

These minutes have not been approved by the board

**MINUTES OF THE MEETING OF THE
BOARD OF MEDICAL NUTRITION THERAPY**

April 3, 2024

1. ROLL CALL

The Virtual Conferencing Meeting of the Board of Medical Nutrition Therapy was called to order by the Chair, Crystal Zabka Belsky, Lower Level -Otoe Room, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, at 9:02 am. Copies of the agenda were sent to the Board members, and other interested parties in accordance with the Nebraska Open Meetings Act, copies of the agenda were e-mailed to the Board members and other interested parties, posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and posted in the Licensure Unit on 3.20.2024

Members Present:

Kristy Anderson	-	Member
Crystal Zabka Belsky	-	Chair
Frink, Shannon	-	Member
Freestone, David	-	Member

Members Absent:

Dodge, Melissa	-	Member
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Others Present:

Sean Loving, Program Manager, Licensure Unit
Carrie Oldehoeft Health Licensing Coordinator, Licensure Unit,
Teresa Hampton, DHHS Legal Attorney
Abigail Nissen, Assistant Attorney General, via WebEx

2. ADOPTION OF AGENDA

MOTION: Frink moved, seconded by Anderson, to approve the agenda. A roll call vote was taken. Voting aye: Anderson, Zabka Belsky, Frink, Freestone (4). Voting nay: None (0). Absent: Dodge (1), Vacant: (0) Motion carried.

3. APPROVAL OF MINUTES

MOTION: Anderson moved, seconded by Frink, to approve the minutes. A roll call vote was taken. Voting aye: Anderson, Zabka Belsky, Frink, Freestone (4). Voting nay: None (0). Absent: Dodge (1), Vacant: (0) Motion carried.

4. Updates and Reports

- a. Statistics: Examinations, Licensing, Administrative Penalties, Renewals, Disciplinary and Non-Disciplinary Information, and School Report (attached to agenda)

- b. Loving updated the board with the update on board on regulation changes.
Discussion regarding changes and suggestions on adding missing items to the updates.

6. ADJOURNMENT

No meeting is scheduled at this time, Oldehoeft updated the board that the minutes would have the draft regulations attached and when approve approves the final review they will move forward in the process, Zabka Belsky declared the meeting adjourned at 1210:29 am.

Respectfully Submitted,

Kristy Anderson, Vice-chair
Board of Medical Nutrition Therapy

Summarized by: Carrie Oldehoeft, Health Licensing Coordinator – Licensure Unit

DRAFT REGULATIONS

EFFECTIVE
XX-XX-XXXX

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 61

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 61 LICENSED DIETITIAN NUTRITIONIST AND LICENSED NUTRITIONIST

001. SCOPE AND AUTHORITY. These regulations govern the licensing of licensed dietitian nutritionist and licensed nutritionist under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-1801 to 38-1822 and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions set out in the Medical Nutrition Therapy Practice Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 ALTERNATE SUPERVISED EXPERIENTIAL LEARNING. Alternate supervised experiential learning means observational hours that do not involve direct patient care or the discussion thereof. Such hours are limited to: observing videos of client and practitioner interactions; shadowing an experienced clinician; participating in simulation exercises or role playing; or utilizing case studies to prepare treatment plans.

002.02 HOUR. An hour, for the purposes of continuing education, is an academic hour and calculated as follows:

- (A) 1 semester hour of academic credit equals 15 clock hours;
- (B) 1 quarter hour of academic credit equals 10 clock hours; and
- (C) 1 trimester hour of academic credit equals 12 clock hours.

002.03 NUTRITION ASSESSMENT. Nutrition assessment means

- (A) the initial and ongoing systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition related problems relative to patient and community needs. It involves not only initial data collection, but also reassessment and analysis of patient or community needs and provides the foundation for nutrition diagnosis and nutritional recommendations. It includes the ordering of laboratory tests related to the practice of nutrition and dietetics and the conducting of swallow screens.
- (B) The collection of data does not, by itself, constitute nutrition assessment.

002.04 NUTRITION DIAGNOSIS. Nutrition diagnosis means identifying and labeling nutritional problems managed and treated by a dietetics and nutrition practitioner but does not include a medical diagnosis of the health status of the individual.

002.05 NUTRITION EDUCATION. Nutrition education means a formal process to instruct or train a client, patient, or population group in a skill or to impart knowledge to help clients, patients, or population groups voluntarily manage or modify food, nutrition, and physical activity choices and behavior to maintain or improve health.

002.06 NUTRITION INTERVENTION. Nutrition intervention means purposefully planned interventions, including nutrition counseling, intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of health status of an individual, target groups, or community at large.

002.07 NUTRITION MONITORING OR EVALUATION. Nutrition monitoring or evaluation means identifying patient outcomes relevant to a nutrition diagnosis, intervention plans, and goals and comparing those outcomes with a patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired

outcomes of nutrition care and whether planned interventions should be continued or revised.

002.08 PROFESSIONAL WORK SETTING. Professional work setting means places of learning that provide for direct supervised experiential learning where nutrition care services are provided for the benefit of patients or clients. Services in such settings include: counseling individuals and groups; researching and developing patient or client treatment plans for current patients or clients; researching, preparing, and presenting patient or client workshops; community education (development and delivery of education to a specific population); supervisor grand rounds and one-on-one meetings with one's supervisor to discuss current patient or client care; or direct hours approved as part of a U.S. Department of Education programmatically accredited supervised practice program.

002.09 SWALLOW SCREEN. Swallow screen means a minimally invasive evaluation procedure conducted by a licensed dietitian nutritionist that provides for the determination of:

- (A) the likelihood that dysphagia exists;
- (B) whether the patient requires referral for further swallowing assessment;
- (C) whether it is safe to feed the patient orally (for the purposes of nutrition, hydration, and administration of medication); and
- (D) whether the patient requires referral for nutritional or hydrational support.

002.10 WEIGHT CONTROL PROGRAM. Weight control program means a general program of instruction with food, supplements, food products, or a food plan designed for one or more healthy population groups in order to achieve or maintain a healthy weight. A weight control program is not individualized to provide medical nutrition therapy as defined in §38-1812 or nutrition care services as defined in §38-1812 to manage or treat a medical condition for a specific person or group.

003. GENERAL LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the licensing requirements of Neb. Rev. Stat. §38-1813, 172 NAC 10, and this chapter.

003.01 APPLICATION FOR LICENSED DIETITIAN NUTRITIONIST.

COMMISSION ON DIETETIC REGISTRATION. If applying under §38-1813(1)(a), the applicant must submit official documentation of registration as a dietitian with the Commission on Dietetic Registration.

003.02 APPLICATION FOR LICENSED DIETITIAN NUTRITIONIST

ALTERNATIVE QUALIFICATIONS. Applicants applying under §38-1813(1)(b) shall demonstrate completion of education, supervised practice, and examination requirements by submitting all of the following:

(A) Education requirements – applicants providing evidence of completing academic requirements in §38-1813 (1)(b)(i) shall either:

- (i) Submit official transcripts directly from the issuing institution verifying completion of a masters or doctoral degree and a verification statement from the program of study verifying completion of the competency requirements of the Accreditation Standards for Nutrition and Dietetic Didactic Programs; or
- (ii) Submit documentation, including official transcripts, directly from the issuing institution verifying completion of a masters or doctoral degree, and documentation demonstrating the course of study met the competency requirements of the Accreditation Standards for Nutrition and Dietetic Didactic Programs.

(B) Supervised Practice Experience Requirements – applicants providing evidence of completing a supervised practice experience meeting the requirements of §38-183(1)(b)(ii) shall submit either:

- (i) a verification statement that includes the original signature of the Program Director verifying completion of a documented, supervised practice experience that has been accredited by the Accreditation Council for Education in Nutrition and Dietetics as meeting the competency requirements of the most current edition of the Accreditation Standards for Nutrition and Dietetics Internship programs; or

- (ii) documentation demonstrating at least 1000 hours of documented, supervised practice experience, meeting the competency requirements of the most current edition of the Accreditation Standards for Nutrition and Dietetics Internship Programs. The 1000 hours must be concurrent with or following completion of the academic requirements for licensure and need not be a paid experience.

(C) Supervision and Documentation – the following shall be necessary for applicants submitting proof of completion of a Board-approved internship or a documented supervised practice experience in nutrition services under subparagraph (B) of this rule:

- (i) if there is more than one supervisor for different parts of the supervised practice experience, information and verification of each part as provided in (B) and (C) of this rule is required.
- (ii) applicant shall provide to the Board evidence for each supervisor that includes:
 - (a) name and address of the facility providing the supervised practice experience;
 - (b) name and contact information of the individual supervisor who supervised the supervised practice experience;
 - (c) a summary of nutrition services performed, along with dates and hours spent performing them;
 - (d) evidence that the supervisor was a registered dietitian nutritionist at the time of supervision;
 - (e) attestation that the supervisor has not direct relation to the supervisee.
- (iii) Each supervisor shall:
 - (a) Regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize and approve all nutrition care services of the student or trainee supervised;
 - (b) Maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;
 - (c) Ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;
 - (d) Verify that the applicant participated in nutrition care services under his or her supervision, stating the total number of hours;
 - (e) Provide a summary of the nutrition care services completed under his or her supervision, and
 - (f) Provide an evaluation of the applicant for the Board to be able to assess the applicant's performance in completion of the competencies required.

003.03 APPLICATION FOR LICENSED NUTRITIONIST

(A) Qualifications – applicants applying under §38-1817 shall demonstrate completion of education, supervised practice, and examination requirements by submitting all of the following:

(B) Education requirements – applicants providing evidence of completing academic requirements shall submit official transcripts submitted directly from the issuing institution verifying completion of a masters or doctoral degree and documentation demonstrating completion of the requirements stated in §38-1817.

(C) Supervised Practice Experience Requirements

- (i) applicants providing evidence of completion of a supervised practice experience meeting the requirements of 38-1817(4) shall submit documentation demonstrating at least 1000 hours of documented, supervised practice experience, meeting the requirements as stated in 38-1817.
- (ii) the 1000 hours must be concurrent with or following completion of the academic requirements for licensure and need not be a paid experience.
- (iii) documentation shall demonstrate learning experiences preparing students to work with various populations of diverse cultures, genders, and across the life cycle, which may include infants, children, adolescents, adults, pregnant/lactating females, and older adults and to be able to competently formulate actionable medical nutrition therapies and interventions, education, counseling, and ongoing care for the prevention, modulation, and management of a range of acute and chronic medical conditions, including, but not limited to:

- a. Underweight, overweight, malnutrition, and obesity;
- b. Cardiometabolic;
- c. Endocrine;
- d. Immune and autoimmune; and
- e. Gastrointestinal disorders.

(D) Supervision and Documentation – The following shall be necessary for applicants submitting proof of completion of a Board-approved internship or a documented supervised practice experience in nutrition services under Subparagraph (C) in this rule.

(i) if there is more than one supervisor for different parts of the supervised practice experience, information and verification of each part as provided in (C) and (D) of this rule is required;

(ii) applicant shall provide to the Board evidence for each supervisor that includes:

- a) name and address of the facility providing the supervised practice experience;
- b) name and contact information of the supervisor who supervised the supervised practice experience;
- c) a summary of nutrition care services performed, along with dates and hours spent performing them;
- d) evidence that the supervisor met the requirements in §1810.03 at the time of supervision and provided general supervision as defined in §38-1807.01 when supervising the provision of medical nutrition therapy and appropriate supervision when supervising nutrition care services that did not constitute medical nutrition therapy;
- e) attestation that the supervisor has no direct relation to the supervisee.

(iii) Each supervisor shall:

- a) Regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize and approve all nutrition care services of the student or trainee supervised;
- b) Maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;
- c) Ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;
- d) Verify that the applicant participated in nutrition care services under his or her supervision, stating the total number of hours;
- e) Provide a summary of the nutrition care services completed under his or her supervision, and
- f) Provide an evaluation of the applicant for the Board to be able to assess the applicant's competence in the provision of nutrition care services and medical nutrition therapy to address, at a minimum, the acute and chronic medical conditions listed in this regulation.

003.04 FOREIGN DEGREE EQUIVALANCE VALIDATION. Applicants applying for a credential with foreign credentials must submit their credentials to a Board approved external credentialing review body for equivalency to meet the requirements in these regulations.

003.05 TEMPORARY. Temporary license shall be valid for one year or until the temporary licensee takes the examination, whichever occurs first. The temporary licensee shall be designated by a title clearly indicating such licensee's status as a student or trainee. A temporary licensee shall be supervised by a qualified supervisor.

003.06 RECIPROCITY. The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who meets the requirements of the Medical Nutrition Therapy Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

003.07 RESIDENCY. All applicants receiving a license pursuant to 172 NAC 61 must submit documentation of establishing residency in Nebraska as required by Neb. Rev. Stat 38-129.02 Such documentation must be submitted within 90 days of establishment of residency and consist of a rental or lease agreement with the signature of the owner or landlord and the applicant, a deed or title to

residential real property with the name of the applicant as an owner, or documents with the name and address of the applicant such as mortgage bills, home utility bills, medical or employee documents or similar documents that show the applicant residing in Nebraska.

004. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter. All licensed dietitian nutritionist or licensed nutritionist licenses issued by the Department will expire on September 1, of each odd-numbered year.

005. CONTINUING EDUCATION REQUIREMENTS. Each licensed dietitian nutritionist or licensed nutritionist who is in active practice in the State of Nebraska must complete 30 hours of continuing education programs or activities during the preceding 24-month period prior to the expiration date.

005.01 ACCEPTABLE SUBJECT MATTER. The subject matter for each continuing education program must clearly relate to maintaining skills necessary for the safe and competent practice of medical nutrition therapy

005.01(A) ACADEMIC CREDIT. If using academic credit hours, the hours must be completed through an undergraduate or graduate college or university program.

005.01(B) CONTINUING EDUCATION PROGRAM. 60 minutes of participation equals 1 continuing education hour when completing workshops, seminars, conferences, or electronic interactive presentations for purposes of obtaining continuing education credit. No limitation for continuing education hours for live sessions attending in person or electronically. A maximum of 15 hours of continuing education hours are allowed per renewal cycle for prerecorded sessions.

005.01(C) PRESENTER. A presenter may receive continuing education credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program or activity.

005.01(D) GENERAL NUTRITION PROGRAM. A maximum of 10 hours of continuing education relating to general nutrition, defined in Neb. Rev. Stat. § 38-1807, may be used as credit for each renewal period.

005.01(E) EXHIBITS. 25 exhibits equal 1 continuing education hour. A maximum of 3 continuing education hours may be used as credit per renewal period.

005.01(F) POSTER SESSIONS. 6 poster sessions equal 1 continuing education hour; a maximum of 3 continuing education hours may be used as credit each renewal period.

005.01(G) HOME STUDY PROGRAM. A maximum of 15 hours of continuing education hours may be used as credit for each renewal period. The provider of the program must have a system to monitor knowledge obtained by the licensee completing a home study program, such as, but not limited to a final examination or program evaluation.

005.01(H) VIDEO OR AUDIO MEDIA OR JOURNAL CLUB. A maximum of 15 hours of prerecorded continuing education hours may be obtained each renewal period. The provider of a video or audio media must issue a certificate of completion. A journal club must be an organized activity, with a pre-determined discussion topic and must be conducted in a monitored environment by another licensed dietitian nutritionist or licensed nutritionist.

005.01(I) CERTIFICATE PROGRAMS. 20 hours of continuing education, unless noted otherwise, may be used for completing a certificate program as follows:

- (i) Certified Nutrition Support Clinician sponsored by the National Board of Nutrition Support Certification, Inc;
- (ii) Certified Diabetes Care and Education Specialist sponsored by the Certification Board for Diabetes Care and Education;
- (iii) Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise;

- (iv) Specialist Certifications, Advanced Practice Certification, and Certificate of Training Programs sponsored by the Commission on Dietetic Registration;
- (v) International Board of Lactation Consultant Examiners; or
- (vi) Certified Lactation Counselor Certification from the Academy of Lactation Policy and Practice
- (vii) Other certificate programs not listed above should be submitted to the Board for review.

005.02 NONACCEPTABLE SUBJECT MATERIAL. The following topic areas do not count towards continuing education for renewal or reinstatement:

- (A) Menu planning;
- (B) Dietetic association business meeting or delegate report;
- (C) Cooking or baking demonstrations;
- (D) Food service sanitation;
- (E) Catering;
- (F) Garnishing techniques;
- (G) Publishing an employee training manual;
- (H) Sales presentation on a company's new product;
- (I) Marketing self as dietitian or licensed dietitian nutritionist and licensed nutritionist;
- (J) Language training; and
- (K) Health service administration, such as management, grant writing, and human resources.

006. REINSTATEMENT. The applicant must meet the requirements set out in 172 NAC 10.

007. INDIVIDUALS AIDING THE PRACTICE OF DIETETICS OR NUTRITION

007.01 Individuals operating under the exemptions provided in 38-1812(4) shall provide medical nutrition therapy under the supervision of an individual licensed pursuant to the Medical Nutrition Therapy Practice Act. Individuals providing services under the exemption provided in 38-1812(8) shall provide medical nutrition therapy at the direction of an individual licensed under the Uniform Credentialing Act whose scope of practice includes provision of medical nutrition therapy. Supervisors or those providing direction under 38-1812(8) shall:

(A) be available for consultation on delegated medical nutrition therapy activities being performed by the person being supervised, either through on-site or through electronic communication, and shall be available to render assistance when needed to the unlicensed personnel and patient or client, or shall have arranged for another licensee to be available in the absence of the licensed dietitian nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition.

(B) Directly and personally examine, evaluate, and approve the acts or functions of the person supervised; and

(C) meet with the unlicensed person in a joint effort to establish, maintain, and elevate a level of performance to ensure the health, safety, and welfare of clients or patients during the provision of medical nutrition therapy, and provide sufficient guidance and direction as to enable the unlicensed person to perform the delegated activity or function.

007.02 The licensed dietitian nutritionist, licensed nutritionist or other licensed health care practitioner whose licensed scope of practice includes provision of nutrition care services;

(A) may delegate medical nutrition therapy activities to unlicensed personnel that are appropriate to the level of knowledge and skill of the unlicensed person.

(B) shall be responsible for the initial and ongoing determination of the competence of the unlicensed person to perform any delegated acts or function. Delegate of medical nutrition therapy activities shall be in writing and shall identify the patient or client and the act or function assigned to the unlicensed person.

(C) shall maintain responsibility for medical nutrition therapy activities performed by all personnel to whom the care is delegated;

(D) shall not delegate the entire spectrum of medical nutrition therapy but may delegate specific acts and functions which support the licensed professional provision of medical nutrition therapy.

(E) shall have the responsibility for verifying clinical record documentation.

007.03 The following variables shall be considered by the licensed dietitian nutritionist, licensed nutritionist or other licensed health care practitioner whose licensed scope of practice includes the provision of medical nutrition therapy in determining whether an activity or function may be delegated to unlicensed personnel:

(A) knowledge and skills of the unlicensed person which includes both basic educational and experience preparation and continuing education and experience;

(B) the competence of the unlicensed person for the activity or function;

(C) the variables in each service setting which include:

(i) the complexity and frequency of medical nutrition therapy needed by a given client population;

(ii) the acuity and stability of the client's condition; and

(iii) established policies, procedures, practices, and channels of communication of the facilities where the delegated activities or functions are being performed which lend support to the types of medical nutrition therapy activities being delegated or not delegated to unlicensed persons, and

(iv) whether the licensed dietitian nutritionist, licensed nutritionist or other licensed health care practitioner whose licensed scope of practice includes the provision of medical nutrition therapy has the skills, experience, and ability to supervise the unlicensed person for the activity or function.

007.04 Tasks, treatments, or interventions that may not be delegated include, but are not limited to:

(A) assessments of data, problem identification, and outcome evaluation;

(B) tasks, treatments, or intervention that require a license; and

(C) any and all aspects of care or activities that require independent clinical judgment or knowledge.

008 SUPERVISION. For purposes of §38-1818 appropriate supervision means the supervising practitioner:

- A. together with the supervisee, shall identify and document competency goals for the supervised practice experience, which shall include: the supervisee's scope of practice; the assignment of clinical tasks as appropriate to the supervisee's level of competence; the supervisee's relationship and access to the supervisor; and an evaluation process for the supervisee's performance;
- B. is physically on-site and available for immediate physical intervention where the student or trainee is providing nutrition care that requires physically touching the patient and provides general supervision as defined in 38-1807.01 where the student or trainee is providing medical nutrition therapy not requiring touching the patient;
- C. shall be available to render assistance during the provision of nutrition care when requested by the patient or client, or shall have arranged for another qualified practitioner lawfully able to render nutrition care services, to be available in the absence of the supervising practitioner;
- D. regularly commensurate with the care provided, observes the nutrition care services of the student or trainee, including countersigning all clinical encounter notes; and
- E. ensures the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee.

009 INDIVIDUALS PROVIDING ADVICE RELATED TO FOOD, FOOD MATERIALS, OR DIETARY SUPPLEMENTS

(A) the person does not provide medical nutrition therapy support activities which have not been delegated to them by a licensed dietitian nutritionist, licensed nutritionist or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition;

(B) the person provides advice about food, food materials, or dietary supplements and does not provide advice on the nutritional needs of the consumer as related to manage or treating a medical condition;

(C) The person provides advice in connection with the marketing and distribution of the food, food materials, dietary supplements or other good to be provided or sold, and does not provide advice in connection with the marketing and distribution of medical nutrition therapy services; and

(D) The person provides the advice on food materials, nutraceutical, dietary supplements or other goods in accordance with federal, state, and local laws regulations and ordinances, including but not limited to (the specific section of state code incorporating dietetics and nutrition practice act)

010. FEES. Fees are set out in 172 NAC 2.

011. UNPROFESSIONAL CONDUCT.

011.01 COMPETENCE. A credential holder must not provide services for which he or she is not trained or experienced, unless he or she associates with another credential holder with established competence in the service or obtains the knowledge through necessary study. A credential holder must not encourage or promote the practice of Medical Nutrition Therapy by untrained or unqualified persons.

011.02 CONFIDENTIALITY. A credential holder must hold in confidence information received from a potential client with respect to the service requested, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required or permitted by law. A person who communicates information unilaterally to a credential holder without a reasonable expectation that the credential holder is willing to form a client-therapist relationship, is not a potential client.

011.03 DISCLOSURE OF CONFIDENTIAL INFORMATION. A person credentialed or certified pursuant to these regulations must not disclose any information he or she may have acquired from a client or patient, except:

- (A) With the written consent of such person;
- (B) In the case of death or disability when the client or patient is unable to consent, with the consent of a person legally authorized to consent on behalf of the decedent or client or patient;
- (C) When more than one person in a family received medical nutrition therapy conjointly, each such family member who is legally competent to execute a waiver must agree to the waiver referred to in this section. Without such a waiver from each family member legally competent to execute a waiver, a practitioner must not disclose information received from any family member who received medical nutrition therapy conjointly for any session where the non-consenting family member was present;
- (D) As such privilege is limited by the laws of the state of Nebraska;
- (E) When the person waives the privilege by bringing charges against the credential holder;
- (F) When there is a duty to warn when a client or patient reports intent to harm self or others.

011.04 DISCRIMINATION. Credential holders must provide professional assistance to clients or patients without discrimination on the basis of race, color, religion, sex, disability, marital status, national origin, age, familial status, and ancestry.

011.05 DUAL RELATIONSHIP. Credential holders must make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, credential holders must take appropriate professional precautions, such as seeking supervision or professional consultation, to ensure judgment is not impaired and no

exploitation occurs. Dual relationships include, but are not limited to, business or close personal relationships with a client.

011.05(A) SEXUAL INTIMACY OR CONTACT. Sexual intimacy or contact with a client during the provision of professional services or in the event professional services are reinitiated, 1 year preceding the provision of professional services, or with a former client less than 1 year following the last professional contact is prohibited.

(i) Sexual Intimacy means any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. Sexual intimacy may or may not include sexual contact.

(ii) Sexual contact includes sexual intercourse, either genital or anal, cunnilingus, fellatio, sodomy or the handling of breasts, genital areas, buttocks, or thighs whether clothed or unclothed, initiated or consented to by the credential holder.

011.05(B) EXPLOITATION. In the provider-client/patient relationship, credential holders need to be aware of the intimacy and responsibilities inherent in the provider-client/patient relationship and must avoid actions that seek to meet their personal needs at the expense of clients. Credential holders must be aware of their influential positions with respect to clients, and they must avoid exploiting the trust and dependency of such persons. Credential holders, therefore, must make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Failure to comply with this standard is considered unprofessional conduct.

011.06 PROFESSIONAL RECORDS. Failure to comply with the following professional record requirements is unprofessional conduct:

011.06(A) Client records must be maintained a minimum of 5 years following termination of services. Records or documentation of the actual fact of clinical record destruction must be maintained for an additional 5 years;

(B) Client records must be stored, safeguarded, and disposed of in ways that maintain confidentiality and in accord with applicable laws and professional standards;

(C) Prior to the credential holder moving from the area, closing a practice, or prior to the death of the credential holder, a credential holder must arrange for the storage, transfer, or access to, or dispose of client records in ways that maintain confidentiality and safeguard the welfare of clients;

(D) Client records must include a signed and dated informed consent agreement outlining confidentiality and the limitations of confidentiality, as well as the rights and responsibilities of the client in the client's file;

(E) Client records must include documentation which reflect the services provided and include applicable release of information and discussions with other professionals;

(F) A credential holder must allow a client access to his or her records in accordance with Neb. Rev. Stat. §71-8401 to 71-8407.

011.07 PROFESSIONAL RELATIONSHIPS. A credential holder must safeguard the welfare of clients or patients and maintain professional relationships with clients or patients. Commission of any of the following acts or behavior constitutes unprofessional conduct.

(A) Exploiting another person for one's own advantage;

(B) Performing or agreeing to perform medical nutrition therapy that have been requested when such services are known to be contraindicated or unjustified;

(C) Performing or agreeing to perform procedures that have been requested when such procedures are known to be outside of the medical nutrition therapy scope of practice;

(D) Verbally or physically abusing clients or patients;

(E) Attempting to provide diagnostic or treatment information to patient(s) or client(s) that is beyond the credential holder's level of education, training, and expertise;

(F) Failing to make a referral when a referral is in the patient's or client's best interest;

(G) Delegating to other personnel those client or patient related services for which the clinical skills and expertise of a credential holder are required;

(H) Failure to safeguard the patient's or client's dignity and right to privacy;

(I) Failure to take reasonable steps to clarify at the outset the following:

(i) Who is the client or patient;

(ii) The relationship the practitioner will have with each person if there are multiple individuals present. This clarification includes the practitioner's role, the probable services to be provided, and the probable uses of the information obtained;

(J) Committing any act which endangers client or patient safety or welfare.

011.08 REFERRALS. If, for any reason, a credential holder is unable to provide therapeutic services to a client or patient, the credential holder must refer the client or patient to other credential holders. This may be done by directing the client or patient to specific credential holders or to a list or directory of credential holders who may be able to provide professional assistance. The referral must be documented in the client or patient's record. Failure to comply with this standard is unprofessional conduct.

011.09 SEXUAL HARASSMENT. A credential holder must not under any circumstances engage in sexual harassment of clients or patients. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:

(A) Providing or denying care to a client or patient;

(B) Creating an intimidating, hostile, or offensive environment for the client or patient;

(C) Interfering with a patient's or client's ability to follow through with nutrition recommendations.

011.10 STUDENTS AND SUPERVISEES. Failure to comply with the following is considered unprofessional conduct:

(A) A credential holder must not exploit the trust and dependency of students and supervisees.

(B) A credential holder must be aware of his or her influential positions with respect to students and supervisees, and they must avoid exploiting the trust and dependency of such persons. Credential holders, therefore, must make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, credential holder must take appropriate precautions.

(C) A credential holder must not provide professional services to current students or supervisees.

(D) A credential holder must not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the credential holder and students or supervisees.

(E) A credential holder must take reasonable measures to ensure that professional services provided by supervisees are within the supervisees training, level of experience, and competence.

(F) A credential holder must avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the credential holder's objectivity. When such situations cannot be avoided, credential holders must take appropriate precautions to maintain objectivity. Such relationships include, but are not limited to, those individuals with whom the credential holder has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

(G) A credential holder must not disclose information from a supervisee about a client or patient which is obtained as part of a professional relationship except with written authorization or waiver from or by the client or patient, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee.

(H) A credential holder must sign-off as completed a supervisee's hours of experience, when the hours have been completed.

011.11 FAILURE TO COOPERATE WITH INVESTIGATIONS.

(A). Refusal to cooperate or failure to furnish requested information during any investigation by the Department.

(B) Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts to the Board or Department or by the use of threats, harassment, or retaliation against an individual who has submitted a complaint or information to the Department or is perceived to have submitted a complaint or information to the Department.