

CHAPTER Diet 400 CONTINUED STATUS

PART Diet DEFINITIONS

Readopt Diet 401.01, effective 10/9/14 (Document #10691), to read as follows:

Diet 401.01 "Activity" means a program, a presentation, a course of study or independent self-study, an examination, reading or writing of peer-reviewed professional publications relating to the field of dietetics, a seminar, or a meeting, that is attended, taken, undertaken or presented by a person in fulfillment of the continuing professional education credit requirement set forth in these rules.

Repeal Diet 401.02, effective 10/9/14 (Document #10691), as follows:

~~[Diet 401.02 "Commission on Dietetic Registration (CDR)" means "Commission on Dietetic Registration" as defined in RSA 326-H:3, II, namely, "the national autonomous credentialing body:"]~~

Readopt with amendment Diet 401.03 through Diet 401.06, effective 10/9/14 (Document #10691), as Diet 401.02 through Diet 401.05, to read as follows:

Diet 401.0~~3~~² "Peer-reviewed professional publication" means a book, magazine, journal or other publication, the primary purpose of which is to report original research or review articles in the field of dietetics and which includes citations to sources, the name of the author, a statement that the publication has been reviewed by an editorial board prior to publication, the names of the individuals on the editorial board and the name of the professional society or organization issuing the publication.

Diet 401.0~~4~~³ "Quarterly course" means a college or university course, the duration of which is one fourth of the institution's academic year.

Diet 401.0~~5~~⁴ "Semester-long course" means a college or university course, the duration of which is one half of the institution's academic year.

Diet 401.0~~6~~⁵ "Trimester course" means a college or university course, the duration of which is one third of the institution's academic year.

PART Diet 402 RENEWAL OF LICENSES

Readopt with amendment Diet 402.01, effective 4/25/2023 (Document #13570), to read as follows:

Diet 402.01 Procedure for Renewal of Licenses.

(a) Any licensee wishing to renew a license shall ~~[submit the following to the board no later than the date of the expiration of the license and no earlier than 60 days prior to the date of license expiration:]~~ **do so in accordance with Plc 308.09 through Plc 308.12.**

(b) The licensee wishing to renew their license shall submit to the OPLC:

(1) The ~~[renewal application form]~~ **“Universal Application for License Renewal”** specified in Diet 402.03(a); ~~[and]~~

(2) The “Dietitian Addendum to the Universal Application for License Renewal” specified in Diet 402(b); and

~~[(2)]~~**(3) The renewal fee [specified by Diet 304.04] required by Plc 1001.08 and Plc 1002.12.**

~~[(b)]~~**(c)** A person who was previously licensed by the ~~[board]~~ **OPLC** but whose license expired pursuant to a settlement or agreement shall apply to have that license reinstated in accordance with the terms of the settlement or agreement and meet any additional requirements required by Diet 403.

~~[(e)]~~**(d)** A person who was previously licensed by the ~~[board]~~ **OPLC** but whose license expired while under suspension shall apply to have that license reinstated in accordance with Diet 403.03 and meet any additional requirements required by Diet 403.

~~[(d)]~~**(e)** A person who was previously licensed by the ~~[board]~~ **OPLC** but whose license has been revoked shall apply to have that license reinstated in accordance with the terms of the revocation in accordance with Diet 403.04 and meet any additional requirements required by Diet 403.

~~[(e)]~~**(f)** A licensee may apply for renewal of a license during a period of suspension, but any renewed license shall be issued subject to completion of the term of suspension.

Repeal Diet 402.02, effective 10/9/14 (Document #10691), as follows:

~~[Diet 402.02 Application for License Renewal]~~

~~— (a) An application for license renewal shall:~~

~~(1) Be completed using a keyboard or legibly printed in ink;~~

~~(2) Be signed by the applicant; and~~

~~(3) Have all sections completed or designated as not applicable to the applicant.~~

~~— (b) If, for the purpose of determining the applicant's qualifications for renewal, the board requires any information or documents additional to the materials submitted in compliance with Diet 402.01(b) it shall:~~

~~(1) So notify the licensee in writing within 60 days of receipt of the renewal application and;~~

~~(2) Specify the information or documents that the licensee is required to submit.~~

~~— (c) The application for renewal shall be denied if the licensee does not submit the additional information or documents within 60 days of the board's request under (b) above.~~

~~— (d) An application for renewal shall be considered on file with the board on the first date that the board's office has received:~~

~~(1) A fully completed application form;~~

~~(2) Proof that the applicant's check has been deposited and cleared; and~~

~~(3) All required supporting documentation, including that required under Diet 405.02, if any.~~

~~— (e) Within 60 days of the date that the application is on file with the board, the board shall grant the application for renewal or deny the license in accordance with Diet 402.04.~~

~~— (f) If the application is denied, the applicant shall be provided an opportunity for a hearing to challenge the denial. Any request for hearing shall be submitted to the board within 30 days of the date of the board's denial.]~~

Readopt with amendment and renumber Diet 402.03 and Diet 402.04, effective 10/9/14 (Document #10691), as Diet 402.02 and Diet 402.03 to read as follows:

Diet 402.0[3]2 Renewal Application Form. [On a renewal application form provided by the board, an applicant for renewal shall supply the following information:]

(a) Each applicant for a license to practice as a dietitian in the state of New Hampshire shall complete and submit the “Universal Application for License Renewal” required by Plc 308.5(b)(1).

~~[(a) Full name;~~

~~— (b) The street address of the applicant's home;~~

~~— (c) Mailing address, if different from the street address;~~

~~— (d) Business address;~~

~~— (e) Email address;~~

~~— (f) Home telephone number;~~

~~— (g) Business telephone number;~~

~~— (h) Current New Hampshire dietitian license number;~~

~~— (i) A list of the activities that the applicant has completed in fulfillment of the continuing professional education requirements of Diet 404.01, including on that list:~~

~~(1) The name or title of each activity attended, taken, undertaken or presented in fulfillment of the 20 hour continuing professional education credit requirement;~~

~~(2) Whether the activity has been approved for credit by the CDR;~~

~~(3) The type of activity attended, taken, undertaken or presented;~~

~~(4) A statement of the number of credit hours requested for each activity;~~

~~(5) The date of the activity; and~~

~~(6) The grade, if any, received for each activity.~~

~~— (j) Whether or not the applicant has ever had an application for a license, certificate or other approval to practice as a dietitian in a jurisdiction other than the state of New Hampshire denied as the result of a failure to be of good character or on any basis that would constitute cause for denial of a license application under RSA 326-H or the rules of the board;~~

~~— (k) Whether or not the applicant has ever had any certification, registration or approval to practice as a dietitian revoked in any jurisdiction other than the state of New Hampshire as the result of a failure to be of good character or on any basis that would constitute cause for revocation of a license under RSA 326-H or the rules of the board, unless such revocation was reversed or overturned on appeal or unless such license was reinstated;~~

~~— (l) Whether or not the applicant has ever had been convicted of, or pleaded guilty to, a class A felony that has not been annulled or which has not been reversed or overturned on appeal;~~

~~— (m) Whether or not the applicant has, within the preceding 10 years, been found guilty of malpractice or gross misconduct in practice as a dietitian in this or any other jurisdiction;~~

~~— (n) Whether or not the applicant has ever been found to have obtained, by fraudulent or deceitful means, a license, certification or other approval to practice as a dietitian in a jurisdiction other than the state of New Hampshire;~~

~~— (o) Whether or not the applicant has ever committed an act that either caused harm to, or placed at risk, the health, safety or welfare of a person or persons under the applicant's care in the applicant's capacity as a dietitian;~~

~~— (p) Whether or not the applicant is aware of any basis for a conclusion by the board that he or she is not of good character or should not otherwise be granted a license to practice as a dietitian in the state of New Hampshire and, if so, an explanation of those reasons;~~

~~— (q) The applicant's signature on a statement preprinted on the form certifying that:~~

~~(1) The information provided on the renewal application form is true, accurate and complete; and~~

~~(2) The applicant acknowledges that, pursuant to RSA 641:3, knowingly making a false representation on the renewal application form is punishable as a misdemeanor; and~~

~~— (r) The date of the signature described in (q) above.]~~

(b) In addition to the application required by (a), above, the applicant for license renewal shall provide on the "Dietitian Addendum to the Universal Application for License Renewal" yes or no to the question "Have you completed 20 hours of continuing education within the immediately preceding 2 years as required by Diet 405.

~~[(1) A list of the activities that the applicant has completed in fulfillment of the continuing professional education requirements of Diet 404.01, including on that list:~~

- a. ~~The name or title of each activity attended, taken, undertaken or presented in fulfillment of the 20 hour continuing professional education credit requirement;~~
- b. ~~Whether the activity has been approved for credit by the CDR;~~
- c. ~~The type of activity attended, taken, undertaken or presented;~~
- d. ~~A statement of the number of credit hours requested for each activity;~~
- e. ~~The date of the activity; and~~
- f. ~~The grade, if any, received for each activity.]~~

Diet 402.0[4]3 Denial of Renewal.

(a) License renewal shall be denied if [the board finds, by a preponderance of evidence,] **the OPLC finds that** the applicant has:

- (1) Failed to file a renewal application form and all required supporting documentation prior to the date of expiration of the license;
- (2) Failed to submit the renewal fee specified by [~~Diet 304.01~~] **Plc 1001.08 and Plc 1002.12;**
- (3) Failed to complete 20 credit hours of continuing professional education in the 24 months prior to the expiration of any license or renewed license;
- [~~(4) Previously had his or her license revoked and has not had the license reinstated pursuant to Diet 403.04;~~]
- [~~(5) Failed to meet the qualification criteria of Diet 303.02 (a) through (f);~~]
- [~~(6)~~**(4)** Answered “yes” to the question on the renewal application form described at [~~Diet 402.03 (p)~~] **Plc 308.06(e);** or
- [~~(7)~~**(5)** Failed to fulfill any other condition of licensure, including the terms of any settlement or agreement with the board.

PART Diet 403 REINSTATEMENT OF LICENSES

Readopt with amendment Diet 403.01 and Diet 403.02, effective 4/25/23 (Document #13570), to read as follows:

Diet 403.01 Licenses Subject to Reinstatement. Licenses subject to reinstatement by the [board] **OPLC** under this section shall be [~~licenses lapsed pursuant to Diet 302.01(h)~~] **those licenses lapsed for no more than 1 year.**

Diet 403.02 [~~Board~~] Procedures for Processing Reinstatement Applications. **Applications for license reinstatement shall be processed in accordance with Plc 309.**

~~[(a) If the board, after receiving and reviewing the reinstatement application, requires further information or documents to determine the applicant's qualification for reinstatement of licensure, the board shall:~~

- ~~(1) So notify the applicant in writing within 30 days; and~~
- ~~(2) Specify the information or documents it requires.~~

~~— (b) A reinstatement application shall be considered complete on the first date that the board has received the completed reinstatement application form, any supporting materials which are required, and any additional information or documents which it may have requested.~~

~~— (c) The board shall issue written approval or denial of an application for reinstatement of licensure within 60 days of the date that the application is completed.~~

~~— (d) Any applicant wishing to challenge the board's denial of an application for licensure reinstatement shall:~~

- ~~(1) Make a written request for a hearing of the applicant's challenge; and~~
- ~~(2) Submit this request to the board:~~

~~a. Within 60 days of the board's notification of the denial; or~~

~~b. If the applicant is on active military duty outside the United States, within 60 days of the applicant's return to the United States or release from duty, whichever occurs later; and~~

~~c. The written statement required by Diet 403.06(b).]~~

Repeal Diet 403.03, effective 4/25/23 (Document #13570), as follows:

~~[Diet 403.03 Reinstatement of Licenses Lapsed For No More Than 90 Days. The board shall reinstate a license lapsed for no more than 90 days if the applicant for reinstatement submits to the board:~~

~~— (a) Evidence of good moral character as shown by:~~

- ~~(1) The answers to the "yes-no" questions on the reinstatement application form;~~
- ~~(2) Any detailed reports of the relevant circumstances related to answers to those questions as described in Diet 403.06(a); and~~
- ~~(3) The written statement required by Diet 403.06(b);~~

~~— (b) A completed, dated, and signed reinstatement application form as further described in Diet 403.05;~~

~~— (c) The reinstatement fee set forth in Diet 304.01;~~

~~— (d) The statement required by Diet 403.06(b); and~~

~~— (f) Evidence of having, within the 24 months just preceding their reinstatement applications submission, completed 20 credit hours of continuing professional education as described in Diet 404.]~~

Readopt with amendment and renumber Diet 403.04 through Diet 403.06, effective 4/25/23 (Document #13570), as Diet 403.03 through Diet 403.05 to read as follows:

Diet 403.0[4]3 Eligibility Requirements for Reinstatement of Licenses Lapsed for [More than 90 days] **No More Than One Year**. The [board] **OPLC** shall reinstate licenses lapsed for [more than 90 days] **no more than one year** if the affected individuals:

(a) Are of good professional character, as evidenced by:

- (1) The answers to the "yes-no" questions on the reinstatement application form; **and**
- (2) Any detailed reports of the relevant circumstances related to answers to those questions as described in Diet 403.06(a); ~~and~~
- ~~(3)~~ The [~~written statement required by~~] **resume described in** Diet 403.06(b);

(b) Have, within the 24 months just preceding their reinstatement applications submission, completed 20 credit hours of continuing professional education as described in Diet 404; and

(c) Have submitted of the materials described in Diet 403.06.]

Diet 403.0[5]4 Reinstatement Application Forms. **The reinstatement application forms shall be:**

(a) The “Universal Application for License Renewal” described in Plc 308.06; and

(b) The “Dietitians Reinstatement Addendum to the Universal Application for License Renewal” requiring a yes or no answer to the question “Have you practiced as a dietitian in New Hampshire since the date your license lapsed?”;

~~[(a) The reinstatement application form shall:~~

- ~~(1) Be the “Application for Reinstatement of Licensure” form as revised 12/2022 supplied by the board; and~~
- ~~(2) Contain the following preprinted statement:~~

~~"I acknowledge that knowingly making a false statement on this application form is a misdemeanor under RSA 641:2, I. I certify that the information I have provided on all parts of the application form and in the documents that I have personally submitted to support my application is complete and accurate to the best of my knowledge and belief. I also certify that I have read the statute and the rules of the Board and promise that, if I am licensed, I will abide by them."~~

~~— (b) The effect of the reinstatement applicant’s signature on the application form shall be:~~

~~(1) The applicant's acknowledgement that knowingly making a false statement on the application form is a misdemeanor under RSA 641:2, I;~~

~~(2) The applicant's certification that:~~

~~a. The information provided on all of the parts of the application form and in the documents personally submitted to support the application is complete and accurate to the best of the applicant's knowledge and belief; and~~

~~b. The applicant has read the statutes and administrative rules of the board; and~~

~~(3) The applicant's promise to abide by the statutes and administrative rules of the board.]~~

Diet 403.0[6]5 Supporting Materials. The materials supporting the reinstatement application shall be as described below:

(a) On a separate sheet, a detailed report of the relevant circumstances if any of the answers to the "yes-no" questions on the application form are in the affirmative **and relevant supporting documents**;

~~[(b) On a separate sheet, a dated, signed, and notarized, statement that the reinstatement applicant has not practiced as a dietitian in New Hampshire since the date the license lapsed;]~~

~~[(c)](b) A resume containing a chronologically organized account of the applicant's paid or volunteer work experience as a dietitian for the past 10 years, including:~~

~~(1) Each separate experience in paid or volunteer work:~~

~~(2) The period of each separate experience described by the month and year it began and month and year it ended; and~~

~~(3) The physical address of each experience;~~

~~[(d)](c) Unless the information is available only on a website, an official letter of verification sent directly to the [board] **OPLC** from every jurisdiction which has issued a license or other authorization to practice in any health care field since the date that the license lapsed:~~

~~(1) Stating that such license or other authorization is or was, during its period of validity, in good standing, and~~

~~(2) Stating whether any disciplinary action was taken against the license or other authorization to practice; and~~

~~[(e)](d) Evidence of completion of continuing education described in Diet 406.01 as required by Diet 404;~~

~~[(f)](e) A certification verifying **Certified Dietitian Registration (CDR)** registration directly from the issuing body.~~

Adopt Diet 403.06 and Diet 403.07 to read as follows:

Diet 403.06 Activation of a License That Lapsed for More Than One Year. A licensee who wishes to reactivate a license lapsed for more than one year shall apply for an initial license complying with Diet 302 and provide documentation of completion of 20 hours of continuing education in accordance with Diet 405 within the immediately preceding 24 months.

Diet 403.07 Reinstatement of a Suspended License. A licensee who wishes to reinstate a suspended license shall do so in accordance with Plc 312.04.

Change the Chapter heading for Diet 404 to read as follows:

PART Diet 404 [~~REVOCATION, SUSPENSION AND OTHER SANCTIONS~~] **DISCIPLINARY MATTERS**

Repeal Diet 404.01 through Diet 404.05 as follows:

~~[Diet 404.01 License Revocation. The board shall revoke a license if:~~

~~— (a) The revocation was included as part of a settlement or agreement with the licensee; or~~

~~— (b) The board finds that it is more likely than not that the licensee has:~~

~~(1) Committed one or more acts that caused harm to the health, safety, or welfare of a person or persons under the dietitian's care;~~

~~(2) Made false, fraudulent, or deceitful statements to the board regarding his or her credentials when applying for a license or a license renewal, or in any other statement or document filed with the board;~~

~~(3) Assisted another individual in obtaining a license by false, fraudulent, or deceitful means;~~

~~(4) Sold, fraudulently obtained, or furnished any license established under RSA 326 H;~~

~~(5) Been convicted of a class A felony;~~

~~(6) Failed to comply with an order or request of the board;~~

~~(7) Had his or her license suspended by the board on more than one occasion in the past;~~

~~(8) Violated the standard of conduct established by Diet 501.03(f);~~

~~(9) Violated the standard of conduct established by Diet 501.03(g)(1) by failing to report a violation for which license revocation may be imposed under these rules;~~

~~(10) Violated the standard of conduct established by Diet 501.03(g)(2);~~

~~(11) Failed to meet the additional qualifications set forth in Diet 303.02 (a) through (f);~~

~~(12) Become aware of any facts or circumstances which would result in a “yes” answer to the question on the initial application form set forth at Diet 302.02 (p) or on the renewal application set forth at Diet 402.03 (p); or~~

~~(13) Failed to adhere to the continuing professional education requirements of these rules.~~

~~— Diet 404.02 License Suspension.~~

~~— (a) The board shall suspend a license if:~~

~~(1) The suspension was included as part of a settlement or agreement with the licensee; or~~

~~(2) The board finds that it is more likely than not that the licensee has:~~

~~a. Engaged in action requiring immediate temporary suspension under Diet 207.03;~~

~~b. Engaged in malpractice or gross misconduct in the performance of his or her duties as a dietitian;~~

~~c. Failed to notify the board of the suspension, probation or revocation of any past or present license, certification or registration required to practice as a dietitian in this or any other jurisdiction;~~

~~d. Committed one or more acts that has placed the health, safety or welfare of a person or persons under the dietitian's care at risk;~~

~~e. Intentionally submitted untruthful or incorrect information regarding a matter other than his or her credentials in any application, statement or document filed with the board;~~

~~f. Violated the ethical obligations set forth in Diet 501.02(b); or~~

~~g. Violated the standards of conduct established by:~~

~~1. Diet 501.03(b)(1);~~

~~2. Diet 501.03(b)(2);~~

~~3. Diet 501.03(b)(4);~~

~~4. Diet 501.03(b)(6);~~

~~5. Diet 501.03(b)(7);~~

~~6. Diet 501.03(b)(8);~~

~~7. Diet 501.03(c), if the licensee had a pecuniary interest in the matter or received a pecuniary gain in exchange for the statement;~~

~~8. Diet 501.03(d);~~

~~9. Diet 501.03(e); or~~

~~h. Violated the standard of conduct established by Diet 501.03(g)(1) by failing to report a violation for which license suspension may be imposed under these rules.~~

~~— (b) The period of suspension imposed under (a) above shall be:~~

~~(1) For suspensions under subparagraph (a)(1) above, the period agreed to;~~

~~(2) For suspensions under subparagraph (a)(2)a. above, 10 working days from the date of the order of immediate temporary suspension; and~~

~~(3) For suspensions under subparagraph (a)(2)b. through h. above, a period of 60 days for each violation.~~

~~— Diet 404.03 Reinstatement of License Following Suspension.~~

~~— (a) Any person whose license has been suspended by the board may apply to the board, in writing, for a hearing on reinstatement.~~

~~— (b) The board shall reinstate a license that has been suspended under Diet 403.02(a)(1) in accordance with the terms of the settlement or agreement.~~

~~— (c) The board shall reinstate a license that has been suspended under Diet 403.02(a)(2)a. in accordance with Diet 207.03.~~

~~— (d) The board shall reinstate a license that been suspended under Diet 403.02(a)(2)b. through h. only in the following circumstances:~~

~~(1) If the period of validity of the license has not expired, when either:~~

~~a. The period of suspension has expired; or~~

~~b. The person has made a written request for a hearing on reinstatement and, after a hearing, has established that it is more likely than not that:~~

~~1. Reinstatement would assist the person in conforming his or her future conduct to the requirements of RSA 326-H, Diet 500 or other applicable law;~~

~~2. The purposes served by the disciplinary action have been fully fulfilled;~~

~~3. Reinstatement would pose no risk of potential harm to the health, safety or welfare of persons under the person's care, or to any other person; and~~

~~4. Reinstatement would not suggest to either members of the profession or to members of the public that licensees do not possess the obligation under Diet 501.03(b)(5) to conduct themselves honorably, responsibly, ethically and lawfully so as to enhance the honor, reputation and usefulness of the profession; and~~

~~(2) If the period of validity of the license has expired, when the person has:~~

~~a. Made a written request for a hearing on reinstatement;~~

- ~~b. Filed an application and supporting documents in conformity with Diet 302;~~
- ~~c. Submitted the license fee required by Diet 304.01;~~
- ~~d. Completed the period of suspension; and~~
- ~~e. Submitted written documentation in conformity with Diet 405.01(b) confirming the completion of 20 hours of continuing professional education credits in the 24 months before the request for a hearing on reinstatement.~~

~~—— Diet 404.04 Reinstatement of License Following Revocation.~~

~~—— (a) Any person whose license has been revoked by the board may apply to the board, in writing, for a hearing on reinstatement.~~

~~—— (b) The board shall reinstate the license of a person whose license has been revoked under Diet 403.01(a) only in accordance with the terms of the settlement or agreement.~~

~~—— (c) The board shall reinstate the license of a person whose license has been revoked under Diet 403.01(b) only in the following circumstances:~~

~~(1) If the period of validity of the license would not have expired had the license not been revoked, when:~~

- ~~a. The person has made a written request for a hearing on reinstatement; and~~
- ~~b. After hearing, the board finds that it is more likely than not that the criteria listed in Diet 403.03(d)(1)b.1. through 4. have been met; and~~

~~(2) If the period of validity of the license would have expired had the license not been revoked, when:~~

- ~~a. The person has made a written request for a hearing on reinstatement;~~
- ~~b. The person has filed an application and supporting documents in conformity with Diet 302;~~
- ~~c. The person has submitted the license fee required by Diet 304.01;~~
- ~~d. The person submits written documentation in conformity with Diet 405.01(b) above confirming the completion of 20 hours of continuing professional education credits in the 24 months before the request for a hearing on reinstatement; and~~
- ~~e. After hearing, the board finds that it is more likely than not that the criteria listed in Diet 403.03(d)(1) b.1. through 4. have been met.~~

~~—— Diet 404.05 Sanctions In Lieu of Suspension.~~

~~—— (a) Sanctions in lieu of suspension shall be allowed on the terms set forth in Diet 403.05 (b) through (d) below in all cases other than the following:~~

- ~~(1) Matters for which revocation is prescribed as the penalty under RSA 326 H: 16 or these rules;~~
 - ~~(2) Matters for which suspension is prescribed as the penalty under RSA 326 H:16, I. through III;~~
 - ~~(3) Matters in which suspension is included as part of a settlement or agreement with the licensee under Diet 403.02 (a) (1);~~
 - ~~(4) Matters in which immediate temporary suspension is required under Diet 403.02 (a) (2) a. and Diet 207.03; or~~
 - ~~(5) Matters for which suspension is prescribed as the penalty under Diet 403.02 (a) (2) b. through d.~~
- ~~—— (b) Sanctions in lieu of suspension shall consist of one or more of the following items noted in RSA 326 H:10,I(i):~~
- ~~(1) A fine in the amount of \$150.00 for each violation of RSA 326 H and each ethical standard set forth in Diet 500;~~
 - ~~(2) Community service, consisting of volunteer work for a governmental unit or a nonprofit organization, which work will reduce the monetary expenditures that would otherwise be incurred by that entity or will otherwise assist the entity in the efficient performance of its duties;~~
 - ~~(3) Oral reprimand, consisting of an oral communication, on the record, from a member of the board to the person charged with a violation explaining the nature of the infraction and the board's findings;~~
 - ~~(4) Written reprimand, consisting of a written communication from a member of the board to the person charged with a violation explaining the nature of the infraction and the board's findings;~~
 - ~~(5) Additional education, consisting of a course or courses above and beyond the normal continuing educational requirements established by these rules, which shall:
 - ~~a. Be paid for at the expense of the licensee charged;~~
 - ~~b. Relate to the subject matter of the infraction charged; and~~
 - ~~c. Be of a nature that would, under normal circumstances, qualify for professional education credit under these rules;~~~~
 - ~~(6) Additional training, consisting of reading, the viewing of or listening to recordings, or live instruction which:
 - ~~a. Is related to the subject matter of the infraction charged;~~~~

~~b. Shall be above and beyond the normal continuing educational requirements established by these rules; and~~

~~c. Shall be paid for at the expense of the licensee charged, regardless of whether or not such training would normally qualify for professional education credit under these rules;~~

~~(7) Supervised training, consisting of in-person instruction by a licensed New Hampshire dietitian which:~~

~~a. Is related to the subject matter of the infraction charged;~~

~~b. Shall be above and beyond the normal continuing educational requirements established by these rules; and~~

~~c. Shall be paid for at the expense of the licensee charged, regardless of whether or not such training would normally qualify for professional education credit under these rules;~~
~~or~~

~~(8) Counseling, which shall consist of one or more of the following, at the expense of the licensee charged:~~

~~a. Consultation and treatment with a mental health professional regarding the licensee's reason for engaging in the infraction; or~~

~~b. Consultation with an alcohol and other drug abuse professional licensed under RSA 330-C.~~

~~— (c) In any case other than those noted in (a) above in which suspension is listed as a sanction under these rules, a party may request sanctions in lieu of suspension.~~

~~— (d) The board shall impose sanctions in lieu of suspension:~~

~~(1) When specific sanctions in lieu of suspension are requested by the licensee charged and:~~

~~a. The licensee charged describes the sanctions suggested, including, if applicable, the amount of any fine, the specific training or additional education to be taken, the nature of the community service offered and the specific form and place of counseling suggested, further including in such description the names of each person that will provide the activity suggested; and~~

~~b. The board determines that imposition of the specific sanctions in lieu of suspension suggested by the licensee charged will:~~

~~1. Assist the person in conforming his or her future conduct to the requirements of RSA 326-H, Diet 500 or other applicable law;~~

~~2. As effectively serve the purposes of disciplinary action as would the imposition of a suspension;~~

~~3. Pose no risk of potential harm to the health, safety or welfare of persons under the person's care, or to any other person; and~~

~~4. Not suggest to either members of the profession or to members of the public that licensees do not possess the obligation under Diet 501.03(b)(5) to conduct themselves honorably, responsibly, ethically and lawfully so as to enhance the honor, reputation and usefulness of the profession; and~~

~~(2) When the board determines, with or without request of the charged party, that the imposition of specifically identified sanctions in lieu of suspension would more effectively achieve the purposes set forth in (d) (1) above than would the imposition of suspension.]~~

Adopt Diet 404.01 through Diet 404.06 as follows:

Diet 404.01 Definitions.

(a) "Sexual misconduct" means engaging in one or more of the following activities with respect to a current client who is not a spouse:

- (1) Engaging in sexual relations, whether consensual or non-consensual;
- (2) Making verbal or physical sexual advances;
- (3) Using sexual language or phrases;
- (4) Requesting sexual favors; or
- (5) Engaging in physical contact of a sexual nature.

Diet 404.02 Misconduct. Misconduct shall be:

(a) Knowingly or negligently providing inaccurate material information to the board or OPLC or failing to provide complete and truthful material information upon inquiry by the board or OPLC, including during the process of applying for a license, license renewal, or license reinstatement;

- (b) Conviction of a felony or any offense involving moral turpitude;
- (c) Failure to report to the board a conviction described in (b) above within 30 days;
- (d) Violation of Diet 500;
- (e) Engaging in sexual misconduct;

(f) Failure to provide care with reasonable skill, safety, and regard for client rights, whether or not the client has suffered injury;

(g) Disciplinary action by a regulatory authority in another domestic or foreign jurisdiction;

(h) Failure to take appropriate action to safeguard individuals from incompetent counselors and health care practitioners, whether or not they are licensed in this state;

(i) Unfitness or incompetency by reason of negligent or willful acts performed in a manner inconsistent with the health or safety of persons under their care

(j) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the licensee unfit to practice;

(k) Mental or physical incompetency to practice under this chapter;

(l) Practice without a currently valid license; and

(m) Violation of:

(1) Any provision of RSA 326-H;

(2) Any provision of RSA 310;

(3) Any rule adopted by the board; or

(4) Any state or federal law reasonably related to the licensee's authority to practice or the licensee's ability to practice safely.

Diet 404.03 Sanctions.

(a) Disciplinary measures available to the board to sanction misconduct shall be:

(1) Reprimand;

(2) Suspension of a license for a period of time as determined reasonable by the board;

(3) Revocation of license;

(4) Placing the licensee on probationary status and submit one or more of the following:

a. Regular reporting to the board concerning the matters which are the basis of the probation;

b. Continuing professional education until a satisfactory degree of skill has been achieved in those areas which are the basis of probation;

c. Submitting to the care, counseling, or treatment of a physician, counseling service, health care facility, professional assistance program, or any comparable person or facility approved by the board; and

d. Practicing under the direct supervision of another licensee for a period of time specified by the board;

(5) The imposition of an administrative fine not to exceed \$3,000 per offense, \$300.00 for each day the violation continues, whichever is greater.

(b) In the case of sanctions for discipline in another jurisdiction, the decision of the other jurisdiction's disciplinary authority may not be collaterally attacked and the board may impose any of the

sanctions set forth in this chapter, but shall provide notice and an opportunity to be heard prior to imposing any sanctions.

(c) In cases involving imminent danger to public health, safety, or welfare, a board may order immediate suspension of a license pending an adjudicative proceeding before the board to determine if the suspension should remain in place pending final adjudication of the matter, and which shall commence not later than 10 working days after the date of the order suspending the license unless the licensee or certified individual agrees in writing to a longer period. In such cases of immediate danger, the board shall comply with RSA 541-A:30..

(d) For any order issued in resolution of a disciplinary proceeding by the board, where the board has found misconduct sufficient to support disciplinary action, the board may require the licensee who is the subject of such finding to pay the OPLC the reasonable cost of investigation and prosecution of the proceeding, but which shall not exceed \$10,000. This sum may be imposed in addition to any otherwise authorized administrative fines levied by the board as part of the penalty. The investigative and prosecution costs shall be assessed by the OPLC.

Diet 404.04 Procedure for Imposition of Sanctions. Other than immediate license suspension the board shall impose disciplinary sanctions only:

(a) After prior notice to the licensee in accordance with Plc 200 and the opportunity for the licensee to be heard; or

(b) By agreement in a settlement between the board and the licensee made pursuant to Plc 200.

Diet 404.05 Determinations Required for Sanctions.

(a) In determining which sanction or combination of sanctions to impose, the board shall:

(1) First determine the nature of the act or omission constituting the misconduct done by the licensee;

(2) Next determine whether the misconduct has one or more of the characteristics listed in (b) below; and

(3) Finally, apply the standards in Diet 405.05.

(b) The characteristics shall be:

(1) The misconduct actually caused physical or mental harm to the client or another person;

(2) The misconduct had the potential to cause physical or mental harm to the client or another person;

(3) The misconduct repeated earlier misconduct done by the licensee, as determined by:

a. An earlier hearing;

b. An earlier settlement agreement predicated on the same misconduct by the licensee;
or

- c. An admission by the licensee;
- (4) The misconduct was not the first misconduct by the licensee, as determined by:
- a. An earlier hearing;
 - b. An earlier settlement agreement predicated on the same misconduct by the licensee;
or
 - c. An admission by the licensee; and
- (5) The misconduct was intentional rather than the result of negligence or inadvertence.

Diet 404.06 Standards for the Selection of Sanctions. The board shall select appropriate sanction(s):

- (a) From the list in Diet 405.02; and
- (b) By choosing, in light of the characteristics determined pursuant to Diet 405.04(b), the sanction or combination of sanctions most likely to:
 - (1) Protect public health and safety;
 - (2) Prevent future misconduct by the licensee;
 - (3) Take into account any acknowledgement of fault by the licensee and any cooperation by the licensee with the board's investigation of misconduct;
 - (4) Correct any attitudinal, educational, or other deficiencies which led to the licensee's misconduct;
 - (5) Encourage the responsible practice of dietetics; and
 - (6) Demonstrate to the licensee and the public the board's intention to insure that its licensees practice in accordance with applicable law and the public welfare.

Diet 404.07 Non-Disciplinary Substance Abuse Recovery Program.

- (a) The board shall make available to eligible licensees the non-disciplinary substance abuse recovery program specified by RSA 328-A:14.
- (b) A licensee complying with and completing such non-disciplinary substance abuse recovery program shall be deemed not to have been sanctioned for misconduct.

PART Diet 405 CONTINUING EDUCATION

Readopt with amendment Diet 405.01, effective 10/9/14 (Document #10691), to read as follows:

Diet 405.01 Continuing Education Requirements.

(a) Except as provided in (d) and (e) below, each licensee shall complete 20 credit hours of continuing professional education during each period of licensure.

(b) Except as provided in (d) and (e) below, all 20 credit hours of continuing professional education shall be completed in the licensing period preceding the expiration date of the license being renewed.

(c) No greater than 20% of the activities submitted for continuing professional education credit during each period of licensure shall be for the reading or writing of peer-reviewed professional publications.

(d) All licensees shall submit to “CE Broker” all continuing education documents described in Diet 505.06 intended to be used toward the continuing education requirements described in Diet 405.

~~[(d) A person wishing to renew a license that has been revoked or that has expired while under a period of suspension shall apply for reinstatement under these rules and shall complete 20 credit hours of continuing professional education in the 24 months before the request for a hearing on reinstatement.~~

~~— (e) A person who has previously been licensed by the board, but whose license has expired under circumstances other than those described in (d) above, and who wishes to renew a license shall reapply for licensure under Diet 405.01 and shall complete 20 credit hours of continuing professional education in the 24 months before the reapplication.]~~

~~[(~~f~~)(e) Only activities approved pursuant to these rules shall qualify for continuing professional education credit.~~

~~[(g) No person requesting professional education credit under these rules shall, on [his or her] **their** application or reapplication, list any single program, presentation, course of study or independent self-study, examination, reading or writing of a peer-reviewed professional publication, seminar, or meeting as more than one activity in fulfillment of the continuing professional education credit requirement of these rules.]~~

~~[(~~h~~)(f) No single program, presentation, course of study or independent self-study, examination, reading or writing of a peer-reviewed professional publication, seminar, or meeting shall be counted by the board as more than one activity in fulfillment of the continuing professional education credit requirement of these rules.~~

~~[(~~i~~)(g) The board shall approve continuing professional education credit for activities in accordance with the criteria set forth in Diet 405.02 and Diet 404.03.~~

Readopt Diet 405.02 through Diet 405.06, effective 10/9/14 (Document #10691), to read as follows:

Diet 405.02 Continuing Professional Education Credits Approved by the Commission on Dietetic Registration.

(a) Activities that have been approved by the CDR for continuing professional education credit for the purpose of continued registration with the CDR shall be approved by the board for continuing professional education credit under these rules.

(b) Activities that have been approved by the CDR for continuing professional education credit for the purpose of continued registration with the CDR shall be assigned by the board the same number of credit hours as have been assigned by the CDR.

Diet 405.03 Continuing Professional Education Credits for College and University Courses.

(a) College and university courses that have been approved by the CDR for continuing professional education credit for the purpose of continued registration with the CDR shall be approved by the board for continuing professional education credit under these rules.

(b) College and university courses that have been approved by the CDR for continuing professional education credit for the purpose of continued registration with the CDR shall be assigned by the board the same number of credit hours as have been assigned by the CDR.

(c) The board shall approve other college and university courses for continuing professional education credit if those courses relate to either:

(1) Human nutrition, nutrition education, food and nutrition, dietetics, public health nutrition, or food systems management by addressing the application of principles derived from the fields of biology or physiology, from the behavioral or social sciences, or from the study of food, nutrition, management, or communication; or

(2) Methods for achieving or maintaining optimal human health.

(d) Courses in those subjects identified in (c)(1) and (2) above shall be assigned the following credit hours by the board:

(1) If the course was a semester-long course:

a. One semester credit hour shall be equivalent to 15 continuing professional education units, provided that:

1. The course was attended for college or university credit; and

2. A passing grade was obtained; or

b. Eight continuing professional education units per semester credit hour if the course was attended, but not for college or university credit;

(2) If the course was a trimester course:

a. One trimester credit hour shall be equivalent to 14 continuing professional education units, provided that:

1. The course was attended for college or university credit; and

2. A passing grade was obtained; or

b. Eight continuing professional education units per trimester credit if the course was attended, but not for college or university credit”, and

(3) If the course was a quarterly course:

- a. One quarter credit hour shall be equivalent to 10 continuing professional education credit hours per quarter, provided that:
 1. The course was attended for college or university credit; and
 2. A passing grade was obtained; or
- b. Five continuing professional education units per quarter credit hours if the course was attended, but not for college or university credit.

Diet 405.04 Continuing Professional Education Credits for Other Activities.

(a) The board shall approve activities other than those noted in Diet 404.02 or Diet 404.03 for continuing professional education credit if those activities:

- (1) Relate to the subjects set forth in Diet 404.03(a)(1) or (2);
- (2) Are not primarily designed to introduce members of the general public to the field of dietetics; and
- (3) Accomplish one or more of the following goals:
 - a. Update or enhance the professional knowledge, skill or competence of dietitians;
 - b. Assess the professional knowledge, skill or competence of dietitians;
 - c. Provide opportunities for dietitians to engage in interdisciplinary studies;
 - d. Provide dietitians with opportunities for professional growth and development; or
 - e. Build excellence in the profession of a dietitian.

(b) In determining whether the activity accomplishes one or more of the goals set forth in (a)(3) above, the board shall consider:

- (1) Whether the information provided has a direct bearing on the ability of a person to perform successfully as a dietitian;
- (2) Whether the quantity and quality of information that has a direct bearing on the ability of the person to perform successfully as a dietitian is likely to achieve one or more of the goals set forth in (a)(3) above; and
- (3) Whether the professional qualifications of the person or persons presenting or sponsoring the activity render it likely that the instruction provided will achieve one or more of the goals set forth in (a)(3) above.

(c) The board shall assign credit for those activities based upon the numbers of similar continuing education activities approved by CDR as stated in Diet 404.02 and 404.03. The board shall assign one continuing professional education unit for each hour of actual attendance at approved courses other than those noted in Diet 404.03, programs, presentations, seminars, or meetings, provided that if any grade is given the applicant receives a passing grade.

(d) The board shall assign one half of one credit hour for the reading or writing of any one peer reviewed professional publication.

Diet 405.05 Documentation of Continuing Education.

(a) The documentation of continuing education shall continue the following informaton:

- (1) Describing the subject matter of the activity;
- (2) Identifying the sponsor of the activity;
- (3) Stating the number of hours of instruction provided;
- (4) Stating whether the activity has been approved for credit by the CDR;
- (5) Verifying the applicant's attendance; and
- (6) If any grade was provided, stating the applicant's grade.

(b) Documentation of continuing education shall be in the form of one of the following documents:

- (1) A certificate of attendance at, or a certificate of completion of, identified courses, programs, examinations, presentations, seminars, or meetings;
- (2) A course outline, syllabus, brochure or other description of identified courses, programs, examinations, presentations, seminars, or meetings;
- (3) A brochure or other description of the organizations or entities sponsoring the courses, programs, examinations, presentations, seminars, or meetings submitted for continuing professional education credit;
- (4) Transcripts of courses attended;
- (5) Verification of grades received;
- (6) Verification of the duration of specified courses, programs, examinations, presentations, seminars, or meetings;
- (7) Contracts or other writings documenting the applicant's involvement in independent study;
- (8) A copy of peer reviewed professional publications read or written; and
- (9) Such other material as may document the applicant's participation in specified courses, programs, examinations, presentations, seminars or meetings, or the length or nature of those courses, programs, examinations, presentations, seminars, or meetings.

(c) All licensees shall retain in their possession, for a period of 4 years after participation in any activity that is submitted for continuing professional educational credit, such documentation noted in Diet 405.02(b) as is available from the organization or entity sponsoring the course, program, examination, presentation, seminar or meeting, or a copy of the peer reviewed professional publication written or read.

Diet 405.06 Audit Procedure.

(a) The OPLC shall select on a random basis 10% of the renewal applications submitted each year for an audit of completion of the maintenance of continuing competence required by Diet 405.01.

(b) The board shall review the documents the OPLC has retrieved from “CE Broker” to determine if those documents meet the requirements of Diet 405.

(c) If the board observes that the documents submitted pursuant to (b) above do not support the renewal applicant's claim of maintenance of continuing competence, the board shall refer the findings to the OPLC for investigation in accordance with Plc 200.

PART Diet 406 ONGOING REQUIREMENTS

Repeal Diet 406.01, effective 4/25/23 (Document #13570), as follows:

~~[Diet 406.01 Ongoing Education Requirements.~~

~~—(a) The documentation of continuing education shall consist of one or more writings from the sponsor of each activity:~~

- ~~(1) Describing the subject matter of the activity;~~
- ~~(2) Identifying the sponsor of the activity;~~
- ~~(3) Stating the number of hours of instruction provided;~~
- ~~(4) Stating whether the activity has been approved for credit by the CDR;~~
- ~~(5) Verifying the applicant's attendance; and~~
- ~~(6) If any grade was provided, stating the applicant's grade.~~

~~—(b) Documentation as described in (a) above shall be maintained by the licensee for a period no less than 3 years.]~~

Repeal Diet 406.02 and Diet 406.03, effective 10/9/14 (Document #10691), as follows:

~~[Diet 406.02 Supporting Materials and Board Verification of Compliance with Professional Education Requirements.~~

~~—(a) The board shall verify the truth and accuracy of a licensee's statements to the board concerning continued professional education credits obtained by the applicant:~~

- ~~(1) Whenever it possesses information suggesting that an applicant might have inaccurately or falsely recorded or provided the information; and~~

~~(2) Annually, by selecting up to 10% of the license renewal applications and reapplications at random and verifying that the continuing professional education information provided in those applications or reapplications is true and accurate.~~

~~— (b) The board shall verify the truth and accuracy of information under paragraph (a) by requesting that the applicant provide one or more of the following forms of documentation as it determines will establish whether the applicant has complied with the continuing professional education requirements of these rules:~~

~~(1) A certificate of attendance at, or a certificate of completion of, identified courses, programs, examinations, presentations, seminars, or meetings;~~

~~(2) A course outline, syllabus, brochure or other description of identified courses, programs, examinations, presentations, seminars, or meetings;~~

~~(3) A brochure or other description of the organizations or entities sponsoring the courses, programs, examinations, presentations, seminars, or meetings submitted for continuing professional education credit;~~

~~(4) Transcripts of courses attended;~~

~~(5) Verification of grades received;~~

~~(6) Verification of the duration of specified courses, programs, examinations, presentations, seminars, or meetings;~~

~~(7) Contracts or other writings documenting the applicant's involvement in independent study;~~

~~(8) A copy of peer reviewed professional publications read or written; and~~

~~(9) Such other material as may document the applicant's participation in specified courses, programs, examinations, presentations, seminars or meetings, or the length or nature of those courses, programs, examinations, presentations, seminars, or meetings.~~

~~— (c) The documentation noted in (b) above shall be in the form of dated materials prepared or produced by the organization or entity that sponsored the course, program, examination, presentation, seminar or meeting, or which published the peer reviewed professional publication.~~

~~— (d) Applicants to whom a request has been directed under (b) above shall provide documentation to the board within 60 days of the request.~~

~~— Diet 406.03 Retention of Records by Licensees. All licensees shall retain in their possession, for a period of 4 years after participation in any activity that is submitted for continuing professional educational credit, such documentation noted in Diet 405.02(b) as is available from the organization or entity sponsoring the course, program, examination, presentation, seminar or meeting, or a copy of the peer reviewed professional publication written or read.]~~

Readopt with amendment and renumber Diet 406.04, effective 10/16/21 (Document #13276) as tDiet 406.01 to read as follows:

Diet 406.0[4]1 Administrative Obligations of Licensees. Licensees shall:

(a) Maintain their current business address, home address, **business and home** phone numbers, and email address on file with the [board's office] **OPLC**; and

(b) Notify the [board's office] **OPLC** of any change in [address, phone number, or email address] **information described in (a) above** no later than 30 days from the date of the change.

Appendix

Rule	Specific State Statute which the Rule Implements
Diet 401	RSA 541-A:7
Diet 401.02 (repeal)	RSA 541-A:7
Diet 401.02 (formerly Diet 401.03)	RSA 541-A:7
Diet 401.03 (formerly Diet 401.04)	RSA 541-A:7
Diet 401.04 (formerly Diet 401.05)	RSA 541-A:7
Diet 401.05 (formerly Diet 401.06)	RSA 541-A:7
Diet 402.01	RSA 326-H:10, I; RSA 326-H:14 II
Diet 402.02 (repeal)	RSA 541-A:16, I(b); RSA 326-H:14,, III
Diet 402.02 (formerly Diet 402.03)	RSA 541-A:16, I(b); RSA 326-H:14,, III
Diet 402.03 (formerly Diet 402.04)	RSA 326-H:10, I (b); RSA 326-H:12; RSA 326-H:14, I; RSA 541-A:16, I (b);
Diet 403.01	RSA 326-H: 10, I; RSA 326-H:14
Diet 403.02	RSA 541-A:16, I(b)
Diet 403.03(repeal)	RSA 326-H:10, I; RSA 326-H:14, I
Diet 403.03 (formerly Diet 403.04)	RSA 326-H:10, I; RSA 326-H:14, I
Diet 403.04 (formerly Diet 403.05)	RSA 326-H:10, I; RSA 326-H:14, I
Diet 403.05 (formerly Diet 403.06)	RSA 326-H:10, I; RSA 326-H:14, I
Diet 403.06	RSA 326-H:10, I; RSA 326-H:14, I
Diet 403.07	RSA 326-H:10, I; RSA 326-H:16
Diet 404.01 (repeal)	RSA 326-H:16; RSA 326-H:19
Diet 404.02 (repeal)	RSA 326-H:16; RSA 326-H:19
Diet 404.03 (repeal)	RSA 326-H:16; RSA 326-H:19
Diet 404.04 (repeal)	RSA 326-H:16; RSA 326-H:19
Diet 404.05 (repeal)	RSA 326-H:16; RSA 326-H:19
Diet 404.01	RSA 541-A:7
Diet 404.02	RSA 326-H:16; RSA 326-H:19
Diet 404.03	RSA 326-H:16; RSA 326-H:19
Diet 404.04	RSA 326-H:16; RSA 326-H:19
Diet 404.05	RSA 326-H:16; RSA 326-H:19
Diet 404.06	RSA 326-H:16; RSA 326-H:19
Diet 404.07	RSA 326-H:16; RSA 326-H:19
Diet 405.01	RSA 326-H:10, VI; RSA 326-H:12, IV; RSA 326-H:15
Diet 405.02	RSA 326-H:10, VI; RSA 326-H:12, IV; RSA 326-H:15
Diet 405.03	RSA 326-H:10, VI; RSA 326-H:12, IV; RSA 326-H:15
Diet 405.04	RSA 326-H:10, VI; RSA 326-H:12, IV; RSA 326-H:15
Diet 405.05	RSA 326-H:10, VI; RSA 326-H:12, IV; RSA 326-H:15
Diet 405.06	RSA 326-H:10, VI; RSA 326-H:12, IV; RSA 326-H:15

Diet 406.01 (repeal)	RSA 326-H:10, IV
Diet 406.02 (repeal)	RSA 326-H:10, VI; RSA 326-H:15
Diet 406.03 (repeal)	RSA 326-H:10, VI; RSA 326-H:15
Diet 406.01 (formerly Diet 406.04)	RSA 541-A:16, I(b)