

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**3800 BOARD OF DIETETICS/NUTRITION**  
Statutory Authority: 24 Delaware Code, Section 3805(1) (24 Del.C. §3805(1))  
24 DE Admin. Code 3800

**GENERAL NOTICE**

The Delaware Board of Dietetics/Nutrition, pursuant to 24 Del.C. §3805(11), proposes to revise its regulations. The proposed amendments to the regulations seek to clarify and provide more detailed information regarding the use of telehealth for the provision of dietetics and nutrition services.

The Board originally scheduled a hearing on this matter for August 12, 2016 at 1:30 p.m., but was unable to hold the hearing due to insufficient notice of the hearing under the Delaware Administrative Procedures Act. The Board will now hold a public hearing on the proposed rule change on November 4, 2016 at 1:30 p.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to LaTonya Brown, Administrator of the Delaware Board of Dietetics/Nutrition, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until November 21, 2016.

The proposed additions are indicated in underline:

**9.0 Telehealth**

9.1 Telehealth is the use of electronic communications to provide and deliver a host of health-related information and health-care services, including dietetics and nutrition-related information and services, over large and small distances. Telehealth encompasses a variety of health care and health promotion activities, including education, advice, reminders, interventions, and monitoring of interventions.

9.2 The licensed dietitian/nutritionist (referred to as "licensee" for the purpose of this Board Rule) who provides treatment through telehealth shall meet the following requirements:

9.2.1 Location of patient during treatment through telehealth

9.2.1.1 The licensee shall have an active Delaware license in good standing to practice telehealth in the state of Delaware.

9.2.1.2 Licensees understand that this rule does not provide licensees with authority to practice telehealth to clients located in any jurisdiction other than Delaware, and licensees bear responsibility for complying with laws, rules, and/or policies for the practice of telehealth set forth by other jurisdictional boards dietetics and nutrition.

9.2.1.3 Licensees practicing telehealth shall comply with all of these rules of professional conduct and with requirements incurred in state and federal statutes relevant to the practice of dietetics and nutrition.

9.2.2 Informed consent

9.2.2.1 Before services are provided through telehealth, the licensee shall obtain written, informed consent from the patient, or other appropriate person with authority to make health care treatment decisions for the patient. At minimum, the informed consent shall inform the patient and document acknowledgement of the risk and limitations of:

9.2.2.1.1 The use of electronic communications in the provision of care;

9.2.2.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and

9.2.2.1.3 The potential disruption of electronic communication in the use of telehealth.

9.2.3 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

9.2.4 Competence and scope of practice

9.2.4.1 The licensee shall be responsible for determining and documenting that telehealth is an appropriate level of care for the patient.

9.2.4.2 The licensee shall comply with the Board's law and rules and regulations and all current standards of care requirements applicable to onsite care.

9.2.4.3 The licensee shall limit the practice of telehealth to the area of competence in which proficiency has been gained through education, training and experience.

9.2.4.4 All initial evaluations shall be performed face to face and not through telehealth.

9.2.4.5 The licensee shall document in the file or record which services were provided by telehealth.

**20 DE Reg. 199 (09/01/16) (Gen. Notice)**