND" means the Accreditation Council for Education in Nutrition and Dietetics.
 - (3) "AND" means the Academy of Nutrition and Dietetics.
 - (4) "BCNS" means the Board for Certification of Nutrition Specialists, whose Certified Nutrition Specialist credential is accredited by the National Commission for Certifying Agencies.
 - (5) "CDR" means the Commission on Dietetic Registration, whose Registered Dietitian Nutritionist credential is accredited by the National Commission for Certifying Agencies.
 - (6) "LDN" means licensed dietitian/nutritionist.
 - (7) "LN" means licensed nutritionist.
 - (8) "PLDN" means provisionally licensed dietitian/nutritionist.
 - (9) "PLN" means provisionally licensed nutritionist.

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

21 NCAC 17 .0103 QUALIFICATIONS FOR LICENSURE

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

*History Note: Authority G.S. 90-356; 90-357;
 Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
 Eff. June 1, 1992;
 Recodified from 21 NCAC 17 .0003 Eff. February 1, 1995;
 Amended Eff. December 1, 2011; July 18, 2002;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
 Amended Eff. November 1, 2022.*

21 NCAC 17 .0104 APPLICATIONS

(a) Each applicant for initial licensure shall file a completed application with the Board. Application forms are available at www.ncbdn.org.

(b) A complete application shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- ~~(1)~~ The supervisor shall have access to all relevant patient/client records kept during the supervised practice experience. The supervisor shall review performance by periodic observation, either in real time or by some recording of the nutrition service.
- ~~(2)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice experience, information and verification of each part is required.
- ~~(3)~~(2) The applicant shall provide to the Board for each supervisor/facility:
 - (A) the name and address of the facility providing the supervised practice experience;
 - (B) the name, address, phone, and title of the supervisor who supervised the supervised practice experience;
 - (C) a summary of nutrition services performed, along with dates, and hours spent performing them;
 - (D) evidence that the supervisor met the requirements as stated in G.S. 90-357.5(c)(2) at the time of supervision; and
 - (E) an attestation that the supervisor is not related to, married to, or domestic partners with the supervisee.
- ~~(4)~~(3) Each supervisor shall review the evidence provided by the applicant and verify that the information is true, including:
 - (A) regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize, and approve all nutrition care services of the student or trainee supervised;
 - (B) maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;
 - (C) ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;
 - ~~(A)~~(D) verify that the applicant participated in nutrition services under his or her supervision, stating the total number of hours;
 - ~~(B)~~(E) providing provide a summary of the nutrition services provided completed under his or her supervision; and
 - ~~(C)~~(F) providing provide an evaluation of the applicant for the Board to be able to assess the applicant's performance in the areas of nutrition assessment; nutrition intervention, education, counseling, or management; and nutrition monitoring or evaluation. provision of nutrition services, as defined in 21 NCAC 17 .0101(10), to address, at a minimum, the acute and chronic medical conditions listed in Paragraph (l) of this Rule.

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

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

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

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

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

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

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

21 NCAC 17 .0106 GRANTING LICENSE WITHOUT EXAMINATION

If an applicant seeks licensure on the basis that the applicant currently holds a valid license as a licensed dietitian/nutritionist or licensed nutritionist issued by another state, political ~~territory~~ territory, or jurisdiction with ~~equivalent~~ substantially the same requirements, requirements as this State, the applicant shall attach to the application evidence that:

- (1) The applicant currently holds a license in good standing; and
- (2) The requirements of the state, political ~~territory~~ territory, or jurisdiction are ~~equivalent~~ substantially the same to those of this ~~state~~. State.

*History Note: Authority G.S. 90-356; 90-360;
Filed as a Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0006 Eff. February 1, ~~1995~~ 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
Amended Eff. November 1, 2022.*

21 NCAC 17 .0108 DISAPPROVED APPLICATION

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

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

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

21 NCAC 17 .0110 LICENSURE CERTIFICATE

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

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

- (c) Any certificate or identification card issued by the Board shall remain the property of the Board and shall be surrendered to the Board ~~on~~ upon demand.
- (d) Licensees shall comply with G.S. 90-640, Article 37, which specifies the wearing of a name badge.
- (e) The license certificate must be displayed in a public manner as follows:
- (1) The license certificate shall be displayed in the primary place of employment of the licensee; or
 - (2) In the absence of a primary place of employment or when the licensee is employed in multiple locations, the licensee shall carry a current, Board issued license identification card.
- ~~(e) Neither the licensee nor anyone else shall display a photocopy of a license identification card in lieu of the original license certificate or license identification card.~~
- (f) Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card issued by Board.
- (g) The Board shall ~~replace a lost, damaged or destroyed license certificate or identification card upon receipt of~~ issue an official licensure certificate upon a written request from the licensee and payment of the ~~duplicate license fee.~~ Duplicate License Certificate Fee.
- (h) ~~The~~ Within 30 days of a name change, the licensee must submit a written request with documentation reflecting the name change within 30 days of a name change to the ~~Board~~ Board. Upon receipt of the request and documentation the Board ~~who~~ shall re-issue a license certificate and license identification card. ~~Requests~~ If an official licensure certificate reflecting the name change is requested, the request shall be accompanied by ~~duplicate license fee and documentation reflecting the change.~~ a Duplicate License Certificate Fee.

History Note: Authority G.S. 90-356; 90-362;
 Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
 Eff. June 1, 1992;
 Recodified from 21 NCAC 17 .0010 Eff. February 1, 1995;
 Amended Eff. July 18, 2002;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
 Amended Eff. November 1, 2022.

21 NCAC 17 .0113 FEES

In accordance with the provisions of the Act, the following fees, where applicable, are payable to the Board by credit card, ~~check~~ check, or money order. Fees are nonrefundable, except for the Issuance Fee, if application is not approved.

Application Fee	\$ 50.00 <u>\$60.00</u>
Issuance Fee	125.00 <u>\$150.00</u>
License Renewal Fee	75.00 <u>\$95.00</u>
Late Renewal Fee	75.00
Examination Fee	150.00 <u>\$200.00</u>
Provisional License Fee	35.00
Duplicate License Certificate Fee	30.00
Duplicate License Identification Card Fee	20.00
Training Program	150.00

History Note: Authority G.S. 90-356(2),(9); 90-361; 90-364;
 Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
 Eff. June 1, 1992;
 Recodified from 21 NCAC 17 .0013 Eff. February 1, 1995;
 Amended Eff. July 1, 2003; July 18, 2002; March 1, 1996; February 1, 1995;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
 Amended Eff. November 1, 2022.

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

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

- (1) The licensee shall provide professional services with objectivity and with respect for the unique needs and values of individuals as determined through the nutritional assessment.
- (2) The licensee shall conduct all practices of ~~dietetics/nutrition~~ dietetics or nutrition with honesty and integrity.
- (3) The licensee shall present substantiated information and interpret controversial information without personal bias, recognizing that legitimate differences of opinion exist.
- (4) The licensee shall practice ~~dietetics/nutrition~~ dietetics or nutrition based on scientific principles and current information.
- (5) The licensee shall assume responsibility and accountability for personal competence in ~~practice.~~ practice, continuously develop and enhance expertise through education, and recognize personal limitations.
- (6) The licensee shall inform the public of ~~his/her~~ their services by using factual information and shall not advertise in a false or misleading manner.
- (7) The licensee shall not exercise undue influence on a ~~client, including client or patient.~~ client, including client or patient. This includes, not exercising undue influence on a client or patient in the promotion or the sale of services or products. The licensee shall be alert to any conflicts of interest and shall provide full disclosure when a real or potential conflict of interest arises.

- (8) The licensee shall not reveal information about a client or patient obtained in a professional capacity, without prior consent of the ~~client, client or patient~~, except as authorized or required by ~~law law~~, and shall make full disclosure about any limitations on ~~his/her~~ their ability to guarantee this.
- (9) The licensee shall implement appropriate measures to protect personal health information using appropriate technology, such as encryption, and HIPAA compliant software.
- ~~(9)~~(10) The licensee shall recognize and exercise professional judgment within the limits of the licensee's qualifications and shall not accept or perform professional responsibilities which the licensee knows or has reason to know that ~~he or she is~~ they are not qualified to perform.
- (11) The licensee shall collaborate with others, obtain consultation, and make referrals as appropriate.
- ~~(10)~~(12) The licensee shall take action, with prior consent of the ~~client, client or patient~~, to inform a ~~client's~~ client or patient's physician or other health care practitioner in writing in cases where a ~~client's~~ client or patient's nutritional status indicates a change in health status.
- ~~(11)~~(13) The licensee shall ~~give ensure that their client or patient has~~ sufficient information ~~based on the client's ability to process information such that the client can make his or her own informed decisions.~~ to make an informed decision. The licensee shall not guarantee that nutrition care services will cause any certain outcome or particular result for the ~~client.~~ client or patient.
- ~~(12)~~(14) The licensee shall permit use of that licensee's name for the purpose of certifying that ~~dietetics/nutrition~~ dietetics or nutrition services have been rendered only if the licensee has provided or supervised those services.
- (15) The licensee shall document, code, and bill to most accurately reflect the character and extent of delivered services.
- ~~(13)~~(16) The licensee shall notify the Board in writing within 30 days of the occurrence of any of the following:
- (A) ~~The Licensee~~ the licensee seeks any medical care or professional treatment for the chronic or persistent use of intoxicants, drugs or narcotics.
 - (B) ~~The Licensee~~ the licensee is adjudicated to be mentally incompetent.
 - (C) ~~The Licensee~~ the licensee has been convicted or entered into a plea of guilty or nolo contendere to any crime ~~involving moral turpitude.~~ directly related to the duties and responsibilities of a dietitian or nutritionist or that was violent or sexual in nature; or
 - (D) ~~The~~ the licensee has been disciplined by an agency of another state that regulates the practice of dietetics or nutrition.
- ~~(14)~~(17) The licensee shall comply with all laws and rules concerning the profession.
- ~~(15)~~(18) The licensee shall uphold the Code of Ethics for professional practice and conduct by reporting ~~suspected violations to the Board inappropriate behavior or treatment of a client or patient in violation of the Code and the Act to the Board.~~ Act.
- ~~(16)~~(19) The licensee shall not interfere with an investigation or disciplinary proceeding by willful misrepresentation of facts to the Board or its representative or by the use of threats or harassment against any person.
- ~~(17)~~(20) The licensee shall not engage in kissing, fondling, touching or in any activities, advances, or comments of a sexual nature with any client or patient or, while under the licensee's supervision, with any student, trainee, provisional ~~licensee~~ licensee, or person aiding the practice of ~~dietetics/nutrition.~~ dietetics or nutrition.
- ~~(18)~~(21) The licensee shall not invite, accept, or offer gifts, monetary incentives, or other considerations that affect or reasonably give an appearance of affecting the licensee's professional judgment.
- (b) Conduct and circumstances which may result in disciplinary action by the Board include the following:
- (1) The licensee is a chronic ~~or persistent~~ user of intoxicants, drugs or narcotics to the extent that the same impairs ~~his/her~~ their ability to practice ~~dietetics/nutrition.~~ dietetics or nutrition.
 - (2) The licensee is mentally, emotionally, or physically unfit to practice ~~dietetics/nutrition~~ dietetics or nutrition and is afflicted with such a mental, ~~emotional~~ emotional, or physical disability as to be dangerous to the health and welfare of a ~~client.~~ client or patient.
 - (3) The licensee has been disciplined by an agency of another state that regulates the practice of dietetics or nutrition and at least one of the grounds for the discipline is the same or substantially equivalent to the grounds for discipline in this state.
 - (4) The licensee has violated any provisions of the Act or any of the ~~rules in~~ rules of this Chapter.

History Note: Authority G.S. 90-356(3); 90-356(2);
 Temporary Adoption Eff. March 19, 1992 for a period of 180 days to expire on September 13, 1992;
 Eff. July 1, 1992;
 Recodified from 21 NCAC 17.0014 Eff. February 1, 1995;
 Amended Eff. April 1, 2010; July 1, 2004; July 18, 2002; March 1, 1996;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
 Amended Eff. November 1, 2022.

SECTION .0200 - REVIEW AND APPROVAL OF WEIGHT CONTROL SERVICES

21 NCAC 17.0201 DEFINITIONS

History Note: Authority G.S. 90-356; 90-368;
 Eff. February 1, 1995;
 Amended Eff. December 1, 2011; March 1, 1996;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
Repealed Eff. November 1, 2022.*

21 NCAC 17 .0202 REQUIREMENT FOR REVIEW

*History Note: Authority G.S. 90-356; 90-368;
Eff. February 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
Repealed Eff. November 1, 2022.*

21 NCAC 17 .0203 REVIEW AND BOARD ACTION

*History Note: Authority G.S. 90-356; 90-368;
Eff. February 1, 1995;
Amended Eff. December 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
Repealed Eff. November 1, 2022.*

SECTION .0300 - DIETETIC/NUTRITION STUDENTS OR TRAINEES

21 NCAC 17 .0302 REQUIREMENTS

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

*History Note: Authority G.S. 90-357.5; 90-356(2); 90-368(2);
Eff. March 1, 1996;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016~~ 2016;
Amended Eff. November 1, 2022.*

21 NCAC 17 .0303 SUPERVISION

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

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

*History Note: Authority G.S. 90-356(2); 90-357.5; 90-368(2);
Eff. March 1, 1996;
Amended Eff. December 1, 2011; July 18, 2002;
Readopted Eff. December 1, ~~2019~~ 2019;
Amended Eff. November 1, 2022.*

21 NCAC 17 .0304 RECORDS AND REPORTS

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

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

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

Eff. March 1, 1996;

Amended Eff. July 18, 2002;

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

Amended Eff. November 1, 2022.

SECTION .0400 - UNLICENSED INDIVIDUALS

21 NCAC 17 .0401 INDIVIDUALS AIDING THE PRACTICE OF ~~DIETETICS/NUTRITION~~ DIETETICS OR NUTRITION

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

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

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

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

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

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

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

~~(4)~~(2) "Nutrition care activities" means activities performed by unlicensed personnel ~~which that~~ that are delegated by licensed ~~dietitians/nutritionists~~ dietitians/nutritionists, licensed nutritionists, or other licensed health care practitioners whose licensed scope of practice includes the practice of dietetics or nutrition in accordance with Paragraphs ~~(e)(b), and (d)(c), and (d)~~ (b), (c), and (d) of this Rule and ~~which that~~ that support the provision of nutrition care services ~~medical nutrition therapy~~ as referenced in G.S. ~~90-352(4); 90-352(3a)~~ 90-352(4); 90-352(3a). ~~Nutrition care activities include the provision of nutrition care to address and mitigate a medical condition, illness or injury and the provision of weight control programs or services, as well as community nutrition, food service, and nutrition information or education.~~

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

~~(1) a Certified Dietary Manager;~~

~~(2) a Dietetic Technician Registered; or~~

~~(3) an individual who has met the academic requirements as referenced in G.S. 90-357(3)b.1, c.1 and d.~~

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

(1) may delegate nutrition care activities to unlicensed personnel that are appropriate to the level of knowledge and skill of the unlicensed personnel. ~~The licensed dietitian/nutritionist~~

(2) shall be responsible for the initial and ongoing determination of the competence of the unlicensed personnel to perform any delegated acts or functions. Delegation of nutrition care activities shall be in writing and shall identify the patient or client and the act or function assigned to the unlicensed personnel. ~~The licensed dietitian/nutritionist~~

(3) shall supervise the nutrition care activities of the unlicensed personnel and maintain responsibility for nutrition care activities performed by all personnel to whom the care is delegated. ~~The licensed dietitian/nutritionist~~

(4) shall not delegate the entire spectrum of ~~nutrition care services~~ medical nutrition therapy but may delegate specific acts and functions which support the licensed ~~dietitian/nutritionist's~~ professional's provision of ~~nutrition care services~~ medical nutrition therapy. ~~The licensed dietitian/nutritionist~~

(5) shall have the responsibility for clinical record ~~keeping~~ documentation, ~~and shall ensure that case notes and other records of services identify whether the licensed dietitian/nutritionist or the unlicensed personnel was the direct provider of the service.~~

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

- (1) knowledge and skills of the unlicensed personnel which include both basic educational and experience preparation and continuing education and experience;
- (2) the competence of the unlicensed personnel for the activity or function;
- (3) the variables in each service setting which include:
 - (A) the complexity and frequency of nutrition care needed by a given client population;
 - (B) the acuity and stability of the client's condition; and
 - (C) established policies, procedures, practices, and channels of communication of the facilities where the delegated activities or functions are being performed which lend support to the types of nutrition care activities being delegated, or not delegated, to unlicensed personnel; and
- (4) whether the licensed ~~dietitian/nutritionist~~ dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition has the skills, ~~experience~~ experience, and ability to ~~competently~~ competently supervise the unlicensed personnel for the activity or function.

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

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

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

21 NCAC 17 .0402 INDIVIDUALS PROVIDING NUTRITION INFORMATION

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

- (1) "Nutrition information" means nonfraudulent nutrition information related to food, food materials, or dietary supplements which is designed for one or more healthy population groups and is based on valid scientific evidence, ~~reports~~ reports, and studies. Nutrition information is not ~~based on an individual nutrition assessment as referenced in G.S. 90-352 or medical nutrition therapy as referenced in 21 NCAC 17.0101(11) and is not individualized to provide nutrition care services to prevent, manage, treat, cure or rehabilitate a~~ for the purpose of managing or treating a medical condition, illness, or injury condition for a specific person or group as referenced in G.S. ~~90-352 and 21 NCAC 17.0101(12).~~ 90-352(3a).
- (2) "Reported or historical use" means information about food, food ~~materials~~ materials, or dietary supplements which is based ~~on the following:~~ on:
 - (A) historical or methodological studies or research conducted by experts in the field using sound scientific methods with randomized controlled clinical trials; or
 - (B) reports on valid scientific studies published in peer-reviewed medical or dietetics and nutrition journals or publications.

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

- (1) The person does not hold ~~himself/herself themselves~~ themselves out to be a dietitian or nutritionist or imply orally or in writing or indicate in any way that ~~he/she they are~~ is a dietitian/nutritionist, dietitian or nutritionist;
- (2) The person does not provide ~~nutrition care services or nutrition care activities~~ medical nutrition therapy support activities which have not been delegated to ~~him/her them~~ them by a licensed ~~dietitian/nutritionist, dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition;~~
- (3) The person provides nutrition information on or about food, food ~~materials~~ materials, or dietary supplements, and does not provide nutrition information on the nutritional needs of the ~~consumer;~~ consumer as related to managing or treating a medical condition;
- (4) The person provides nutrition information in connection with the marketing and distribution of the food, food materials, dietary ~~supplements~~ supplements, or other goods to be provided or sold, and does not provide nutrition information in connection with the marketing and distribution of ~~nutrition~~ medical nutrition therapy services;
- (5) The person provides nonfraudulent nutrition information which is based on scientific reports and studies, is not false or misleading, and is safe; and
- (6) The person provides the nutrition information on food, food materials, nutraceuticals, dietary ~~supplements~~ supplements, or other goods in accordance with federal, ~~state~~ State, and local laws, ~~regulations~~ regulations, and ordinances, including but not limited to G.S. 90, Article 25.

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

21 NCAC 17 .0403 ELECTRONIC PRACTICE TELEPRACTICE

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

History Note: *Authority G.S. 90-356;*
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016.~~ 2016.
Amended Eff. November 1, 2022.