

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R095-22

July 13, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 622.087 and 640E.110; §§ 2 and 10, NRS 640E.110 and 640E.250; § 3, NRS 622.530 and 640E.110; § 4, NRS 622.530, 640E.110, 640E.150, 640E.180, 640E.190, 640E.220 and 640E.240; §§ 5 and 12, NRS 640E.110; § 6, NRS 640E.110 and 640E.180; § 7, NRS 640E.110 and 640E.190; § 8, NRS 640E.110, 640E.360 and 640E.370; § 9, NRS 640E.110 and 640E.290; § 11, NRS 640E.110 and 640E.130.

A REGULATION relating to dietetics; establishing requirements to receive equivalent credit from certain training programs towards a license to practice dietetics; eliminating certain fees relating to licenses; revising certain provisions governing the issuance of a provisional license; revising certain provisions governing an application for a temporary license; revising certain procedures governing complaints that a person is engaging in the practice of dietetics without a license; revising certain procedures governing the investigation of complaints against applicants and licensees; updating the names of the national entities for credentialing dietitians and accrediting dietetics education programs; repealing certain requirements relating to an application for a license to conform with existing law; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Health to adopt regulations establishing reasonable standards for licensing in and professional conduct for the practice of dietetics. (NRS 640E.110) In 2021, during the 81st Legislative Session, the provisions of Assembly Bill No. 73 (A.B. 73) were enacted, which replaced existing requirements for an applicant for a license to engage in the practice of dietetics with a requirement that an applicant provide evidence that he or she is a registered dietitian in good standing with the Commission on Dietetic Registration or its successor organization. (NRS 640E.080, 640E.150) **Section 12** of this regulation repeals existing regulations to conform with this change. **Section 5** of this regulation makes a conforming change to eliminate a reference to the repealed section. **Sections 2, 3 and 9-11** of this regulation update the names of the national entities for credentialing dietitians and accrediting dietetics education programs.

Existing law: (1) authorizes an applicant for a license to engage in the practice of dietetics to receive equivalent credit towards the satisfaction of requirements for the issuance of a

license if the person completes a training program in secondary or postsecondary education for occupational, vocational, career, trade or technical education which meets certain requirements; and (2) requires the Board to adopt regulations relating to the procedure for receiving such equivalent credits. (NRS 622.087) **Section 1** of this regulation requires an applicant for a license to engage in the practice of dietetics to submit transcripts or other documentation of the courses completed as part of the training program and a copy of the certificate issued for the completion of the training program in order to receive such equivalent credit.

Existing law requires the Board to adopt regulations to establish certain fees which must be paid by a licensee or an applicant for a license to engage in the practice of dietetics. (NRS 640E.240; NAC 640E.060) A.B. 73 removed a requirement for the Board to establish fees for the late renewal of a license and the issuances of a duplicate license. (Section 5 of Assembly Bill No. 73, chapter 83, Statutes of Nevada 2021, at page 335) **Section 4** of this regulation eliminates the fee for the late renewal of a license and the issuance of a duplicate license to conform with the changes made by A.B. 73.

Existing law and regulations authorize the Board to grant a provisional license to engage in the practice of dietetics, under the supervision of a licensed dietitian, to an applicant who provides evidence that he or she is eligible to take but has not successfully completed the Registration Examination. (NRS 640E.180; NAC 640E.100) **Section 6** of this regulation removes the requirement that the purpose of the provisional license being issued is to allow a person time to complete all licensure requirements during the period of the provisional license, to conform with existing law relating to that examination.

Existing law and regulations authorize the Board to grant a temporary license to engage in the practice of dietetics in this State to a person who holds a corresponding license in another jurisdiction and meets certain requirements. (NRS 640E.190; NAC 640E.110) **Section 7** of this regulation adds a requirement that an application for a temporary license include the applicant's registration number from the Commission.

Existing regulations establish procedures governing complaints that a person is engaging in the practice of dietetics without a license. (NAC 640E.200) **Section 8** of this regulation removes a requirement that the Executive Officer of the Board send a certified letter to a person about whom such a complaint was made directly upon the receipt of such a complaint which: (1) directs the person to immediately cease and desist from the practice of dietetics; and (2) requires the person to submit an application for a license to practice dietetics within 10 days. **Section 8** instead requires the Executive Officer to: (1) first investigate any such complaint before directing the person to cease and desist; and (2) require the person to submit an application for a license. If the Executive Officer determines after an investigation that the person is engaging in the practice of dietetics without a license, the Executive Officer must direct the person to cease and desist from the practice and require the person to submit an application to practice within 10 days.

Existing regulations require that if a person against whom a complaint is filed fails to submit an application or other evidence in a timely fashion to the Executive Officer, the matter must be referred to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution. (NAC 640E.200) **Section 8** instead requires that the matter be referred to the Office of the Attorney General and the district attorney if the person being investigated fails to: (1) submit an application to practice dietetics within 10 days after the date that the Executive Officer notifies the person on which such an application is required; or (2) cooperate fully with the investigation.

Section 8 prohibits a person who is found to be engaging in the practice of dietetics without a license, and who is subsequently required to apply for a license, from engaging in the practice of dietetics until the Board issues a license. **Section 8** prohibits such a person whose application is denied from re-applying for licensure for 2 years after the date on which the application was denied.

Existing regulations require that the Executive Officer forward each complaint against a licensee or an applicant for a license to engage in the practice of dietetics to the Commission or its successor organization for investigation of the complaint. If the Commission or its successor organization refuses to investigate the complaint, the Executive Officer is authorized to conduct an investigation. (NAC 640E.210) To the extent money is available to do so, **section 9** of this regulation authorizes the Executive Officer to first examine a complaint to determine whether good cause exists to conduct an investigation before sending the complaint to the Commission or its successor organization for investigation. If the Executive Officer finds that good cause exists to investigate, to the extent that money is available to do so, the Executive Officer may commence an investigation or, if money is not available to do so, forward the complaint to the Commission or its successor organization. If the Executive Officer conducts an investigation and finds credible evidence to support the complaint, the Executive Officer may forward the complaint, any information collected as part of the investigation and the findings of the investigation to the Commission or its successor organization.

Section 1. Chapter 640E of NAC is hereby amended by adding thereto a new section to read as follows:

A person who wishes to receive equivalent credit pursuant to NRS 622.087 towards the satisfaction of requirements for the issuance of a license pursuant to this chapter and chapter 640E of NRS must submit, as part of the application for the license:

- 1. A transcript or other documentation which shows the courses completed as part of the training program; and*
- 2. A copy of the certificate issued for the completion of the training program.*

Sec. 2. NAC 640E.050 is hereby amended to read as follows:

640E.050 1. All applications submitted pursuant to this chapter and chapter 640E of NRS must be filed with the Executive Officer.

2. In addition to any applicable statutory requirements, an application for a license or provisional license to engage in the practice of dietetics, the renewal of such a license or the reinstatement of a such license must include:

(a) The applicant's full name, including his or her first name, middle name if applicable and last name.

(b) Any other name that has been used by the applicant.

(c) The applicant's date of birth.

(d) The applicant's physical address and the applicant's mailing address if different than the physical address.

(e) A telephone number at which the applicant can be reached.

(f) A method of electronic communication, including, without limitation, an electronic mail address, a telephone number that will accept electronic mail, or any other method by which the Executive Officer may communicate with the applicant other than by telephone or United States mail. The Executive Officer may exempt an applicant from the requirements of this paragraph if the applicant attests that the methods set forth in this paragraph are not feasible for him or her and acknowledges that the United States mail is the only means by which to communicate with the applicant.

(g) The applicant's registration number from the Commission on Dietetic Registration ~~of the Academy of Nutrition and Dietetics~~ or its successor organization.

(h) The status of any disciplinary action against the applicant by the Commission on Dietetic Registration ~~of the Academy of Nutrition and Dietetics~~ or its successor organization.

(i) A statement by the applicant acknowledging the mandatory reporting requirements concerning the abuse, neglect, exploitation, ~~or~~ isolation *or abandonment* of an older person *or*

vulnerable person set forth in NRS 200.5093 ~~[, the abuse, neglect, exploitation or isolation of a vulnerable person set forth in NRS 200.50935]~~ and the abuse or neglect of a child set forth in NRS 432B.220.

(j) Any other information required by the Executive Officer to determine the applicant's identity or eligibility for licensure.

3. An application which is not complete or which does not include payment of all applicable fees must be returned to the applicant not later than 10 working days after receipt of the application.

4. The Executive Officer shall determine what constitutes satisfactory ~~written~~ evidence required by NRS 640E.150 to be included with an application for a license to engage in the practice of dietetics.

5. The Executive Officer shall determine what constitutes satisfactory documentation and other information required by NRS 640E.220 to be included with an application for renewal.

6. An applicant shall notify the Executive Officer of any change to the information contained in his or her application within 15 days after the change. The notification may be made in writing, by electronic mail or by any other method authorized by the Executive Officer. The failure of an applicant to comply with the requirements of this subsection constitutes grounds for the denial of the application or the suspension or revocation of the applicant's license.

Sec. 3. NAC 640E.055 is hereby amended to read as follows:

640E.055 1. The Executive Officer may issue a license by endorsement to an applicant who is registered by the Commission on Dietetic Registration ~~[of the Academy of Nutrition and Dietetics]~~ or its successor organization and holds a corresponding and unrestricted license as a dietitian in the District of Columbia or any state or territory of the United States if the applicant:

(a) Provides to the Executive Officer the name of the state or territory of the United States, or the District of Columbia, in which the applicant holds a corresponding and unrestricted license and the number of that license;

(b) Attests, under penalty of perjury, that he or she meets the requirements of paragraphs (a) to (e), inclusive, of subsection 2 of NRS 622.530;

(c) Complies with the requirements of paragraphs (f) and (g) of subsection 2 of NRS 622.530; and

(d) Submits to the Executive Officer the information required by NRS 640E.200 and NAC 640E.050.

2. For the purposes of paragraph (g) of subsection 2 of NRS 622.530, a corresponding and unrestricted license as a dietitian in the District of Columbia or any state or territory of the United States shall be deemed to be proof that the applicant has previously passed a comparable criminal background check if the applicant was required to pass such a background check, including, without limitation, the submission of fingerprints to the Federal Bureau of Investigation, as a condition for obtaining that license.

Sec. 4. NAC 640E.060 is hereby amended to read as follows:

640E.060 1. The following nonrefundable fees must be paid by a licensee or an applicant for a license to engage in the practice of dietetics, as applicable:

- (a) For the issuance of a license\$100
- (b) For the issuance of a provisional license100
- (c) For the issuance of a temporary license.....25
- (d) For the renewal of a license.....100
- (e) ~~For the late renewal of a license or the issuance of a duplicate license5~~

(f) For the reinstatement of a license	100
(g) (f) For changing the name on a license.....	20

2. The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories must be paid by the applicant.

Sec. 5. NAC 640E.065 is hereby amended to read as follows:

640E.065 The Executive Officer may request any documents from an applicant for a license or the holder of a license that the Executive Officer determines are necessary to carry out the duties prescribed in NAC 640E.050 to ~~640E.130,~~ 640E.120, inclusive.

Sec. 6. NAC 640E.100 is hereby amended to read as follows:

640E.100 1. A provisional license may be issued pursuant to NRS 640E.180 . ~~to allow a person time to complete all licensure requirements during the period of the provisional license.~~

2. The Executive Officer shall not issue more than one provisional license to any person.

3. For the purpose of NRS 640E.180, the Board will interpret the term “under the supervision of a licensed dietitian” as used in subsection 3 of NRS 640E.180 to mean the performance of a task or activity under the direction of a licensed dietitian where the licensed dietitian ensures the accomplishment of the task or activity, including initial direction and periodic inspection of the actual accomplishment of the task or activity.

Sec. 7. NAC 640E.110 is hereby amended to read as follows:

640E.110 1. Any temporary license issued pursuant to NRS 640E.190 must be limited to the providing of medical nutrition therapy in this State.

2. An application for a temporary license must include the following information:

(a) The applicant's name, the jurisdiction in which the applicant holds a corresponding license , ~~and~~ the number of that license ~~;~~ *and the applicant's registration number from the Commission on Dietetic Registration or its successor organization;*

(b) A declaration that the license is in good standing in the jurisdiction in which it was issued;

(c) The name of the entity for which the licensee will be providing services; and

(d) The address at which the licensee will be providing services.

Sec. 8. NAC 640E.200 is hereby amended to read as follows:

640E.200 1. Upon receipt of a complaint that a person is engaging in the practice of dietetics without a license, the Executive Officer shall ~~send a certified letter to the person about whom the complaint was made which;~~ *investigate such a complaint.*

2. A person being investigated pursuant to subsection 1 shall cooperate fully with the Executive Officer in the investigation, including, without limitation, by:

(a) Participating in any requested interviews;

(b) Allowing the onsite inspection of any locations at which the alleged unlicensed practice is occurring; and

(c) Providing any requested documentation, including, without limitation, documentation providing satisfactory evidence that the person is not engaged in the practice of dietetics, if applicable.

3. If the Executive Officer determines the person is engaging in the practice of dietetics without a license, the Executive Officer shall:

(a) ~~Directs~~ *Direct* the person immediately to cease and desist from the practice of dietetics; and

(b) ~~Requires~~ *Notify* the person ~~to~~ *that he or she must* submit to the Executive Officer , within 10 days , an application for a license to engage in the practice of dietetics or satisfactory evidence that the person is not engaged in the practice of dietetics.

4. A person who submits an application pursuant to paragraph (b) of subsection 3 shall not engage in the practice of dietetics until the Board issues a license to the person pursuant to NRS 640E.230.

~~2.~~ *5. If the person fails to submit the application ~~for evidence~~ required pursuant to paragraph (b) of subsection ~~1 timely:~~ 3 within 10 days after the date on which the Executive Officer notifies the person that such an application is required, or if the person fails to cooperate fully with the investigation pursuant to subsection 2:*

(a) The matter must be referred to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution pursuant to NRS 640E.370; and

(b) A civil penalty may be imposed in accordance with the requirements and limitations of NRS 640E.370.

6. If an application submitted pursuant to paragraph (b) of subsection 3 is denied, the applicant shall not be allowed to apply for licensure as a dietitian pursuant to this chapter and chapter 640E of NRS for 2 years after the date on which the application was denied.

Sec. 9. NAC 640E.210 is hereby amended to read as follows:

640E.210 1. The Executive Officer shall receive a complaint against a licensee or an applicant for a license to engage in the practice of dietetics from any person.

2. ~~The~~ *Except as otherwise provided in this subsection, the* Executive Officer shall forward each complaint to the Commission on Dietetic Registration ~~of the Academy of~~

~~Nutrition and Dietetics~~ or its successor organization for investigation of the complaint. ~~If the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization refuses to investigate the complaint,~~ *To the extent that money is available to do so, the Executive Officer may first examine the complaint to determine whether good cause exists to conduct an investigation. If good cause is found, the Executive Officer shall, pursuant to NRS 640E.290:*

(a) Forward the complaint to the Commission on Dietetic Registration or its successor organization for investigation and request a written report of the findings of the investigation; or

(b) To the extent that money is available to do so, commence an investigation. If, after investigation, the Executive Officer finds credible evidence to support the complaint, the Executive Officer may forward to the Commission on Dietetic Registration or its successor organization:

(1) The complaint;

(2) Any information collected as part of the investigation; and

(3) The findings of the investigation.

3. If, after reviewing the findings of an investigation conducted pursuant to subsection 2, the Executive Officer finds grounds for taking disciplinary action, the Executive Officer shall, after notice and hearing, issue a decision in the matter.

4. The failure of a licensee to cooperate with an investigation conducted pursuant to subsection 2 constitutes grounds for disciplinary action against the licensee.

Sec. 10. NAC 640E.260 is hereby amended to read as follows:

640E.260 1. The Executive Officer shall, in each order of revocation, prescribe a period during which a licensee may not apply for the reinstatement of his or her license. The period must not be less than 1 year or more than 10 years.

2. An applicant for the reinstatement of a license must:

- (a) Submit an application for reinstatement on a form prescribed by the Executive Officer;
- (b) Satisfy all the requirements for renewal of a license;
- (c) Attest that he or she has not, during the period of revocation of his or her license, violated any state or federal statute or regulation governing the practice of dietetics; and
- (d) Attest that there is no disciplinary action pending against the licensee before the Commission on Dietetic Registration ~~[of the Academy of Nutrition and Dietetics]~~ or its successor organization.

3. The Executive Officer may designate requirements in addition to the requirements of subsection 2 that must be satisfied before an applicant will be considered for reinstatement of his or her license, including, without limitation, completion of additional courses or programs if the applicant's license has been revoked for more than 2 years.

4. The Executive Officer:

- (a) Shall review an application for the reinstatement of a license to determine whether the application satisfies the requirements of this section; and
- (b) May deny an application for the reinstatement of a license which the Executive Officer determines does not satisfy those requirements.

5. In considering an application for the reinstatement of a license which has been revoked, the Executive Officer shall evaluate:

- (a) The severity of the act which resulted in the revocation of the license;

- (b) The conduct of the applicant after the revocation of the license;
- (c) The lapse of time since the revocation of the license;
- (d) The degree of compliance by the applicant with any conditions the Executive Officer specified as a prerequisite for the reinstatement of the license;
- (e) The degree of rehabilitation attained by the applicant as evidenced by statements to the Executive Officer from qualified people who have professional knowledge of the applicant; and
- (f) The truthfulness of the attestations made by the applicant pursuant to subsection 2.

6. After completing his or her evaluation, the Executive Officer shall deny or grant the reinstatement of the license.

7. If the Executive Officer takes any disciplinary action against a licensee after the reinstatement of his or her license, the first such disciplinary action shall be deemed to be the licensee's first offense.

Sec. 11. NAC 640E.300 is hereby amended to read as follows:

640E.300 1. The Dietitian Advisory Group is hereby established pursuant to NRS 640E.130.

2. The Advisory Group consists of the following five members appointed by the Board:

- (a) Four licensed dietitians; and
- (b) One person who represents the general public.

3. The term of each member of the Advisory Group is 4 years. A member may be reappointed.

4. If a vacancy occurs in the membership of the Advisory Group, the Board will appoint a qualified person to fill the vacancy.

5. The Advisory Group shall meet at least once per year or as otherwise called by the Chair or at the direction of the Board or the Executive Officer.

6. To the extent practicable and allowed by law, the Advisory Group shall conduct its meetings by telephone, videoconference or other electronic means.

7. At its first meeting each year, the members of the Advisory Group shall select a Chair from among its members. The Chair serves as the liaison to the Board and the Executive Officer.

8. The Executive Officer shall provide administrative assistance to the Advisory Group.

9. A majority of the members of the Advisory Group constitutes a quorum for the transaction of business. A member shall be deemed present at a meeting if the member is available to participate at the meeting by telephone, videoconference or other electronic means.

10. The Advisory Group may:

(a) Facilitate the development of materials which may be used to educate the public concerning the practice of dietetics;

(b) Facilitate the exchange of information between dietitians, the Commission on Dietetic Registration ~~[of the Academy of Nutrition and Dietetics]~~ or its successor organization, the Board and the Executive Officer; and

(c) To provide recommendations to the Board and the Executive Officer concerning regulations or practices that affect licensees, review disciplinary actions, appeals, denials or revocations of licenses and terms of the suspension or reinstatement of licenses.

11. The Advisory Group shall advise the Board and the Executive Officer on issues relating to dietetics if requested.

Sec. 12. NAC 640E.120 and 640E.130 are hereby repealed.

TEXT OF REPEALED SECTIONS

640E.120 Waiver of examination requirement. (NRS 640E.110)

1. The Executive Officer may waive the requirement of an examination set forth in paragraph (e) of subsection 1 of NRS 640E.150 if the Executive Officer is satisfied that the experience and qualifications of the applicant for a license to engage in the practice of dietetics justify granting the license without examination.

2. The Executive Officer may seek guidance from the Dietitian Advisory Group established pursuant to NAC 640E.300 concerning any request for such a waiver.

640E.130 Registration with certain organizations deemed to satisfy certain requirements for licensure. (NRS 640E.110) A dietitian who is registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization shall be deemed to have satisfied the requirements for licensure set forth in paragraphs (c), (d) and (e) of subsection 1 of NRS 640E.150.