



Certification Page Regular and Emergency Rules

1. General Information			
a. Agency/Board Name <i>See attached list for references</i> Dietetics Licensing Board			
b. Agency/Board Address 1800 Carey Avenue 4th Floor		c. Agency/Board City Cheyenne	d. Agency/Board Zip Code 82002
e. Name of Contact Person Veronica Skoranski		f. Contact Telephone Number 307-777-7788	
g. Contact Email Address veronica.skoranski@wyo.gov		h. Adoption Date: 7/03/12	
i. Program(s) <i>See attached list for references</i> General agency, board or commlsion rules			
2. Rule Type and Information			
a. These rules are: <input type="checkbox"/> Emergency Rules (<i>After completing all of Section 2, proceed to Section 5 below</i>) <input checked="" type="checkbox"/> Regular Rules			
b. Choose all that apply: <input checked="" type="checkbox"/> New Rules* <input type="checkbox"/> Amended Rules <input type="checkbox"/> Repealed Rules			
<i>* "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.</i>			
If "New," provide the Enrolled Act number and year enacted:			
c. Provide the Chapter Number, and Short Title of Each Chapter being Created/Amended/Repealed (<i>if more than 5 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification</i>)			
Chapter Number: 1	Short Title: General Provisions		
Chapter Number: 2	Short Title: Organization and Procedures of the Board		
Chapter Number: 3	Short Title: Dietetics Licensure		
Chapter Number: 4	Short Title: Application Procedures		
Chapter Number: 5	Short Title: Fees		
d. <input checked="" type="checkbox"/> The Statement of Reasons is attached to this certification.			
e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:			
3. State Government Notice of Intended Rulemaking			
a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State:			
4/02/12			
b. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the Legislative Service Office:			
4/02/12			
c. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the Attorney General:			
4/02/12			

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. Yes No N/A

b. A public hearing was held on the proposed rules. Yes No

If "Yes:"	Date:	Time:	City:	Location:

5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature: 7/05/12

b. Date on which final rules were sent to the Legislative Service Office: 7/09/12

c. Date on which a PDF of the final rules was electronically sent to the Secretary of State: 7/09/12

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	
Printed Name of Signatory	Veronica Skoranski
Signatory Title	Executive Director
Date of Signature	7/05/12

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Distribution List:

Attorney General

1. Statement of Reasons;
2. Original Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore; and
5. Memo to Governor documenting emergency (emergency rules).

LSO

1. Statement of Reasons;
2. Copy of Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore;
5. Electronic copy of rules: clean and strike/underscore; and
6. Memo to Governor documenting emergency (emergency rules).

SOS

1. PDF of clean copy of rules; and
2. Hard copy of Certification Page as delivered by the AG.



Additional Rule Information For Explanation of Changes

1. General Information

a. Agency/Board Name <i>See attached list for references</i>		
b. Agency/Board Address	c. Agency/Board City	d. Agency/Board Zip Code
e. Name of Contact Person	f. Contact Telephone Number	
g. Contact Email Address		
h. Program(s) <i>See attached list for references</i>		

2. Rule Type and Information

a. Provide the Chapter Number, Short Title, and Change Reason of Each Chapter affected (*if more than 3 chapters are being created/amended/repealed, please use the Additional Rule Information for Explanation of Changes form and attach it to this certification*)

Chapter Number:	Short Title:	Change Reason: <input type="checkbox"/> Correcting non-substantive typographical errors <input type="checkbox"/> Name change* <input type="checkbox"/> URL change
Chapter Number:	Short Title:	Change Reason: <input type="checkbox"/> Correcting non-substantive typographical errors <input type="checkbox"/> Name change* <input type="checkbox"/> URL change
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* A "Name change" may result from a change in federal law, federal rules, or state law.

Dietetic Licensing Board
Proposed Rules and Regulations
Comment Summary

September 22, 2011

Comments on Chapter 4 Section 4: The length of term for the initial license is only 1 year. It should be a 2 year term.

Response: *The Board revised the rule by modifying subparagraph (b) and adding subparagraph (c) as follows:*

(b) Licenses issued in an even numbered year shall expire on June 30th of the next even numbered year. Thereafter, the renewal period is two (2) years.

(c) Licenses issued in an odd numbered year shall expire on June 30th of the next odd numbered year. Thereafter, the renewal period is two (2) years.

Comment on Chapter 5 Section 1: \$200.00 is too much to charge for a license.

Response: *No changes were made in response to this comment. The fees were established in amounts to support the 2013-2014 biennium budget based on the numbers of licenses that the Board estimated they would be issuing.*

Comment on Chapter 6 Section 1: The continuing education requirement should be aligned with the Commission on Dietetic Registration's (CDR) 5 year time line for continuing education and renewal of their professional credential.

Response: *No changes were made in response to this comment. The statute dictates that licenses renew every 2 years. The continuing education requirement was aligned with the renewal period to make it easier for everyone to remember to submit their continuing education with their renewal application.*

General comment regarding requirements for licensure: Request that the Board expand the rules to accept national credentials as a nutritionist towards licensure as a Licensed Dietitian.

Response: *No changes were made in response to this comment. The training and practice of nutritionists and dietitians are not similar enough in nature to justify the change.*

General comment regarding requirements for licensure: Request that the Board accept other national nutritionist exams towards licensure as a Licensed Dietitian.

Response: *No changes were made in response to this comment. The exam required in the rules is specific towards dietitians.*

General comments regarding W.S. 33-47-101 through 110: Several comments were received specifically addressing the statute.

***Response:** No changes were made in response to these comments. The Board does not have jurisdiction to modify the statute.*

STATEMENT OF REASONS
FOR ADOPTION OF RULES

Pursuant to authority granted under the Dietetics Licensure Act, W.S. 33-47-104(e), the Dietetics Licensing Board has filed with the office of the Attorney General and the Legislative Service Office copies of rules and regulations which it proposes to file with the Secretary of State.

These rules and regulations are proposed to implement the authority of the Board and protect the public by regulating the qualifications and establishing standards of performance of persons licensed as dietitians.

Chapters 1 through 9 and Appendix A have been created in order to: establish procedures for conducting Board business, establishing application procedures and requirements, establishing procedures and requirements for the renewal of a license; setting fees; establishing complaint and disciplinary procedures; and adopting a code of ethics.

Emergency Rules were filed on March 1, 2012. At that same time the Board published its intent to adopt Proposed Rules and initiated the public comment period. Due to comments received during the Proposed Rules public comment period regarding the length of the initial license term, the Board has modified the language in Chapter 4 Section 4(b) and added subsection (c) to clarify that new licenses issued in even number years expire on the June 30th of the next even number year, and that new licenses issued in odd number years expire on the June 30th of the next odd number year.

CHAPTER 1

GENERAL PROVISIONS

Section 1. Rules of the Dietetics Licensing Board hereinafter referred to as the Board.

Section 2. Statutory Authority. The Dietetics Licensing Board was created by W.S. 33-47-101 through 33-47-110, herein after referred to as the Act.

Section 3. Severability. If any provisions of these regulations or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

Section 4. Purpose of These Rules. The purpose of these rules shall be to develop procedures and establish requirements for:

- (a) Election of officers, establishment of Board organization, and codification of rules and procedures for Board meetings and subcommittee meetings;
- (b) Standards and qualifications requisite in the issuance of licenses and permits;
- (c) Evaluation of qualifications of individuals applying for licensure or temporary permits;
- (d) Issuance of licenses and permits, and renewal of licenses to qualified persons;
- (e) Setting fees necessary for the administration of the Act;
- (f) Establishing criteria for actions against licensees and temporary permit holders, and others including, but not limited, to:
 - (i) Investigation and conduct of hearings on complaints of violations of the Act;
 - (ii) Proceedings to enjoin, restrain or bring suit against persons violating the Act;
 - (iii) Revocation, suspension, reprimand, probation, denial, or refusal to renew licenses; and,
- (g) Codification of a canon of ethics.

Section 5. Terms Defined by Statute. Terms defined in W.S. 33-47-101 through 33-47-110 shall have the same meanings when used in these regulations unless the context or subject matter clearly requires a different interpretation.

Section 6. Terms Defined Herein. As used in these regulations, the following terms shall have the following meanings unless the context or subject matter clearly requires a different interpretation.

- (a) “The Academy of Nutrition and Dietetics”- formerly known as the American Dietetic Association (ADA).
- (b) “CADE” means the Commission on Accreditation for Dietetics Education.
- (c) “CDR” means the Commission on Dietetic Registration.
- (d) “RD” means a Registered Dietitian credentialed by the CDR.
- (e) “Weight control services” consist of providing general non-medical nutrition instruction and guidance.

CHAPTER 2

ORGANIZATION AND PROCEDURES OF THE BOARD

Section 1. Structure of the Board. The Board shall consist of three (3) persons, all of whom are appointed by the governor: two (2) registered dietitians and one (1) person from the public at large. Board members shall serve three (3) year terms.

Section 2. Establishment of Licensure Standards. The state professional organizations representing the profession may recommend the specific requirements, rules, and procedures appropriate for licensing of persons in the field to the Board and suggest changes to the rules and regulations.

Section 3. Officers. A chairman of the Board shall be elected by a majority vote of the Board annually.

Section 4. Meetings of the Board.

(a) The Board shall meet at least twice each year at dates, places, and times established by the Chairman with special meetings held as requested by the Chairman or by a majority of the members.

(b) Meetings shall be open to the public and held in accordance with the Wyoming Administrative Procedures Act. The Board has the right to call executive sessions pursuant to W.S. 16-4-405.

(c) The Chairman may conduct meetings and Board business via electronic media as a means of conserving funds and expediting appropriate business.

(d) A quorum shall consist of two (2) members, and a majority vote of those Board members present and voting is required to approve Board actions.

Section 5. Establishment of Committees. The Board may, by a majority vote of the membership, designate and empower members to approve or preliminarily deny applications for a license or temporary permit, applications for renewal, special requests, and other issues that the Board deems proper to delegate. Members may also be designated and empowered to conduct complaint investigations, and make recommendations on complaints.

CHAPTER 3

DIETETICS LICENSURE

Section 1. The Practice of a Dietitian. The practice of a Dietitian consists of the integration and application of principles derived from the sciences of food, nutrition, management, communication, and biological, physiological, behavioral, and social sciences to achieve and maintain optimal human health. It includes the nutrition care process and medical nutrition therapy, but does not include medical differential diagnosis of the health status of an individual.

Section 2. General Requirements for License. It is the sole responsibility of the applicant to ensure that the Board receives all documentation necessary to prove to the Board's satisfaction that the applicant meets all the requirements for licensure herein. Applicants shall provide evidence satisfactory to the Board that they:

- (a) are of majority age; and
- (b) have no felony convictions, and no misdemeanor convictions involving moral turpitude, although exceptions to this requirement may be granted by the Board if consistent with the public interest; and
- (c) are legal inhabitants of the United States, and
- (d) have received a baccalaureate or post baccalaureate degree from a CADE accredited college or university with a major course of study in human nutrition, nutrition education, public health nutrition, food and nutrition, dietetics, food systems management or an equivalent major course of study as approved by the board, and
 - (i) Applicants who have obtained a degree outside of the United States and its territories must request that the CADE evaluate that degree program to determine if it is equivalent to the same degree conferred by a regionally accredited college or university in the United States.
- (e) have completed a documented supervised pre-professional practice experience component in dietetics of not less than nine hundred (900) hours under the supervision of a registered dietitian, a licensed dietitian or an individual with a doctoral degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics or food systems management; and
- (f) have successfully completed the registration examination for dietitians administered by the CDR or an examination of an equivalent level approved by the Board;

Section 3. Licensure by Reciprocity. An applicant holding a license in good standing to engage in the practice of dietetics under the laws of another state having licensure requirements at least as stringent as those required by the Act may be issued a license. A registered dietitian whose previous state of residence does not require licensure may be issued a license if he or she meets the

requirements of W.S. 33-47-106.

(a) If reciprocity is not granted, the applicant shall have the opportunity to show that they meet the requirements of W.S. 33-47-106.

CHAPTER 4

APPLICATION PROCEDURE

Section 1. Licenses.

- (a) An individual is considered an applicant once he or she has submitted the following:
- (i) A complete official application form with an original signature, accompanied by the application fee and appropriate proof of legal presence in the U.S.; and
 - (ii) A copy of the applicant's current CDR dietetic registration.
- (b) The Board shall not review an individual's credentials prior to receiving a complete application.
- (c) All requirements for licensure shall be documented within one (1) year of the date the application was received by the Board, otherwise the application will be deemed incomplete and closed without further notice.
- (d) The Board will not accept faxed or photocopied documents.

Section 2. Temporary Permits.

- (a) An applicant requesting a temporary permit must submit the following:
- (i) A complete official application form with an original signature, accompanied by the application fee and appropriate proof of legal presence in the U.S.; and
 - (ii) Verification of licensure in good standing from jurisdictions where the applicant holds or has held a license as a dietitian, or
 - (iii) A copy of the applicant's current CDR dietetic registration.
- (b) Temporary Permits expire six (6) months from date of issue.

Section 3. Notification of Applicants and Right of Appeal. If the applicant's initial application is denied, the reasons for this rejection shall be communicated in writing. The applicant shall have the right to request reconsideration of the application materials, and may further request a hearing before the Board in accordance with the Wyoming Administrative Procedures Act.

Section 4. Issuance and Expiration of License.

(a) The Board shall issue a wall certificate to the successful applicant bearing the full name of the holder, title of the license, license serial number, date of issuance, expiration date, and appropriate seal.

(b) Licenses issued in an even numbered year shall expire on June 30th of the next even numbered year. Thereafter, the renewal period is two (2) years.

(c) Licenses issued in an odd numbered year shall expire on June 30th of the next odd numbered year. Thereafter, the renewal period is two (2) years.

Section 5. Issuance of Temporary License. The Board shall issue a pocket identification card to the successful applicant bearing the full name of the holder, title of the license, license serial number, date of issuance, expiration date, and appropriate seal.

Section 6. Change of Name, Address or Telephone Number.

(a) Licensees and temporary permit holders shall register with the Board any change in their legal name, shall submit documentation demonstrating the change of name, appropriate fee and shall surrender the old wall certificate and a new wall certificate shall be issued by the Board.

(b) Each applicant, licensee and temporary permit holders shall file with the Board their current home and professional mailing addresses and telephone numbers and shall report to the Board in writing any change of addresses or telephone numbers, giving both old and new addresses and telephone numbers. A revised disclosure statement shall accompany any change in employment.

Section 7. Correction and Amendment. Any applicant, licensee or permit holder may clarify erroneous, inaccurate or misleading information in their file by submitting a written statement to the Board which will be placed in their file.

CHAPTER 5

FEES

Section 1. Fees. This fee schedule is adopted by the Board pursuant to W.S. 33-1-201.

- (a) Application Fees:
 - (i) Licensure Application Fee (2 year license) \$200.00
 - (ii) Renewal Application Fee (postmarked by June 15th, or on the next business day in cases when June 15th falls on a weekend) \$200.00
 - (iii) Late Renewal Application Fee (postmarked after June 15th and prior to June 30th, or on the next business day in cases when June 30th falls on a weekend) \$225.00
 - (iv) Reinstatement Fee (postmarked after June 30th and prior to September 28th, or on the next business day in cases when September 28th falls on a weekend) \$200.00
 - (v) Temporary Permit Application \$200.00
- (b) Non-sufficient Funds Fee: in accordance with W.S. 1-1-115
- (c) Written Verification Fee \$15.00
- (d) Replacement Wall Certificate \$10.00
- (e) Replacement Pocket ID Cards \$5.00 set of 2 cards
- (f) Copy Fee: \$.25 per page

Section 2. Refunds. All fees collected by the Board are non-refundable.

Section 3. Applications Unaccompanied by Fees. An application shall not be considered by the Board unless accompanied by the application fee.

Section 4. Duplicate or Replacement Certificate and Pocket Card. Duplicate or replacement wall certificates and pocket cards may be issued by the Board. All requests for duplicates or replacements shall be in writing and shall be accompanied by the required fee for each duplicate or replacement.

Section 5. Requests for Roster of Licensees. The roster of current licensees and permit holders shall be updated at least annually and made available electronically at no charge.

CHAPTER 6

RENEWAL

Section 1. Biennial Renewal.

(a) Licenses may be renewed every two (2) years by providing the Board with the following no later than fifteen (15) days prior to the license expiration date:

- (i) Payment of the renewal fee;
- (ii) Complete application for renewal; and
- (iii) Proof of compliance with the continuing professional education (CPE) requirements set out below.

(b) Each licensee shall earn a minimum of thirty (30) contact hours of CPE during each two (2) year renewal period.

(i) Contact hours for purposes of this section shall be the actual number of hours during which instruction was received. A contact hour shall consist of not less than fifty (50) minutes of actual instruction or presentation. For academic courses, one (1) semester credit equals fifteen (15) contact hours. One (1) quarter credit equals ten (10) contact hours.

(ii) Only those hours acquired during the renewal period will be considered.

(iii) The following standards shall govern acceptability of continuing education activities:

(A) These activities shall have significant intellectual or practical content, and the primary objective shall be to increase the licensee's competence in dietetics.

(B) The scope of practice for a dietitian shall be used as a basis of what knowledge and skills are acceptable to the Board as continuing education activities.

(C) The Board will accept CDR approved activities. Activities not approved by the CDR may be submitted to the Board for review.

(iv) Licensees shall attest to the number of continuing education hours completed.

(v) Licensees shall report their continuing education activities in a manner determined by the Board.

(A) Licensees shall maintain copies of any certificates of attendance, letters certifying attendance, transcripts, or any official documents which serve as proof of participation or attendance for at least two (2) years from the date submitted for renewal.

(B) Proof of attendance shall contain the activity title, dates, contact hours attended, sponsor, presenter, qualifications of the presenter, the name of the licensee, and shall be signed by the sponsor or the presenter.

(vi) Licensees are responsible for maintaining their own continuing education documentation.

(c) Approximately ninety (90) days prior to the renewal date a renewal notice will be mailed to the licensee's last address of record.

(d) Renewal applications shall not be accepted more than ninety (90) days prior to the expiration date.

(e) Renewal applications received by the Board which are postmarked after June 30th, or after the next business day in cases when June 30th falls on a weekend, will not be accepted by the Board, and the license will become null and void on July 1 for failure to timely and sufficiently secure renewal. Practice is not permitted after the license expiration date.

(f) Failure to receive a notice for renewal from the Board does not excuse a licensee from the requirement for renewal under the Act and these rules.

Section 2. Exemption From Continuing Education.

(a) A licensee may be exempted from a portion of the continuing education required for the renewal of their license if during the last ninety (90) days of the current renewal period the licensee otherwise meets all renewal requirements and experiences a physical disability, illness or other disabling situation.

(b) The licensee claiming an exemption shall provide supporting documentation from a third party acceptable to the Board.

Section 3. Reinstatement.

(a) A person who has allowed their license to expire may not practice as a

dietitian nor represent themselves to the public as being a dietitian. Persons may apply for reinstatement, by September 28th of the year the license expired, by submitting:

- (i) The reinstatement application, and
- (ii) Proof of compliance with the CPE requirements as set out in this chapter, and
- (iii) Payment of the renewal fee, and
- (iv) Payment of the reinstatement fee.

(b) After September 28th of the year the license expired anyone wishing to be licensed must meet current requirements and either submit an application for a new license as outlined in Chapter 4 Section 1, or an application for reissuance under W.S. 33-47-107(d).

CHAPTER 7

PROFESSIONAL RESPONSIBILITY

Section 1. Ethical Standards. The protection of the public health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the Board.

(a) The “Code of Ethics for the Profession of Dietetics” of the Academy of Nutrition and Dietetics/Commission on Dietetic Registration (CDR) incorporated as Appendix A are adopted and shall be used by the licensee and temporary permit holder and the Board to provide additional guidelines to ethical standards. If the Code of Ethics of the CDR conflict with the Act and/or these rules and regulations, the Act and rules and regulations shall control.

(b) Persons licensed by the Board shall:

(i) Practice in a manner that is in the best interest of the public and does not endanger the public health, safety or welfare.

(ii) Report to the Board known or suspected violations of the laws and regulations governing the practice of licensed or permitted professionals.

(iii) Persons licensed by the Board shall designate themselves as a “Licensed Dietitian” or by use of the initials “LD”.

(iv) Use only those educational credentials in association with their licensure or permit and practice as a professional that have been earned at an educational institution accredited by one of the regional or national institutional accrediting bodies recognized by the Council for Higher Education Accreditation (CHEA), and that are directly related to their license.

(v) Use only indicators of current dietetic-related specialty credentials/board certifications which are approved by CDR.

(vi) Provide clients with accurate and complete information regarding the extent and nature of services available to them.

(vii) Respect the privacy of clients and hold in confidence all information obtained in the course of professional service.

(viii) Maintain accurate documentation of all professional services rendered to a client in confidential files for each client and ensure that client records are kept in a secure, safe, retrievable and legible condition in accordance with HIPPA and CMS regulations.

(ix) When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading and includes the use of the title “licensed dietitian” or the initials “LD” or a statement such as “licensed by the Wyoming Dietetics Licensing Board”.

(x) Respond to all requests for information and all other correspondence from the Board.

(xi) Not permit or facilitate unlicensed practice or any activity which is a violation of the Act or these rules and regulations.

CHAPTER 8

ADVERSE ACTION

Section 1. Board Authorization. The Board is authorized to refuse to renew, or may deny, suspend, revoke or otherwise restrict the license or permit of any person violating provisions of the Act pursuant to W.S. 33-47-107(f).

Section 2. Grounds. The Board may take action for unprofessional or unethical conduct.

- (a) Unprofessional conduct shall include, but is not limited to:
 - (i) Willful violation of any provision of these Rules.
 - (ii) Suspension, revocation, denial, or other disciplinary action imposed upon a licensee or temporary permit holder in another jurisdiction. A certified copy of the disciplinary order shall be conclusive evidence.
 - (iii) Representation of oneself as legally authorized to engage in the practice of dietetics without a license or temporary permit issued by this Board.
 - (iv) Conviction of a felony. A certified copy of the conviction shall be conclusive evidence.
 - (v) Conviction of a misdemeanor involving moral turpitude. A certified copy of the conviction shall be conclusive evidence.
 - (vi) Renting or lending the license or temporary permit issued pursuant to the Act to any person planning to use that license or temporary permit;
 - (vii) Soliciting clients by any form of false or misleading communication.
 - (viii) Incompetence or malpractice.
 - (ix) Mental incompetency.
 - (x) Knowingly submitting false information to the Board.
 - (xi) Addiction or habitual intemperate use of alcohol, drugs and/or controlled substances to a degree which renders the licensee or temporary permit holder unsafe or unfit to practice.

(xii) Violation of the Wyoming Controlled Substances Act.

(xiii) Sexual exploitation of a client, defined as:

(A) Offering professional services for some form of sexual gratification; or

(B) Sexual contact with a client.

(xiv) Willful violation of any provisions of the Act-.

(b) Violation of any provision of the adopted Code of Ethics as set forth in these Rules is unethical conduct.

CHAPTER 9

APPLICATION REVIEW, COMPLAINTS AND HEARING PROCEDURES

Section 1. Authority. These rules are promulgated by authority of W.S. 16-3-102, W.S. 33-47-105 and 33-47-107.

Section 2. Purpose. The Board establishes these rules to provide a fair and efficient method for investigating complaints and conducting administrative hearings relative to refusal of license, refusal of renewal, suspension or revocation of licenses, and these procedures may be utilized when a formal hearing is necessary for other purposes as well.

Section 3. Application Review Process.

(a) Upon receipt of a completed application, the Board Office shall review the application and if it is complete and, if there are no known grounds for denial of the license requested, issue the license. If there are known grounds for denial, the Board Office shall forward the application to the Application Review Member (ARM).

(b) The ARM shall review the application and all other information available and following the review may:

(i) Approve the application if the applicant meets all requirements; or

(ii) If there are questions as to whether denial is appropriate, forward the application and the ARM report to the Assistant Attorney General assigned to the Board for prosecution for review.

(c) If, after review, the ARM following consultation with the Assistant Attorney General concludes that grounds exist to recommend denial of an application:

(i) A preliminary denial letter shall be sent to the applicant. The letter shall:

(A) State the basis for the denial including relevant statutes and rules; and

(B) Advise the applicant of the right to request reconsideration.

(ii) If the applicant fails to request reconsideration in writing within thirty (30) days of the date of the preliminary denial letter, the preliminary denial becomes final.

(iii) If the applicant requests reconsideration within the allowed thirty (30) days, a reconsideration conference shall be held with the ARM, the Board Office, the Assistant Attorney General, and the applicant.

(iv) Following a reconsideration conference, the ARM shall either approve or finally deny the application.

(v) If denied, the applicant must submit a written request for a hearing within thirty (30) days of the final denial letter.

(d) Application denial hearings.

(i) An application denial hearing is a formal contested case hearing conducted pursuant to the Wyoming Administrative Procedure Act.

(ii) The hearing is to be conducted in the presence of a quorum of the Board with a hearing officer presiding.

(iii) The applicant has the burden of proving that he/she meets all requirements for the license requested.

(iv) If an applicant requests an administrative hearing on the denial of their application, the procedure for that hearing will be the same as the formal hearing procedure outlined in this Chapter.

Section 4. Complaints.

(a) A disciplinary review is initiated against a licensee by submitting a written complaint to the Board Office. A complaint concerning an alleged violation of the Act or Board Rules may be submitted by any person or entity, a Board member, or a member of the Board staff. The written complaint should provide as much of the following information as may be available and applicable:

(i) The name, address, place of employment, and telephone number of the licensee against whom the charges are made;

(ii) The name, address and telephone number of complainant;

(iii) The specific conduct alleged to constitute the violation;

(iv) The names, addresses, and telephone numbers of any other witnesses; and

(v) The signature of the complainant.

(b) The Board may also initiate and investigate complaints based upon its own knowledge, without a written complaint being filed.

Section 5. Review of Written Complaint. Written complaints shall be referred to an Investigative Board Member (IBM) selected by Board staff from a rotating schedule. The IBM shall promptly advise the Board staff of any known potential conflicts of interest. Licensees against whom charges are made will be advised of the investigation, the name of the IBM, and the nature of the complaint.

(a) The IBM shall not take part in the consideration of any contested case.

(b) The IBM shall not, by this rule, be barred from attending any disciplinary hearing.

Section 6. Investigations and Board Action.

(a) The IBM and Board staff shall investigate those written complaints received which merit further investigation. An independent investigator may be hired if the IBM deems it necessary.

(b) Upon completion of the investigation, the IBM shall:

(i) Dismiss the complaint if no violation of the Act or Board rules is found; or

(ii) Prepare an investigative report which shall include:

(A) The findings;

(B) A list of statutes and/or Board rules believed to have been violated; and

(C) Any relevant additional information.

(c) The IBM shall review the investigative report, forward the report and his/her recommendations to the Assistant Attorney General assigned to the Board for prosecution, and consult with the Assistant Attorney General.

- (d) Following consultation with the Assistant Attorney General, the IBM may:
 - (i) Send the notice required by Section 7;
 - (ii) Prepare and file a formal petition and notice of hearing setting the matter for a contested case hearing before the Board;
 - (iii) Recommend the Board accept an offer of conditional terms for settlement, which may include educational courses;
 - (iv) Recommend the Board dismiss the complaint.
- (e) The Board may resolve a complaint at any time by:
 - (i) Sending a written letter of advice;
 - (ii) Accepting a voluntary surrender of a license;
 - (iii) Accepting conditional terms for settlement;
 - (iv) Dispensing with it in an informal matter; or
 - (v) Dismissal.

Section 7. Notice and Opportunity to Show Compliance. Prior to commencing formal proceedings or taking disciplinary action, the IBM shall give notice by mail to the licensee of the facts or conduct which warrant the intended action. The notice shall give the licensee an opportunity to show compliance with all lawful requirements for retention of the license within twenty (20) days of the mailing of the notice. Such notice shall be sent to the licensee's last known address by both certified mail with return receipt requested and by first class mail.

Section 8. Formal Hearing Procedures. Formal proceedings for a hearing before the Board regarding action against a licensee shall be commenced by petition and notice of hearing, served in person, or by both certified mail return receipt requested and first class mail sent to the address last known by the Board at least thirty (30) days prior to the date set for the hearing. The petition and notice shall contain at least:

- (a) The name and address of the licensee;
- (b) A statement in ordinary and concise language, of the nature of the complaint filed with the Board, the facts upon which the complaint is based, as well as the specific statute(s) or Board Rules and Regulations alleged to have been violated;

- (c) The time, place, and nature of the hearing;
- (d) That the hearing is being held pursuant to the authority provided by W.S. 33-47-107, and
- (e) That the licensee shall file an Answer or Notice of Appearance, which must be received by the Board at least ten (10) working days prior to the date set for hearing, or the licensee will be in default.

Section 9. Continuance. For good cause shown, extensions and continuances may be granted or denied at the discretion of the Board or the hearing officer.

Section 10. Default. The Board may enter an order based on the allegations in a petition in any case where the licensee has not answered in writing ten (10) working days before the hearing, or in any case in which the licensee, or his/her representative, has not appeared at a scheduled hearing for which they had notice.

Section 11. Hearing Officer. The Board may appoint a hearing officer to take evidence at the hearing, or the chairperson or a Board member may serve as the hearing officer.

Section 12. Discovery. In all formal proceedings before the Board, discovery shall be afforded in accordance with the Wyoming Administrative Procedure Act.

Section 13. Subpoenas.

- (a) A Board member or the hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall have the power to administer oaths.
- (b) Service of a subpoena must be made at the expense of the party applying for it and shall be made in the manner provided by law for service of subpoenas in civil actions.

Section 14. Witnesses.

- (a) All persons testifying at any hearing before the Board shall be administered a standard oath or affirmation.
- (b) No testimony will be received from a witness except under oath or affirmation.
- (c) The party calling a witness shall bear the costs associated with his/her appearance.

(d) The Board and hearing officer shall have an opportunity to examine any witness.

Section 15, Representation.

(a) A licensee may represent him/herself or be represented by counsel, provided that such counsel is licensed to practice law in the State of Wyoming or is associated at the hearing with one or more attorneys licensed to practice law in the State of Wyoming.

(b) In any case before the Board, an appearance in person or the filing of an answer or other pleading shall constitute an appearance of record by an attorney.

(c) A request for withdrawal from representation by an attorney shall be submitted to the Board in writing.

(d) The Assistant Attorney General assigned to the Board for prosecution shall present all matters in a contested case on behalf of the IBM.

Section 16. Prehearing Conference.

(a) The hearing officer may direct the parties to appear before him/her to consider:

(i) The issues;

(ii) Amending the pleadings;

(iii) The possibility of obtaining admissions of fact and of documents to avoid unnecessary proof;

(iv) Formulating procedures to govern the hearing; and

(v) Such other matters as may aid in the presentation or disposition of the case.

(b) Prehearing conferences shall be conducted informally. An order will be prepared which recites the actions taken at the conference, amendments allowed, agreements of the parties, and the issues to be determined at the hearing.

Section 17. Order of Procedure at Hearing. Hearings may be conducted substantially in the following order:

(a) Opening announcements are made by the hearing officer, including case name and docket number, the issue(s) to be considered, parties and counsel present, and subpoenas issued;

(b) Witnesses should be identified and sworn;

(c) Opening statements may be made at the discretion of the hearing officer. In cases of license denial, the applicant should go first. In disciplinary cases the IBM should go first;

(d) Presentation of Evidence. The order above will be followed with each party, the hearing officer, and the Board having the opportunity to cross-examine the witnesses. Rebuttal evidence may be presented;

(e) Exhibits offered in evidence by the licensee will be marked with the letters of the alphabet. Those offered by the ARM or IBM will be marked numerically;

(f) Closing arguments may be made at the discretion of the hearing officer. Time may be limited, the order of presentation is as above, and brief rebuttal time may be allowed. The hearing and the evidence are then closed, unless reopened by the hearing officer for good cause shown.

Section 18. Decisions.

(a) Proposed Decisions:

(i) At the discretion and direction of the Board, the parties may file proposed findings of fact, conclusions of law, and order after the hearing and before the deadline announced in the hearing's closing announcements.

(ii) At the discretion and direction of the Board, the hearing officer shall prepare proposed findings of fact, conclusions of law, and order.

(b) Final Decisions. Proposed decisions will be given consideration but are not binding upon the Board. All final decisions will be issued by the Board and shall be based exclusively upon the evidence in the record and matters officially noticed. All final decisions issued by the Board shall be served to all parties by first class mail sent to their last known address.

Section 19. Appeals. A Petition for Judicial Review of the Board decision may be filed in the appropriate district court in accordance with the Wyoming Rules of Appellate Procedure.

Section 20. Transcripts. If a Petition for Judicial Review is filed in the district court, the petitioner shall either arrange the preparation and pay for the transcript of the testimony, or reimburse the Board for the cost of the transcript if previously prepared at Board expense.

Appendix A

Academy on Nutrition and Dietetics/ Commission on Dietetic Registration

Code of Ethics for the Profession of Dietetics

Effective January 1, 2010

PREAMBLE The American Dietetic Association (ADA) and its credentialing agency, the Commission on Dietetic Registration (CDR), believe it is in the best interest of the profession and the public it serves to have a Code of Ethics in place that provides guidance to dietetics practitioners in their professional practice and conduct. Dietetics practitioners have voluntarily adopted this Code of Ethics to reflect the values (Figure) and ethical principles guiding the dietetics profession and to set forth commitments and obligations of the dietetics practitioner to the *public, clients, the profession, colleagues, and other professionals*. The current Code of Ethics was approved on June 2, 2009, by the ADA Board of Directors, House of Delegates, and the Commission on Dietetic Registration.

PRINCIPLES

Fundamental Principles

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

Responsibilities to the Public

3. The dietetics practitioner considers the health, safety, and welfare of the public at all times. The dietetics practitioner will report inappropriate behavior or treatment of a client by another dietetics practitioner or other professionals.
4. The dietetics practitioner complies with all laws and regulations applicable or related to the profession or to the practitioner's ethical obligations as described in this Code.
 - a. The dietetics practitioner must not be convicted of a crime under the laws of the United States, whether a felony or a misdemeanor, an essential element of which is

dishonesty.

b. The dietetics practitioner must not be disciplined by a state for conduct that would violate one or more of these principles.

c. The dietetics practitioner must not commit an act of misfeasance or malfeasance that is directly related to the practice of the profession as determined by a court of competent jurisdiction, a licensing board, or an agency of a governmental body.

5. The dietetics practitioner provides professional services with objectivity and with respect for the unique needs and values of individuals.

a. The dietetics practitioner does not, in professional practice, discriminate against others on the basis of race, ethnicity, creed, religion, disability, gender, age, gender identity, sexual orientation, national origin, economic status, or any other legally protected category.

b. The dietetics practitioner provides services in a manner that is sensitive to cultural differences.

c. The dietetics practitioner does not engage in sexual harassment in connection with professional practice.

6. The dietetics practitioner does not engage in false or misleading practices or communications.

a. The dietetics practitioner does not engage in false or deceptive advertising of his or her services.

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

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

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

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

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

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

Responsibilities to Clients

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

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

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

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

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

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

Responsibilities to the Profession

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

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

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

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

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

b. When a conflict of interest cannot be resolved by disclosure, the dietetics

practitioner takes such other action as may be necessary to eliminate the conflict, including recusal from an office, position, or practice situation.

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

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

a. The dietetics practitioner, in seeking, maintaining, and using credentials provided by CDR, provides accurate information and complies with all requirements imposed by CDR. The dietetics practitioner uses CDR-awarded credentials (“RD” or “Registered Dietitian”; “DTR” or “Dietetic Technician, Registered”; “CS” or “Certified Specialist”; and “FADA” or “Fellow of the American Dietetic Association”) only when the credential is current and authorized by CDR.

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

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

Clarification of Principle:

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

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

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

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

Responsibilities to Colleagues and Other Professionals

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

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

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