

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**

**3800 Committee on Dietetics/Nutrition**

Statutory Authority: 24 Delaware Code, Section 3805(a)(1) (24 **Del.C.** §3805(a)(1))  
24 **DE Admin. Code** 3800

**FINAL**

**ORDER**

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on July 11, 2007 at a scheduled meeting of the Delaware Committee on Dietetics/Nutrition to receive comments regarding the proposed changes its rules and regulations to allow for online renewal of certification and online attestation of completion of the required continuing professional education (CPE). The changes also revise the Committee's audit process to provide for post-renewal audits for compliance with the CPE requirements. Finally, the proposed changes revise the two-year certification period to end on May 31 of odd-numbered years, beginning with the October 1, 2007 certification period. The proposed changes to the Committee's rules and regulations were published in the *Register of Regulations*, Vol. 10, Issue 9, March 1, 2007. Notice of the postponement of the hearing was published in the *Register of Regulations*, Vol. 10, Issue 12, June 1, 2007. The Committee's authority to promulgate rules and regulations implementing or clarifying specific sections of Chapter 38 is set forth in 24 **Del.C.** §3805(a)(1).

**Summary of the Evidence and Information Submitted**

No written comments were received. No public comment was received at the July 11, 2007 hearing.

**Findings of Fact With Respect to the Evidence and Information Submitted**

The Committee carefully reviewed and considered the proposed changes to its rules and regulations. Under the new rules, the Committee will continue to conduct random audits of certificate holders seeking renewal on a post-renewal basis, and it will address continuing education deficiencies as appropriate under the circumstances of each individual case. Certificate holders will still be required to maintain records of their continuing education, for submission if they are selected for audit. The new certificate renewal and CPE deadline correspond with that of the American Dietetic Association; therefore the change eases compliance for certificate holders.

In summary, the Committee finds that it has the authority to adopt these changes to its rules and regulations and that the changes are beneficial. The Committee notes that House Bill 38, as amended by House Amendment No. 2 and Senate Amendment Nos. 1, 2, 3 and 4, and House Amendment Nos. 3 and 4 passed the legislature and was signed into law on June 21, 2007. This Bill, as amended, requires licensure for professional dietitians and nutritionists in this State, as described in the Bill, as of a specified enactment date. The Committee has considered this Bill and determined to go forward with these changes to its rules and regulations at this time, as changes to its statute under that Bill will not be effective for some time, and do not specifically address the changes being made to the rules and regulations by this Order.

**Decision and Effective Date**

The Committee hereby adopts the change to its rules and regulations to be effective 10 days following publication of this Order in the *Register of Regulations*.

**Text and Citation**

The text of the rule remains as published in the *Register of Regulations*, Vol. 10, Issue 9, March 1, 2007, as attached hereto.

**SO ORDERED** this 11th day of July, 2007 by the Committee of Dietetics/Nutrition.

Tracey Sinibaldi, C.D.N., Chair  
Marjorie Ressler, Public Member, Secretary  
Mary Trotter, C.D.N.  
Genelda Cornwell, Public Member

### **3800 Committee on Dietetics/Nutrition**

#### **1.0 Qualifications of Applicants**

1.1 An equivalent course of study [24 **Del.C.** §3806(l)] must include 3 semester credits with content in biochemistry, 3 semester credits with content in human physiology, and 12 semester credits of courses with major content in human nutrition and/or dietetics including 3 semester credits in nutrition and disease or diet therapy.

1.2 Foreign Degrees: An agency authorized to validate foreign academic degrees equivalent to the Baccalaureate or Master's Degree conferred by a regionally accredited college or University in the U.S. includes the following:

International Consultants of Delaware, Inc., (109 Barksdale Professional Center, Newark, DE 19711)

Credentials Evaluation Services, Inc., (P.O. Box 66940, Los Angeles, CA 90066)

World Education Services, Inc., (P.O. Box 745, Old Chelsea Station, New York, NY 10011)

Education Credential Evaluators, Inc., (P.O. Box 92970, Milwaukee, WI 53202-0970)

Josef Silny & Associates, International Education Consultants, (P.O. Box 248233 Coral Gables, FL 33124)

#### **1.3 Examination**

1.3.1 The cost of the examination is borne by the applicant.

1.3.2 Satisfactory completion of the registration examination established by the Committee. [24 **Del.C.** §3806(a)(2)].

1.3.2.1 The passing score established by the Commission on Dietetic Registration.

1.3.3 Another national examination may be approved by the Committee. The Committee shall use the following criteria:

1.3.3.1 It shall be a national validated examination, the primary objective of which is to measure minimum professional competency in dietetics and/or nutrition. In order to take the examination, the candidate is required to have a minimum of a baccalaureate degree and collegiate level coursework in nutrition conferred by a regionally accredited college or university in the U.S.

1.3.3.2 The approval of the Director of Professional Regulation is also required if another examination is adopted.

1.4 Proof of professional practice experience of 900 hours [24 **Del.C.** §3806(a)(3)] may be:

1.4.1 a program ADA-approved or ADA-accredited by the Commission on Dietetic Registration of The American Dietetic Association currently called

1.4.1.1 an accredited dietetic internship

1.4.1.2 an approved professional practice program

1.4.1.3 an accredited coordinated program

OR

1.4.2 at least 900 hours of supervised participation in nutrition services. The scope of activities may include observation, but must include direct client/patient involvement. The 900 hours must be concurrent to and/or following completion of the academic requirements for certification and need not be a paid experience. The following will define the equivalent professional practice experience and verification necessary:

1.4.2.1 Each supervisor shall have administrative responsibility for the area of the professional practice experience OR provide a letter from the area's administrator showing approval for him/her to officially function as a supervisor of the applicant's experience for the purposes of this chapter.

1.4.2.2 The supervisor shall have access to relevant patient/client records in the site of the professional practice experience. In order to guide the applicant and to have a basis for evaluation, the supervisor shall review performance by periodic observation, either directly or by some recording of the nutrition services.

1.4.2.3 If there is more than one supervisor and/or facility for different parts of the experience, information and verification of each part is required.

1.4.2.4 The applicant shall provide to the Committee for each supervisor/facility  
1.4.2.4.1 the name and address of the facility providing the professional practice experience and name of the area within the facility where the professional practice experience occurred.

1.4.2.4.2 name, address, phone and title of the official supervisor who is supervising the qualifying experience for purpose of obtaining the certification. The supervisor for the purpose of certification may be different than the administrative supervisor of the unit in the facility.

1.4.2.4.3 a summary of the nature of nutrition services performed, along with dates and hours spent performing them.

1.4.2.4.4 evidence that the supervisor was either a registered dietitian, a licensed dietitian or a certified dietitian/nutritionist or a certified nutrition specialist in Delaware or any other state at the time of supervision; or the supervisor was a licensed physician with expertise in human nutrition. A copy of the current license, certification, or registration must be provided.

1.4.2.4.5 the applicant will send the description of the qualifying experience noted above to the professional practice experience supervisor for verification.

1.4.2.4.6 Each supervisor must review the evidence provided by the applicant and verify that the information is true including

1.4.2.4.6.1 that the applicant participated in nutrition services under his/her supervision, indicating the total number of hours.

1.4.2.4.6.2 that the applicant performed the nutrition services at a satisfactory level and followed the Code of Ethics in the course of this qualifying experience.

OR

1.4.3 Documented work experience: If you are applying under 24 **Del.C.** §3806(A)(3)b, the requirements for documentation are the same as Equivalent Professional Practice Experience, except that the number of hours is different.

1.5 Graduate Degrees: "Persons presenting evidence of a Master's degree or Doctorate degree" as specified in 24 **Del.C.** §3806(d) "shall provide evidence that the degree is in nutrition, nutrition education, nutrition science or a major closely related to human nutrition. "The major closely related to human nutrition" shall include either as part of the degree or in courses taken in addition to the degree a minimum of 3 semester credits with content in biochemistry, 3 semester credits with content in human physiology, and 12 semester credits of courses with major content in human nutrition and/or dietetics including 3 semester credits in nutrition and disease or diet therapy. All qualifying degrees and courses shall be from a college or university accredited through regional accrediting agency recognized by the U.S. Department of Education at the time the degree was earned or when courses were taken.

## **2.0 Continuing Professional Education**

2.1 "Continuing professional education" (CPE) as specified in Dietetics/Nutrition Certification Act, 24 **Del.C.** §3808, must meet the content requirements of The American Dietetic Association for CPE credit. One hour of CPE credit shall be given for each hour of CPE activity.

2.1.1 ~~For To renew his or her certification a CDN to renew a certification, documentation of must obtain~~ thirty (30) hours of CPE ~~over the during each~~ two year certification period. ~~immediately preceding application are required for renewal.~~

2.1.1.1 CPE requirements shall be prorated for new CDNs as follows: If the new CDN has been certified less than 1 year, CPE is not required for renewal, if the new CDN has been certified for more than 1 year but less than 2 years, half of the 30 CPE hours (15 hours) are required. If certified for 2 or more years, the full 30 hours of CPE is required.

2.1.1.2 Due to the shortened time period of the October 1, 2007-May 31, 2009 certification period, only 25 CPE hours must be earned during that period to qualify for renewal on May 31, 2009.

2.1.1.3 Extensions of time: An extension of time to complete CPE requirements will be granted to any CDN who can demonstrate to the Committee an acceptable cause. The CDN must petition the Committee for an extension. Should the Committee deny the request, the CDN must complete the requirements to maintain certification. Examples of circumstances for which the Committee may grant extensions of time include, but are not limited to, prolonged illness or extended absence from the country.

~~2.1.2 The Committee will randomly audit a sample of renewal applicants requesting documentation to verify that:~~

~~2.1.2.1 the CDN is responsible for obtaining and providing original documentation of CPE activities for purposes of possible audit of renewal application.~~

~~2.1.2.2 each activity was approved by the Commission on Dietetic Registration (CDR) of the ADA. Currently, CDR and/or the sponsoring organization of the activity is/are the source of documentation that is usually most relevant. CDR will evaluate and approve CPE activities that have not been prior approved, and will provide this service for both RDs and non-RDs.~~

~~2.1.2.3 the applicant attended/participated in said activity which can be documented by a certificate of attendance, cancelled check, receipt for registration fee or other documentation approved by the Committee.~~

2.2 Proof of continuing education is satisfied with an attestation by the certificate holder that he or she has satisfied the requirements of Rule 2.0.

2.2.1 Attestation may be completed electronically if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.

2.2.2 Certificate holders selected for random audit will be required to supplement the attestation with attendance verification pursuant to Rule 2.3.

2.3 Random audits will be performed by the Committee to ensure compliance with the CPE requirements.

2.3.1 The Committee will notify CDNs within sixty (60) days after the certificate renewal date that they have been selected for audit.

2.3.2 CDNs selected for random audit shall be required to submit verification within ten (10) days of receipt of notification of selection for audit.

2.3.3 Verification shall include such information necessary for the Committee to assess whether the course or other activity meets the CPE requirements in Rule 2.0, which may include, but is not limited to, the following information:

2.3.3.1 Proof of attendance. While course brochures may be used to verify contact hours, they are not considered to be acceptable proof for use of verification of course attendance;

2.3.3.2 Date of CPE course;

2.3.3.3 Instructor of CPE course;

2.3.3.4 Sponsor of CEU course;

2.3.3.5 Title of CPE course; and

2.3.3.6 Number of hours of CPE course.

2.1.3 2.3.4 The CPE activities must be performed within the two year period prior to renewal of certification. If an activity overlaps two renewal periods, the date of completion of the activity determines the date in which the activity can be reported.

2.1.4 2.3.5 The current document published by CDR/ADA, describing CPE guidelines for registered dietitians shall be used as a guide to interpret requirements of CDR/ADA for CPE.

2.1.5 2.3.6 The Committee will accept the decisions of CDR for appropriateness of CPE activities and reserves the right to approve or disapprove any other activity deemed appropriate for CPE, using current CDR/ADA standards as criteria.

2.1.6 2.3.7 The Committee may establish maximum hours allowed for any type of activity in the two-year period.

2.1.6.1 2.3.7.1 A maximum of 15 CPE hours shall be allowed for self-study programs.

2.1.6.2 2.3.7.2 A maximum of 6 CPE hours shall be allowed for exhibits.

2.1.6.3 2.3.7.3 A maximum of 10 CPE hours shall be allowed for poster presentations.

### **3.0 Renewal of Certification**

3.1 Beginning on October 1, 2007, CDN certification shall expire biennially on (date to be determined) and may be renewed upon submission of (1) renewal form and fee and (2) CPE reporting form (CERF) May 31 of odd-numbered years.

#### **4.0 Code of Ethics. [24 Del.C. §3811(a)(4).]**

4.1 The CDN provides professional service with objectivity and with respect for the unique needs and values of individuals, avoiding discrimination on the basis of race, creed, gender, national origin, age or disability.

4.2 The CDN accurately presents professional qualifications and credentials and does not permit the use of these credentials by an unqualified person.

4.3 The CDN remains free of conflict of interest and promotes or endorses products/services in a manner that is neither false nor misleading.

4.4 The CDN assumes responsibility and accountability for personal competence in practice through continuing professional education and adherence to accepted standards of practice.

4.5 The CDN shall recognize and exercise professional judgment within the limits of his/her qualifications and shall not accept or perform professional responsibilities which the CDN is not qualified to perform.

4.6 The CDN practices nutrition/dietetics based on scientific principles and current substantiated information without personal bias, enabling clients to make informed decisions.

4.7 The CDN maintains the confidentiality of information obtained from clients and maintains records relating to services provided to a client in the course of a professional relationship.

4.8 The CDN conducts himself/herself with honesty, integrity and fairness, advertises services in a factual, straightforward manner, and fulfills professional commitments in good faith.

4.9 The CDN shall not engage in dietetic practice while under the influence of alcohol or drugs which impair the provision of such practice.

4.10 The CDN shall be responsible for reporting alleged misrepresentation or violations of the Code of Ethics to the State Committee of Dietetics/Nutrition.

#### **5.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals**

5.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

5.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

5.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

5.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

5.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board

chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 5.8 of this section.

5.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

5.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

5.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

5.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

5.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

5.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

5.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

5.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

5.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

5.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

5.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

5.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a non-disciplinary matter.

5.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

## **6.0 Crimes Substantially Related To Provision Of Dietetic/Nutrition Services.**

6.1 For the purposes of this section the following definition shall apply:

6.1.1 **"Conviction"** means a verdict of guilty by whether entered by a judge or jury, or a plea of guilty or a plea of nolo contendere or other similar plea such as a "Robinson" or "Alford" plea unless the individual has been discharged under §1024 of Title 10 (domestic violence diversion program) or by §4764 of Title 16 (first offenders controlled substances diversion program). Including all crimes prohibited by or punishable under Title 18 of the United States Code Annotated (U.S.C.A.) such as, but not limited to, Federal Health Care offenses.

6.2 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit the following crimes, is deemed to be a crime substantially related to the provision of Dietetics/Nutrition services as a Certified Dietitian and/or Nutritionist in the State of Delaware without regard to the place of conviction:

- 6.2.1 Homicide
- 6.2.2 Assault
- 6.2.3 Criminal Sexual Abuse
- 6.2.4 Tax Evasion
- 6.2.5 Kidnapping
- 6.2.6 Theft and all related offenses
- 6.2.7 Embezzlement
- 6.2.8 Child pornography
- 6.2.9 Forgery
- 6.2.10 Identity theft
- 6.2.11 Insurance fraud
- 6.2.12 Bribery
- 6.2.13 Perjury
- 6.2.14 Abuse- any abuse of a person or animal
- 6.2.15 Counterfeiting
- 6.2.16 Tampering with consumer products
- 6.2.17 Hate crimes
- 6.2.18 False or fraudulent statements
- 6.2.19 Kick Back schemes
- 6.2.20 Abduction or unlawful restraint

6.3 Crimes substantially related to the provision of services as a Certified Dietitian and/or Nutritionist shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

**8 DE Reg. 1288 (03/01/05)**

**11 DE Reg. 226 (08/01/07) (Final)**