



**Government of the District of Columbia
Department of Health
Board of Dietetics and Nutrition**

**899 NORTH CAPITOL ST. NE – 2ND FLR.
WASHINGTON, DC 20002**

December 8, 2016

9:00 am - 12:00 pm

MEETING AGENDA



OPEN SESSION: Call to Order

OS-1208-01	SENIOR DEPUTY DIRECTOR'S REPORT	
OS-1208-02	EXECUTIVE DIRECTOR'S REPORT	
OS-1208-03	BOARD ATTORNEY'S REPORT	
OS-1208-04	CHAIRPERSON'S REPORT	
OS-1208-05	<u>OPEN SESSION MINUTES</u> Board Action: To consider the Open Session Minutes of the September 20, 2016 meeting.	
OS-1208-06	<u>SCOPE OF PRACTICE AND LICENSURE DEFINITIONS</u> Board Action: To discuss the Board's work thus far on defining scope of practice and creating new licensure levels.	
OS-1208-07	<u>LGBTQ CONTINUING EDUCATION REQUIREMENT</u> Board Action: To discuss amending the regulations so that the mandatory two (2) CE credits in training related to lesbian, gay, bisexual, transgender and queer (LGBTQ) clients will either be folded into the total of thirty (30) credits required for every licensure renewal or added to the 30-credit requirement.	
OS-1208-08	<u>CONTINUING EDUCATION (CE) AUDIT</u> Board Action: To discuss the last CE audit.	
OS-1209-09	<u>CRIMINAL BACKGROUND CHECK (CBC) POLICY</u> Board Action: To discuss what weight should be given to criminal charges in applicants' backgrounds and how applicants should be handled if they give false or incorrect answers to the CBC screening questions.	

TO BE READ BY THE CHAIRPERSON PRIOR TO THE END OF THE PUBLIC SESSION

This concludes the public open session meeting and pursuant to the DC Official Code 2-575(b) and for the purposes set forth therein, the Board will now move into the closed executive session portion of the meeting.



Government of the District of Columbia
Department of Health

BOARD OF DIETETICS/NUTRITION

OPEN SESSION MINUTES

899 NORTH CAPITOL ST. NE
ROOM 216
WASHINGTON, DC 20002

September 20, 2016
9:30am-10:30am



Government of the District of Columbia
Department of Health
BOARD OF DIETETICS/NUTRITION

OPEN SESSION MINUTES SEPTEMBER 20, 2016

ATTENDANCE:

BOARD MEMBERS:		
	DR. ANNINA BURNS, CHAIRPERSON	PRESENT
	DR. JANET UNONU, MEMBER	PRESENT
	JENNIFER McCRINDLE	ABSENT
STAFF:		
	ROBIN JENKINS, EXECUTIVE DIRECTOR, BOARDS OF ALLIED AND BEHAVIORAL HEALTH	PRESENT
	ERIC YEAGER, HEALTH LICENSING SPECIALIST	PRESENT
	LEONARD HOWARD, INVESTIGATOR	PRESENT
	PANRAVEE VONGJAROENRAT, ESQ., BOARD ATTORNEY	PRESENT

The open session MINUTES begin on the next page.

OPEN SESSION MINUTES September 20, 2016



**Government of the District of Columbia
Department of Health**

BOARD OF DIETETICS/NUTRITION

OS-0920-01	<p>SENIOR DEPUTY DIRECTOR’S REPORT <u>Board Action:</u> There was no report.</p>	
OS-0920-02	<p>EXECUTIVE DIRECTOR’S REPORT <u>Board Action:</u> The Executive Director welcomed Dr. Annina to the Board as new Member and Chair, and said that she looked forward to working with her in the coming months. She said that ethics training will be held for new Board Members in November, and that those who complete the class will be given government email addresses and key fobs to access the DOH building. The Executive Director also announced that D.C. Mayor Muriel Bowser and the City Council have passed legislation requiring that all professional health licensees complete two (2) CEUs of training directed at meeting the needs of the lesbian, gay, transgender and queer (LGBTQ) clients/patients for each license renewal. She asked the Board to consider at its next meeting whether to add these two (2) credits to the total of thirty (30) CEU credits currently required for licensure renewal, or whether these two (2) credits should be folded into the current thirty (30)-credit CEU requirement for renewal, and the Board agreed to do so.</p>	
OS-0920-03	<p>BOARD ATTORNEY’S REPORT <u>Board Action:</u> The Board Attorney announced that the City Council has proposed new legislation which would require a health professional’s employer, health care provider, facility or agency to submit a written report, within five (5) days, of any action taken against a health professional for incompetence, mental or physical impairment, unprofessional, illegal or unethical conduct. If the reporting requirement is not met, the Mayor may impose a fine of up to \$10,000 per incident. This legislation is entitled the “Health-Care and Community Residence</p>	



**Government of the District of Columbia
Department of Health**

BOARD OF DIETETICS/NUTRITION

	<p>Facility Licensure Act of 1983 Amendment of 2016. The Board Chair found this legislation troublesome given its broad scope and heavy reporting obligations, and she asked the Board Attorney to keep the Board apprised of developments relating to this measure in the upcoming months.</p>	
OS-0920-04	<p><u>BOARD CHAIRPERSON'S REPORT</u> Board Action: The Board Chair, a licensed Nutritionist in D.C., began by thanking the Executive Director, Board Member Dr. Janet Unonu, and the Board staff for the warm welcome, and she invited the whole team to introduce themselves. She then discussed her work as Associate Director for Policy at "Let's Move" in the Office of the First Lady at the White House and her work as Public Policy Health Expert at the Centers for Disease Control, and said that she looks forward to working on behalf of the citizens of the District of Columbia.</p>	
OS-0920-05	<p><u>OPEN SESSION MINUTES</u> Board Action: The Open Session Minutes of the December 8, 2015 meeting were approved.</p>	
OS-0920-06	<p><u>SCOPE OF PRACTICE AND LICENSURE DEFINITIONS</u> Board Action: The Board agreed to discuss scope of practice and licensure levels at the next meeting along with a review of the last CEU audit and the credits required for renewal in neighboring states like Maryland, Virginia, and Delaware. Further, the Board agreed to discuss at the next meeting how to handle criminal background check issues in the review of licensure applications.</p>	

Distinctions Between Dietitians and Nutritionists

Maryland – differentiates between:

1. Dietetic practice
2. Medical nutrition
3. Nonmedical nutrition

Pennsylvania – no distinction - “Practice of dietetics-nutrition”

Virginia – currently differentiates between:

1. Dietetics
 2. General nonmedical nutrition information
 3. Medical nutrition therapy
- They are in the process of changing their regulation: removing the word “dietitian” and replacing it with “nutritionist”

Texas – no distinction– “Profession of Dietetics”

New York – no distinction – “Professional Dietetics and Nutrition”

Tennessee – no distinction – “Practice of Dietetics/Nutrition”

Florida – differentiates between:

1. Dietetics and nutrition practice (licensed dietitians/nutritionists)
2. Nutrition counseling (licensed nutrition counselors)

North Carolina - no distinction – “Dietetics/Nutrition”

Connecticut – no distinction – “Dietetics or Nutrition Practice”

Washington – no distinction – “Dietetics”

MARYLAND

(8) "Dietetic practice COMAR 10.56.01.02

(8) "Dietetic practice" means a practice through which the principles derived from integrating knowledge of food, biochemistry, physiology, management science, behavioral science, and social science to human nutrition are applied. Dietetic practice includes:

(a) Assessing individual and community food practices, and nutritional status for clinical, research, and program planning purposes using:

- (i) Anthropometric data,
- (ii) Biochemical data,
- (iii) Clinical data,
- (iv) Dietary data, and
- (v) Demographic data;

(b) Developing, establishing, and evaluating nutritional care plans that establish priorities, goals, and objectives for meeting nutrient needs for individuals or groups;

(c) Conducting nutrition counseling and education as a part of preventive or restorative health care throughout the life cycle;

(d) Determining, applying, and evaluating standards for food and nutrition services; and

(e) Applying scientific research to the role of food for the maintenance of health and the treatment of disease.

(13) "Medical nutrition" means nutritional advice or counsel provided to an individual by a licensee, in the licensee's professional capacity, that is designed for an individual to alleviate a specific physiological complaint, condition, or symptom.

(14) "Nonmedical nutrition" means the application of basic principles of nutrition to food selection for the purpose of maintaining health.

PENNSYLVANIA

63 P.S. § 212

(7) The "Practice of dietetics-nutrition" means the integration and application of principles derived from the sciences of food nutrition, biochemistry, physiology, management and behavior to provide for all aspects of nutrition therapy for individuals and groups, including nutrition therapy services and medical nutrition therapy, compatible with dietitian-nutritionist education and professional competence.

VIRGINIA

VA Code Ann. § 54.1-2731

"Dietetics" means the integration, application, and communication of principles derived from food, nutrition, social, business, and basic sciences to achieve and maintain optimal nutrition status of individuals through the development, provision, and management of effective food and nutrition services in a variety of settings.

"Dietitian" means an individual who has met the requirements of the Board for licensure to practice dietetics.

"General nonmedical nutrition information" means information on one or more of the following: (i) principles of good nutrition and food preparation; (ii) food to be included in the normal daily diet; (iii) the essential nutrients needed by the body; (iv) recommended amounts of the essential nutrients, based on established standards; (v) the actions of nutrients on the body; (vi) the effects of deficiencies or excesses of nutrients; or (vii) food and supplements that are good sources of essential nutrients.

"Medical nutrition therapy" means the use of specific nutrition services described in the nutrition care process for the purpose of disease management to treat or rehabilitate an illness, injury, or condition and includes (i) interpreting dietary data and determining nutrient needs relative to medically prescribed diets, including but not limited to tube feedings, specialized intravenous solutions, and specialized oral feedings; (ii) food and prescription drug interactions; and (iii) developing and managing food service operations whose chief function is nutrition care and provision of medically prescribed diets.

TEXAS

Tex. Admin. Code tit. 22, § 711.4

(a) The profession of dietetics includes six primary areas of expertise: clinical, educational, management, consultation, community and research; and includes without limitation the development, management, and provision of nutrition services, as follows:

- (1) planning, developing, controlling, and evaluating food service systems;
- (2) coordinating and integrating clinical and administrative aspects of dietetics to provide quality nutrition care;
- (3) establishing and maintaining standards of food production, service, sanitation, safety, and security;
- (4) planning, conducting, and evaluating educational programs relating to nutrition care;
- (5) developing menu patterns and evaluating them for nutritional adequacy;
- (6) planning layout designs and determining equipment requirements for food service facilities;

(7) developing specifications for the procurement of food and food service equipment and supplies;

(8) developing and implementing plans of nutrition care for individuals based on assessment of nutrition needs;

(9) counseling individuals, families, and groups in nutrition principles, dietary plans, and food selection and economics;

(10) communicating appropriate diet history and nutrition intervention data through medical record systems;

(11) participating with physicians and allied health personnel as the provider of nutrition care;

(12) planning, conducting or participating in, and interpreting, evaluating, and utilizing pertinent current research related to nutrition care;

(13) providing consultation and nutrition care to community groups and identifying and evaluating needs to establish priorities for community nutrition programs;

(14) publishing and evaluating technical and lay food and nutrition publications for all age, socioeconomic, and ethnic groups; and

(15) planning, conducting, and evaluating dietary studies and participating in nutrition and epidemiologic studies with a nutrition component.

(b) Provider of nutrition services. A person licensed by the board is designated as a health care provider of nutrition services.

(1) A licensed dietitian, acting within the scope of his or her license and consistent with medical direction or authorization as provided in this section, may accept, transcribe into a patient's medical record or transmit verbal or electronically-transmitted orders, including medication orders, from a physician to other authorized health care professionals relating to the implementation or provision of medical nutrition therapy and related medical protocols for an individual patient or group of patients. In a licensed health facility, the medical direction or authorization shall be provided, as appropriate, through a physician's order, or a standing medical order, or standing delegation order, or medical protocol issued in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Board of Medical Examiners implementing the subchapter. In a private practice setting, the medical direction or authorization shall be provided, as appropriate, through the physician's order, standing medical order, or standing delegation order of a referring physician, in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Board of Medical Examiners implementing the subchapter.

(2) A licensed dietitian, acting within the scope of his or her license and consistent with medical direction or authorization as provided in this section, may order medical laboratory tests relating to the implementation or provision of medical nutrition therapy and related medical protocols for individual patients or groups of patients. In a licensed health facility, the medical

direction or authorization shall be provided, as appropriate, through a physician's order, or a standing medical order, or standing delegation order, or medical protocol, issued in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Board of Medical Examiners implementing the subchapter. In a private practice setting, the medical direction or authorization shall be provided through the physician's order, standing medical order, or a standing delegation order of the referring physician, in accordance with Texas Occupations Code, Chapter 157, Subchapter A, and rules adopted by the Board of Medical Examiners implementing the subchapter.

NEW YORK

8 NYCRR 52.25

(a) *Definitions.* As used in this section:

(1) *Professional dietetics* and *nutrition* content area shall mean courses which include, but are not limited to, the following curricular areas:

- (i) principles of nutrition in health and disease;
- (ii) human nutrition needs throughout the life span;
- (iii) assessment and evaluation of the nutritional status of individuals, families, and communities;
- (iv) nutrient composition of food;
- (v) food service management, including but not limited to such topics as human resources, planning, purchasing, preparation and service, delivery, and sanitation;
- (vi) diet modifications;
- (vii) counseling, education, and communication skills;
- (viii) interpretation of nutrition information and its application; and
- (ix) ethics and professionalism.

TENNESSEE

Tenn. Comp. R. & Regs. 0470-01-.01

(12) Dietitian and Nutritionist - A licensed health care professional practicing dietetics/nutrition. "Dietitian" or "nutritionist" may be used interchangeably

(22) Practice of Dietetics/Nutrition - The integration and application of scientific principles of food, nutrition, biochemistry, physiology, management and behavioral and social sciences in achieving and maintaining health through the life cycle and in the treatment of disease. Methods of practice include, but are not limited to, nutritional assessment, development, implementation and evaluation of nutrition care plans, nutritional counseling and education, and the development and administration of nutrition care standards and systems.

0470-1-.02 SCOPE OF PRACTICE.

- (1) Any person who possesses a valid unsuspended and unrevoked license has the right to use the title dietitian/ nutritionist, licensed dietitian, licensed nutritionist.

FLORIDA

West's F.S.A. § 468.503
468.503. Definitions

(3) "Dietetics" means the integration and application of the principles derived from the sciences of nutrition, biochemistry, food, physiology, and management and from the behavioral and social sciences to achieve and maintain a person's health throughout the person's life. It is an integral part of preventive, diagnostic, curative, and restorative health care of individuals, groups, or both.

(4) "Dietetics and nutrition practice" shall include assessing nutrition needs and status using appropriate data; recommending appropriate dietary regimens, nutrition support, and nutrient intake; improving health status through nutrition research, counseling, and education; and developing, implementing, and managing nutrition care systems, which includes, but is not limited to, evaluating, modifying, and maintaining appropriate standards of high quality in food and nutrition care services.

(5) "Dietetic technician" means a person who assists in the provision of dietetic and nutrition services under the supervision of a qualified professional.

(6) "Licensed dietitian/nutritionist" means a person licensed pursuant to s. 468.509.

(7) "Licensed nutrition counselor" means a person licensed pursuant to s. 468.51.

(9) "Nutrition counseling" means advising and assisting individuals or groups on appropriate nutrition intake by integrating information from the nutrition assessment.

Rule 64B8-43.002, F.A.C.

Fla. Admin. Code r. 64B8-43.002

64B8-43.002. Nutrition Counseling.

(1) "Nutrition counseling" means advising and assisting individuals or groups on appropriate nutrition intake by integrating information from the nutrition assessment and individualized lifestyle.

- (2) Prior to providing nutrition counseling to an individual, the licensee shall conduct a comprehensive nutrition assessment of the health and nutrition status of the patient, which shall include but not be limited to the identification of food intake, medication, drug or supplement usage, personal health practices, and personal and family health or medical conditions.
- (3) The licensee shall develop and implement an individualized nutrition counseling plan for each patient based on the nutrition assessment of the patient's health, nutrition status, and individualized lifestyle.
- (4) The licensee shall periodically reassess the patient's health and nutrition status and adjust the nutrition counseling plan as indicated.
- (5) The licensee shall not render advice, counseling or recommendations to a patient which is not documented, or which is not consistent with the nutrition assessment or the nutrition counseling plan.
- (6) Nutrition counseling does not include diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition.

NORTH CAROLINA
21 NCAC 17.0101

As used in this Chapter, the following terms and phrases, which have not already been defined in the Practice Act, G.S. 90-350 through 90-369, have the meanings specified:

N.C.G.S.A. § 90-352

As used in this Article, unless the context otherwise requires, the term:

- (2) "Dietetics/nutrition" means the integration and application of principles derived from the science of nutrition, biochemistry, physiology, food, and management and from behavioral and social sciences to achieve and maintain a healthy status. The primary function of dietetic/nutrition practice is the provision of nutrition care services.
- (3) "Licensed dietitian/nutritionist" means an individual licensed in good standing to practice dietetics/nutrition.

CONNECTICUT
C.G.S.A. § 20-206m

(5) “Dietetics or nutrition practice” means the integration and application of the principles derived from the sciences of nutrition, biochemistry, food, physiology, and behavioral and social sciences to provide nutrition services that include: (A) Nutrition assessment; (B) the establishment of priorities, goals, and objectives that meet nutrition needs; (C) the provision of nutrition counseling in health and disease; (D) the development, implementation and management of nutrition care plans; and (E) the evaluation and maintenance of appropriate standards of quality in food and nutrition. The term “dietetics or nutrition practice” does not include the administration of nutrition by any route other than oral administration and does not include the issuance of orders for laboratory or other diagnostic tests or orders intended to be implemented by any person licensed pursuant to chapter 378.

WASHINGTON
West's RCWA 18.138.010

(1) “Dietetics” is the integration and application of scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences in counseling people to achieve and maintain health. Unique functions of dietetics include, but are not limited to:

(a) Assessing individual and community food practices and nutritional status using anthropometric, biochemical, clinical, dietary, and demographic data for clinical, research, and program planning purposes;

(b) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;

(c) Providing nutrition counseling and education as components of preventive, curative, and restorative health care;

(d) Developing, implementing, managing, and evaluating nutrition care systems; and

(e) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.

(2) “General nutrition services” means the counseling and/or educating of groups or individuals in the selection of food to meet normal nutritional needs for health maintenance, which includes, but is not restricted to:

(a) Assessing the nutritional needs of individuals and groups by planning, organizing, coordinating, and evaluating the nutrition components of community health care services;

(b) Supervising, administering, or teaching normal nutrition in colleges, universities, clinics, group care homes, nursing homes, hospitals, private industry, and group meetings.

HB 345 Dietitians; requires Board of Medicine to promulgate regulations for licensure.**John M. O'Bannon, III** | [all patrons](#) ... [notes](#) | [add to my profiles](#)

Summary as introduced:

Licensure of dietitians. Requires the Board of Medicine to promulgate regulations for the licensure of dietitians in the Commonwealth; provides that it shall be unlawful for any person to practice as or hold himself out to be a dietitian or to use in conjunction with his name the letters or words "dietitian," "L.D.," or "Licensed Dietitian" without a license issued by the Board of Medicine beginning July 1, 2013; and establishes the Advisory Board for Dietitians to advise the Board of Medicine regarding the regulation of dietitians in the Commonwealth.

Full text:01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12100588D [pdf](#) | [impact statement](#)***Amendments:***[House committee amendments](#)***Status:***

01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12100588D

01/10/12 House: Referred to Committee on Health, Welfare and Institutions

01/20/12 House: Assigned HWI sub: #2

01/31/12 House: Subcommittee recommends continuing to 2013 by voice vote

02/02/12 House: Committee amendments

02/02/12 House: Continued to 2013 with amendment(s) in Health, Welfare and Institutions by voice vote

11/29/12 House: Left in Health, Welfare and Institutions

2013 SESSION
12100588D

HOUSE BILL NO. 345

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 54.1-2731 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 54.1-2956.12 through 54.1-2956.18, relating to licensure of dietitians.

Patrons-- O'Bannon, Filler-Corn, Hugo, Kory and Landes

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2731 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 54.1-2956.12 through 54.1-2956.18 as follows:

CHAPTER 27.1.
DIETITIANS AND NUTRITIONISTS.

§ 54.1-2731. Prohibited terms; penalty.

A. No person shall hold himself out to be or advertise or permit to be advertised that such person is a ~~dietitian~~ or nutritionist unless such person:

1. Has (i) received a baccalaureate or higher degree in nutritional sciences, community nutrition, public health nutrition, food and nutrition, dietetics or human nutrition from a regionally accredited college or university *in the United States* and (ii) satisfactorily completed a program of supervised clinical experience approved by the Commission on Dietetic Registration of the ~~American Dietetic Association~~ *Academy of Nutrition and Dietetics, or a successor organization thereof;*
2. Has active registration through the Commission on Dietetic Registration of the American Dietetic Association;
3. Has an active certificate of the Certification Board for Nutrition Specialists by the Board of Nutrition Specialists;
4. Has an active accreditation by the Diplomats or Fellows of the American Board of Nutrition;
5. Has a current license or certificate as a ~~dietitian~~ or nutritionist issued by another state; or
6. Has the minimum requisite education, training and experience determined by the Board of Health Professions appropriate for such person to hold himself out to be, or advertise or allow himself to be advertised as, a ~~dietitian~~ or nutritionist.

The restrictions of this section apply to the use of the terms "~~dietitian~~" and term "nutritionist" as used alone or in any combination with the terms "licensed," "certified," or "registered," as those terms also imply a minimum level of education, training and competence.

B. Any person who willfully violates the provisions of this section shall be guilty of a Class 3 misdemeanor.

§ 54.1-2956.12. Dietitians; practice of dietetics; definitions.

"Dietetics" means the integration, application, and communication of principles derived from food, nutrition, social, business, and basic sciences to achieve and maintain optimal nutrition status of individuals through the development, provision, and management of effective food and nutrition services in a variety of settings.

"Dietitian" means an individual who has met the requirements of the Board for licensure to practice dietetics.

"General nonmedical nutrition information" means information on one or more of the following: (i) principles of good nutrition and food preparation; (ii) food to be included in the normal daily diet; (iii) the essential nutrients needed by the body; (iv) recommended amounts of the essential nutrients, based on established standards; (v) the actions of nutrients on the body;

(vi) the effects of deficiencies or excesses of nutrients; or (vii) food and supplements that are good sources of essential nutrients.

"Medical nutrition therapy" means the use of specific nutrition services described in the nutrition care process for the purpose of disease management to treat or rehabilitate an illness, injury, or condition and includes (i) interpreting dietary data and determining nutrient needs relative to medically prescribed diets, including but not limited to tube feedings, specialized intravenous solutions, and specialized oral feedings; (ii) food and prescription drug interactions; and (iii) developing and managing food service operations whose chief function is nutrition care and provision of medically prescribed diets.

"Medically prescribed diet" means a diet prescribed when specific food or nutrient levels need to be monitored or altered, or both, as a component of a treatment program for an individual whose health status is impaired or at risk due to disease, injury, or surgery.

"Nutrition care process" means the systematic problem solving method used to critically think about and make decisions regarding the provision of medical nutrition therapy or to address nutrition-related problems. Nutrition care process includes: (i) the systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, and dietary data in order to determine nutrient needs and appropriate intake including enteral and parenteral nutrition; (ii) identifying and labeling nutrition problems that a dietitian is responsible for treating independently; (iii) purposefully planned actions intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of health status for an individual, the individual's family, caregivers, target groups, or the community at large; and (iv) identifying patient or client outcomes relevant to the nutrition diagnosis and intervention plans and goals, and comparing those outcomes with a previous status, intervention goals, or a reference standard to determine the progress made in achieving desired outcomes of nutrition care for the purpose of determining whether planned interventions should be continued or revised.

§ 54.1-2956.13. Powers of the Board.

The Board shall take such actions as may be necessary to ensure the competence and integrity of any person who claims to be a dietitian or who holds himself out to the public as a dietitian or who engages in the practice of dietetics, the nutrition care process, and medical nutrition therapy, and to that end it may license as dietitians any practitioner who has met the qualifications established in regulations by the Board.

§ 54.1-2956.14. Unlawful to practice dietetics without license; unlawful designation as dietitian.

It shall be unlawful for any person not holding a current and valid license from the Board (i) to practice as or hold himself out as a dietitian; (ii) to use in conjunction with his name the letters or words "dietitian," "L.D.," or "Licensed Dietitian"; or (iii) to otherwise by letters, words, representations, or insignias assert or imply that he is licensed to practice dietetics. It shall be unlawful for any person not holding a current and valid license as a dietitian to engage in the nutrition care process or medical nutrition therapy, except when otherwise permitted by this chapter.

A person registered with the Commission on Dietetic Registration, or a successor organization thereof, the credentialing body for the Academy of Nutrition and Dietetics, may use the letters or words "R.D." or "Registered Dietitian" in conjunction with his name. However, such persons are not exempt from the requirement for licensure and shall not engage in the practice of dietetics within the Commonwealth without a current and valid license issued by the Board.

§ 54.1-2956.15. Requirements for licensure as a dietitian; provisional license.

A. The Board shall promulgate regulations establishing requirements for licensure as a dietitian that shall include, but not be limited to, the following:

1. Receipt of at least a bachelor's degree in human nutrition, nutrition education, foods and nutrition, food systems management, dietetics, or public health nutrition or in a related field from a regionally accredited college or university in the United States that meets the requirements of the Commission on Dietetic Registration, or a successor organization thereof;
2. Successful completion of at least 1200 hours of supervised experience approved by the Commission on Dietetic Registration, or a successor organization thereof;
3. Passage of the examination for registration administered by and current registration with the Commission on Dietetic Registration, or a successor organization thereof; and

4. Documentation that the applicant for licensure has not had his license or certificate as a dietitian suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

B. The Board may issue a provisional license to practice under the supervision of a licensed dietitian for up to one year upon the filing of an application and submission of evidence of successful completion of the educational and pre-professional practice requirements to sit for the registration examination.

C. The Board may license any person who, prior to July 1, 2012, met the requirements to practice as a registered dietitian.

§ 54.1-2956.16. Exceptions to requirements for licensure as a dietitian.

The licensure requirements for dietitians established pursuant to this chapter shall not apply to and a license as a dietitian shall not be required for:

1. Any student performing activities related to an accredited educational program under the supervision of a licensed dietitian or any person completing the supervised practice required for licensure;

2. A registered dietetic technician working under the supervision and direction of a licensed dietitian;

3. A government employee or a person under contract to the government acting within the scope of such employment or contract;

4. Any health professional licensed or certified under this title engaged in the profession for which he is licensed;

5. A certified teacher employed by or under contract to any public or private elementary or secondary school or institution of higher learning;

6. Any person with management responsibility for food service department policies, procedures, or outcomes in any food service department in any program or facility licensed by the Commonwealth;

7. A dietitian who is serving in the armed forces or the public health service of the United States or is employed by the U.S. Department of Veterans Affairs and who engages in the practice of dietetics provided such practice is related to such service or employment;

8. Any person or retailer who does not hold himself out to be a dietitian who furnishes general, nonmedical nutrition information on food, food materials, or dietary supplements or on the marketing of food, food materials, or dietary supplements; and

9. A person providing weight control services through a program that has been reviewed and approved by and when consultation is available from a licensed dietitian, a dietitian licensed in another state that has licensure requirements at least as stringent as the requirements for licensure pursuant to this chapter, a dietitian registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics, or a successor organization thereof, or a physician licensed in the Commonwealth. Program changes may not be initiated without prior approval of the program approver.

§ 54.1-2956.17. Requirements for medical nutritional therapy and medical laboratory tests.

The Board shall promulgate such regulations as may be necessary to allow a licensed dietitian to (i) provide medical nutritional therapy for individuals or groups of patients in licensed institutional facilities as authorized by referral, institutional privileges, or protocols or in private office settings; (ii) accept or transmit verbal orders or electronically transmitted orders from a referring prescriber; and (iii) order medical laboratory tests related to nutritional therapeutic treatments when authorized to do so by referral, institutional privileges, or protocols.

§ 54.1-2956.18. Advisory Board on Dietitians; membership; qualifications.

The Advisory Board on Dietitians (Advisory Board) shall assist the Board of Medicine in carrying out the provisions of this chapter regarding the qualifications, examination, licensure, and regulation of dietitians.

The Advisory Board shall consist of five members to be appointed by the Governor for four-year terms as follows: three members who shall be dietitians who have practiced their profession in the Commonwealth for not less than three years prior

to their appointments; one member who shall be a physician; and one member who shall be a citizen member appointed from the Commonwealth at large. Vacancies occurring other than by expiration of terms shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

Nominations for the professional members of the Advisory Board may be chosen by the Governor from a list of at least three names for each vacancy submitted by the Virginia Dietetic Association. The Governor may notify the Virginia Dietetic Association of any professional vacancy other than by expiration of a term and nominations may be submitted by the Virginia Dietetic Association. The Governor shall not be bound to make any appointment from among such nominees.

Members of the Advisory Board shall receive compensation for their services and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

The Department of Health Professions shall provide staff support to the Advisory Board. All agencies of the Commonwealth shall provide assistance to the Advisory Board upon request.

2. That the provisions of this act shall become effective on July 1, 2013.

3. That the Board of Medicine shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

4. That the initial terms for the members appointed to the Advisory Board on Dietitians pursuant to § 54.1-2956.18 of this act shall be staggered as follows: two members shall be appointed for a one-year term, one member shall be appointed for a two-year term, one member shall be appointed for a three-year term, and one member shall be appointed for a four-year term.

The Board has transitioned to paperless licensure. **You will not receive a license in the mail. However, you will receive an email notification that your license has been renewed.** Online verifications are available at www.dhmf.maryland.gov/dietetic

Before you begin, you will need the following:

1. Your Maryland Board of Dietetic Practice License Number and Social Security Number.
2. Computer with **Internet Explorer Browser** access and a printer. You will print a copy of your application and invoice or receipt for your records.
3. Continuing education records.
4. Visa or MasterCard only (**no debit cards accepted**). You may also mail a check or money order with a copy of the online receipt to the Board.

To Renew Online:

1. Go to the Board's website at www.dhmf.maryland.gov/dietetic and click **RENEW YOUR LICENSE**.
2. Read the instructions and click **LOGIN** to proceed to the Logon Screen.
3. Enter your Board of Dietetic Practice License Number – **D, DX, B, THEN THE NUMBER.** (i.e., **D Zero # # # #**).
4. **Enter the last 4 digits of your Social Security Number.**
5. Fill in the information as requested. (Note that some fields *may already be completed*) Please note that when you renew online, no paperwork is required. **You will list a minimum of 30 CEUS** electronically by category between November 1, 2014 – October 31, 2016. The Board will conduct a random audit after the renewal period.
6. Prior to selecting a method of payment, you must certify that all information in the application is accurate.
7. Preview your application and then click, **Submit Application**. Please note that once submitted the application cannot be changed. **Print and maintain a copy of your application for your records.**

Payment Methods:

1. Select Visa or MasterCard credit card payment. The 2016 renewal fee is \$286. **Only click once to confirm payment.** Applications will be processed within 1-2 business days. **OR**
2. Select **PAYMENT BY MAIL.** **You may mail a check or money order in the amount of \$286 made payable to the Maryland Board of Dietetic Practice.** Your license will not be processed until payment is received. The Board must receive payment on or before October 31, 2016. Payments received between November 1, 2016 - December 31, 2016 will be assessed a \$100 late fee. **The mailing address is the Board of Dietetic Practice, 4201 Patterson Avenue, 3rd Floor, Baltimore, MD 21215-2299.**

If you are unable to complete your application online for any reason, please contact the Board at 410-764-4733. If your license expires on October 31, 2016 and you do not renew by December 31, 2016, you are considered to be practicing without a license and are subject to disciplinary action. In addition, licensed dietitian-nutritionists who have not completed the entire renewal process by December 31,

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

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

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

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

2.4 Examination

2.4.1 The satisfactory completion of the registration examination established by the Commission on Dietetic Registration (CDR), the examination of the Certification Board for Nutrition Specialists (CBNS) or another national examination acceptable to the Board and approved by the Director of Professional Regulation is required. [24 Del.C. §3806(a)(4)].

2.4.1.1 The passing score shall be the passing score established by the exam provider.

2.4.2 The cost of the examination shall be borne by the applicant.

2.5 Individuals seeking a waiver under the provisions of 24 Del. C. §3806(f) of the qualifications for licensure specified in 24 Del. C. §3806(a)(1)-(4) and 24 Del. C. §3806(b) must document at least 10 years or greater work experience in the field of nutrition as defined in 24 Del. C. §3802(3) acceptable to the Board.

13 DE Reg. 414 (09/01/09)

19 DE Reg. 933 (04/01/16)

3.0 Reciprocity

3.1 The Board may grant licensure to registered, certified or licensed dietitians/nutritionists holding a valid license issued by another jurisdiction whose standards of licensure are equal to or greater than those of 24 Del.C. Ch. 38.

3.2 The applicant shall include, as part of the application, copies of state licensing and/or practice statutes and regulations pertaining to the practice of dietetics and nutrition for each jurisdiction through which he/she is seeking reciprocity.

3.3 The Applicant shall include letters of good standing from all jurisdictions in which the applicant is licensed or registered.

3.4 "Standards of licensure" as used in 24 Del.C. §3807, shall refer to the qualifications of applicants set forth at §3806.

13 DE Reg. 414 (09/01/09)

19 DE Reg. 933 (04/01/16)

4.0 Continuing Professional Education

4.1 "Continuing professional education" (CPE) as specified in the Dietician/Nutritionist Licensure 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.

4.1.1 To renew his or her license a LDN must obtain thirty (30) hours of CPE during each two year certification period.

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

4.1.1.2 Extensions of time: An extension of time to complete CPE requirements will be granted to any LDN who can demonstrate to the Board an acceptable cause. The LDN must petition the

Virginia does not license, certify, or register dietitians or nutritionists to practice in Virginia. However, Virginia Code states that you cannot practice as a dietitian unless you have completed the training, education and exam requirements outlined in Steps 1 through 3.

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Step 5 **Seek Professional Certification in Virginia**

You may choose to advance your dietitian career by pursuing professional certification.

The CDR offers seven certification programs for dietitians and nutritionists:

- Board Certified Specialist in Gerontological Nutrition (CSG)
- Board Certified Specialist in Rental Nutrition (CSR)
- Board Certified Specialist in Sports Dietetics (CSSD)
- Dietetic Technician, Registered (DTR)
- Registered Dietitian (RD)
- Board Certified Specialist in Oncology Nutrition (CSO)
- Board Certified Specialist in Pediatric Nutrition (CSP)

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Virginia Resources

- [Virginia Licensed Nutritionist Info](#)

(virginia-nutritionist.html)

- [Virginia Dietitian Info \(registered-](#)

dietitian-virginia.html)

General Resources

- [State Requirements \(state-](#)

requirements.html)

**Appendix A
CBC Planning Checklist
Board of Nursing Policy Decisions**

Board Policy Issue			
1. Who is to receive CBC?			
<i>At a minimum, all applicants for licensure should receive CBC as a step in the licensure process.</i>			
a. All applicants for all levels of initial licensure (LPN, RN, and APRN, if applicable)			
b. All endorsement applicants			
c. All applicants for reinstatement of a revoked license or certificate			
d. All applicants for all types of nursing assistant			
2. What decision-making may be delegated to board staff?			
<i>Many boards delegate some degree of decision-making to board staff so that they can effectively and efficiently manage the volume of records that will be received.</i>			
<i>Data gathering and management</i>			
<i>Initial triage decisions</i>			
<i>Initiate investigations based on board approved criteria</i>			
<i>Reports and recommendation to the board</i>			
<i>Case decisions based on board approved criteria</i>			
***Board needs to identify criteria for case decisions.			

Board Policy Issue	Check when Decided	Date	Comments
3. Criteria for evaluating positive CBC results – were these factors considered?			
<i>Type and severity of crime</i>			
<i>Person's age at time of offense</i>			
<i>Completion of sentence/sanctions</i>			
<i>Time elapsed since crime</i>			
<i>Time elapsed since conviction</i>			
<i>Time elapsed since completion of sentence/sanctions</i>			
<i>Additional arrests and convictions</i>			
<i>Work history</i>			
<i>Uses candor in reporting event</i>			
<i>Crime occurred within last five years</i>			

Person still incarcerated

Person still under parole

Person still under court probation

History of multiple convictions

4. Using the CBC to inform decisions

It is not the role of the board of nursing to retry a case or second-guess the criminal justice system. It is the role of the board to use conviction histories in decision-making regarding competence conduct and licensure.

A. Permanent bar to certain categories of felonies

Some believe that this is the safest standard. Violent crimes represent the highest risk of dangerousness, and there is a high recidivism rate for property crimes. The NCSBN CBC Model recommends the following crimes should be considered as a permanent bar to licensure:

- | | |
|--|---|
| <input type="checkbox"/> <i>Murder</i> | <input type="checkbox"/> <i>Sexual crimes</i> |
| <input type="checkbox"/> <i>Felonious assault</i> | <input type="checkbox"/> <i>Criminal mistreatment of children or vulnerable adults</i> |
| <input type="checkbox"/> <i>Kidnapping</i> | <input type="checkbox"/> <i>Exploitation of vulnerable individuals (e.g., financial exploitation in an entrusted role).</i> |
| <input type="checkbox"/> <i>Rape</i> | |
| <input type="checkbox"/> <i>Aggravated robbery</i> | |

Was this a felony conviction?

If yes, was the felony one that is subject to a permanent bar to licensure?

Board Policy Issue	Check when Decided	Date	Comments				
<p>B. Time limited bar to felony convictions</p> <p><i>Provides time for the individual to get his/her life back together and demonstrate that they do not pose a risk to patients/public (most recidivism occurs in the first three years after a conviction). Identifies a minimum period of time that the applicant with a prior felony would be required to have completed all court requirements (absolute discharge) before being eligible to apply for licensure. Decreases number of cases decided by board because they cannot apply before meeting the time requirement after absolute discharge. Burden of proof upon applicant. Board has discretion to license or not license upon application.</i></p> <p>The NCSBN CBC Model recommends that there be a time-limited bar for other serious crimes, including:</p> <table border="0" data-bbox="349 653 1263 716"> <tr> <td data-bbox="349 653 574 680">☺ Drug trafficking</td> <td data-bbox="1154 653 1263 680">☺ Theft</td> </tr> <tr> <td data-bbox="349 680 574 707">☺ Embezzlement</td> <td data-bbox="1154 680 1263 707">☺ Arson</td> </tr> </table>				☺ Drug trafficking	☺ Theft	☺ Embezzlement	☺ Arson
☺ Drug trafficking	☺ Theft						
☺ Embezzlement	☺ Arson						
<i>Was this a felony conviction?</i>							
<i>If yes, was the felony one that is subject to a time-limited bar to licensure?</i>							
<i>When was the criminal conviction?</i>							
<i>Has person completed sentence and been absolutely discharged by the court?</i>							
<p>C. Case-by-case review</p> <p><i>Historically, the approach was used by boards of nursing, and is still used by a majority of nursing boards. Allows the board to exercise the most discretion to consider the context of the crime and the person's life after the conviction. Challenges include avoiding inconsistency of actions over time due to changes in board composition and the potential for being manipulated by a clever person. The NCSBN CBC Model recommends that there be a case-by-case review for felony offenses that do not meet either the permanent bar restriction or time limited bar restriction. The behavior underlying plea bargains and lesser offenses should be evaluated using the following criteria for mitigating and aggravating circumstances.</i></p>							

<p>Aggravating circumstances that the board may consider as exacerbating the situation:</p> <ul style="list-style-type: none"> ☺ Multiple or repeat criminal violations ☺ Prior disciplinary action ☺ Conviction for a crime against a child or vulnerable adult ☺ Conviction determined to be related to professional practice ☺ Abuse of trust in order to commit the violations ☺ Exploitation of unique position or knowledge ☺ Financial benefit accrued by respondent ☺ Knowing, willful or reckless conduct ☺ Lack of rehabilitation potential ☺ Lying under oath and/or on an application for a credential ☺ Currently subject to court oversight (e.g., under probation for previous criminal convictions)
<p>Mitigating circumstances in a case include:</p> <ul style="list-style-type: none"> ☺ Lack of previous convictions, in this or any other jurisdiction ☺ The respondent acted under strong and immediate provocation

- ⌚ At a time prior to detection, the respondent compensated or made a good faith attempt to compensate the victim for the injury or loss sustained
- ⌚ The respondent was suffering from a mental or physical condition that significantly diminished his or her capacity for understanding the ramifications of or ability to control his or her conduct. This can only be applied if such condition is not an element of the violation (e.g., charges under impaired practitioner)
- ⌚ Engaged in and benefited from rehabilitation
- ⌚ The respondent sought and/or completed appropriate remedial measures prior to institution of disciplinary actions, i.e., responsible and accountable for own actions.
- ⌚ Isolated incident
- ⌚ Minimal risk of harm to patients or clients.

5. **Waiver.** Boards retain the discretion, under defined circumstances and following a strict and pre-determined process, to determine when extraordinary circumstances warrant a waiver of either the time-limited or permanent bar.

****This section will be state specific. Some states' laws may allow this type of discretion; others may not. If allowed by state law, the board should discuss this issue before a request is received to identify the type of circumstances when they would consider a waiver and articulate the process to be followed in these rare circumstances.*

Appendix B
CBC Planning Checklist
Board of Nursing Staff

<i>Steps Toward Implementation</i>	<i>Check When Completed</i>	<i>Completion Date</i>	<i>Comments</i>
Identify Resources – In-house			
1. Determine workload and staff needed to:			
<i>Assignment of lead staff</i>			
<i>Evaluate volume and range of workload</i>			
<i>Work process development</i>			
<i>Implement steps in process</i>			
<i>Enforce security of data</i>			
<i>Answer questions</i>			
<i>Review CBC results</i>			
<i>Conduct investigations triggered by positive CBC results</i>			
2. Identify equipment needed			
<i>Computers and electronic</i>			
<i>Other equipment needs</i>			
3. Staff training			
a. Who			
<i>All involved staff as to roles - specifics</i>			
<i>Selected staff – cross-train specifics</i>			
<i>Other staff members – general</i>			
<i>Management – general, specifics as needed</i>			
b. What - General			
<i>Background, reasons for doing, general process</i>			
<i>Need for confidentiality</i>			
<i>How to respond to questions and inquiries</i>			

5 Steps Toward Implementation Check When Completed Completion Date Comments

c. What – Specific
<i>CBC process</i>
<i>Specifics of each role in the operation</i>
<i>Confidentiality procedures</i>
<i>What constitutes misuse</i>
<i>Consequences of misuse of CBC data</i>
Record retention and destruction procedures
4. Space
<i>Staff work stations</i>
<i>Secure storage CBC results</i>
<i>Other storage needs</i>
5. Security
<i>Limit access to CBC data</i>
Secure faxes or computers to receive CBC data
<i>Information stored in locked cabinet during determination</i>
5. Fiscal planning
New staff positions, if needed
New space, if needed
Legal
Pass through budgetary items, if needed
Publication educational and communication materials
Staff travel (training)
Plan for increased numbers of investigations
Planning consultants, if needed
Other misc. budgetary items
6. Potential impact on other board operations
Interface with licensing process
Revise licensure applications (paper and electronic)
Reprogramming data system
Interface with investigators
Interface with discipline process
Interface with Board

**GLOSSARY
OF
CRIMINAL BACKGROUND HISTORY TERMS**

N.P. (NOLLE PROS./NOLLE PROSEQUI)

“Not prosecuted.” This is the decision made by the prosecutor not to move ahead to trial or press for a plea, but rather to just let the matter drop. It is similar to “dropping the charge” or “dismissing the charge,” but there is a subtle difference. With N.P., the prosecutor may decide not to prosecute because there is not enough evidence to prove beyond a reasonable doubt (which is a very high burden) or because there are humanitarian considerations such as the age and life circumstances of the offender. However, if the prosecutor discovers, for example, that the arrest and charge were erroneous (e.g. mistaken identity), then s/he will “drop” the charge rather than N.P. Where the charge is dropped, it is a clear message that the prosecutor believes that the accused had no part in the charge(s) involved. It’s a complete clearance. N.P., however, leaves the charge(s) without any indication that the accused is “cleared.”

DISMISSED

The case is not put forward for prosecution or other actions based either on weak evidence or lack of evidence.

PBJ (PROBATION BEFORE JUDGMENT)

This is a common method used in Maryland (not so much in DC or Virginia; but it is also commonly used in other jurisdictions). This is the next step up from N.P. The prosecutor has enough evidence to move forward but decides to accept a plea deal either because it’s not a sure “win” (beyond a reasonable doubt) or because there are humanitarian considerations (age, etc.) to allow the accused to prove good behavior. In PBJ in Maryland, the accused is usually required to plead guilty and then accept PBJ for a year or more. If the accused does not get into any trouble during that period of time, the case will stand at PBJ – no further action or sentences. However, if the accused gets into trouble during that time, the PBJ may be withdrawn and the case may go forward along with any new charges that come up.

STET

This is another Maryland device. The prosecutor and the judge agree to put the case on the back burner and not to go forward allowing the accused time to prove her/his good behavior. After some time, if there is no further trouble, the matter is quietly forgotten.

PLEA

This is the most common resolution of a criminal charge. The prosecutor and the public defender (or criminal defense attorney, where the accused has money to pay legal fees) agree on a settlement of the case without trial. It usually means that there is sufficient evidence to prove the charge beyond a reasonable doubt but because of the time and expense involved and/or other humanitarian considerations, the parties agree on: a) guilty plea or a plea of *nolo contendere* (meaning “no contest”); and b) the sentence(s). Usually, the plea deal settles with a significant jail time all or most of which will be suspended. It is a good deal for the prosecutor because s/he gets a “conviction” and a significant jail time (the suspended time is not considered against the prosecutor). It is a good deal for the accused because s/he does not have to go to trial (risking a jury conviction on a greater or more number of charge(s)) and usually spends no or little time in jail. For minors or accused with significant “equity (humanitarian)”, the deal may impose only probation and no jail time.

CONVICTION

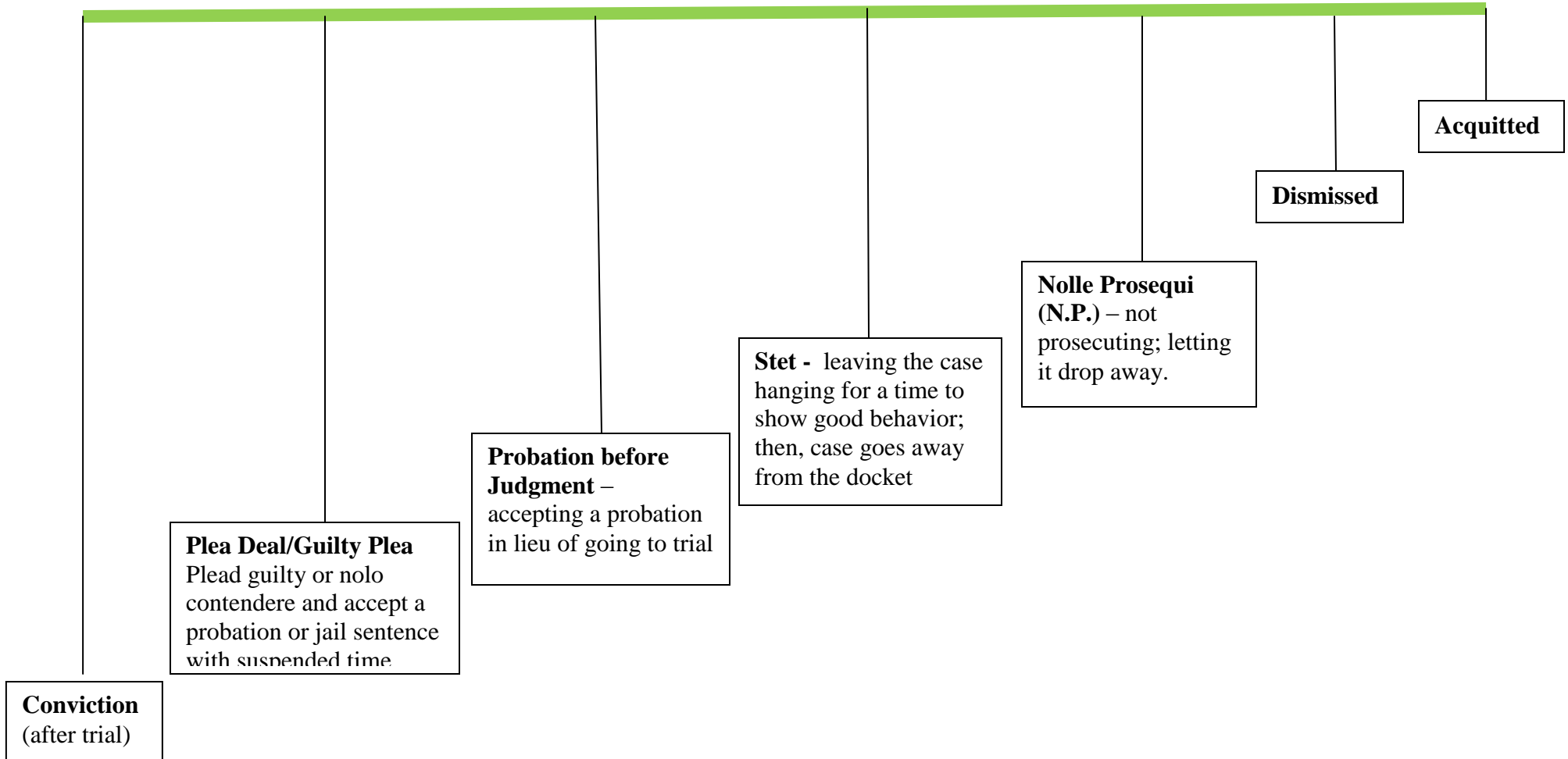
This is the jury or judge decision finding guilt after a trial.

ACQUITTED

This is where the jury or judge had declared “not guilty.”

CRIMINAL DISPOSITION

RANGE



**CRIMINAL MATTERS OF INTEREST
TO THE BOARD OF DENTISTRY**

I. CRIME OF MORAL TURPITUDE

The HORA identifies “crimes of moral turpitude” (CMT) as the type of crimes for which disciplinary actions may be taken against a health professional. There is no clear classification for CMT although it has been mentioned in many areas of law, particularly immigration law (where the U.S. government wants to weed out “undesirable” potential immigrants).

The basic definition of CMT has include:

- a) crimes that are inherently vile, base, or reprehensible
- b) crimes that “offend the generally accepted moral code of mankind”

A decision whether a crime is a CMT is a legal question and is usually based on a “state of mind” of some kind.

For example, if a conviction is for “driving a motor vehicle at a speed exceeding 100 mph and hitting a pedestrian causing death or serious disability,” this conviction does not require any “state of mind” of the accused. The “elements” of the conviction are all based on factual description. This conviction is, by general standard, not a CMT.

However, if the conviction is for “driving with reckless disregard for pedestrian safety and, as a result of the reckless disregard, hitting a pedestrian causing death or serious disability,” this will be CMT because it requires that the accused has a certain “state of mind”. In this case, the state of mind is “reckless disregard.”

Common state of mind (also *mens rea*) includes: knowingly, with intent, willful, malice aforethought.

Common CMTs are: theft (based on the general definition that includes “intending to deprive the owner of her/his property); fraud (based on the “intent to deceive” definition); bad checks; embezzlement; drug distribution; assault and battery (usually excepting “simple” assault); larceny (petit or grand); false statements (usually defined with “knowing”); robbery, murder, rape, child abuse, spousal abuse, reckless endangerment.

WHAT SHOULD THE BOARD DO?

Because there’s a wide range of CMT, the board is not required to revoke or deny a license in all cases. The board may weigh the conviction against many equitable factors such as age of the person, age of the conviction, etc.

Another important factor is this section requires “conviction”. A person who is charged with theft and then receives “N.P.” or “stet” or dismissal/acquittal will not be subject to this provision.

However, a person who pled guilty and receives a PBJ on theft will trigger this provision because the HORA defines “conviction” as including any guilty plea.

The board can decide the range of disciplinary actions from imposing a fine, imposing restrictions, to revocation based on the seriousness of the conviction – PARTICULARLY in light of the specific nature of the profession. For example, the massage therapy board may view misdemeanor theft as much more serious than other boards whose professionals don’t tend to be in a room alone with a client/patient who takes her/his clothes off and may have her/his eyes closed for a length of time while her/his wallet/purse is lying open.

Additionally, “equitable” consideration – or humanitarian consideration – should be allowed to play a part in the board’s decision. The board should allow the health professional or license applicant the opportunity to explain what happened to her/him; what led to her/his action; what other mitigating circumstances existed; and also what s/he has made of her/his life since then.

II. OTHER CRIMES NOT CMT

While a charge or conviction is not a CMT, it does not mean that the board may not pay attention to it. The board is entrusted with the protection of public health and safety and, therefore, the character and fitness (i.e. reliability, trustworthiness) of the health professional must be considered.

Based on the consideration of public health and safety, the board should be concerned about the following types of crimes:

- a) DUI
- b) drug use or possession

One DUI should not be of concern – except where the DUI occurred within a recent history. As to what is a recent history, the board should discuss and decide as a whole board on whether to pay attention to DUI if it occurred in the last 3 years or 5 years.

Multiple DUIs should be of concern because it may point to a “pattern” of behavior or behavioral issues. **Recommendation:** The board should adopt clear rules, for example, 1 DUI within the past 3 years will get board’s attention while if the DUI has been more than 3 years ago, there would be no consequence. The board should also adopt rules dealing with “repeat offenders.” In many states, penalties are increased for repeat offenders. In Maryland, repeat offenders are those with 2 or more DUI within 5 years. A possible solution or sanction for the board to consider may be requiring an alcohol dependence evaluation.

Another category of crime of interest to health licensing boards is drug use or possession (note that drug distribution or sale would be CMT).

III. COROLLARY QUESTION

Did the licensee or applicant answer “yes” or “no” to the question whether s/he has been arrested, investigated, or convicted of a crime, DUI, or misdemeanor other than minor traffic violations?

**CBC CATEGORIES
BOARD OF DENTISTRY**

CATEGORIES OF CBC REVIEW	ACTION
<p>CATEGORY I – ALWAYS REQUIRING BOARD’S ATTENTION</p> <p>Significant issues such as</p> <ul style="list-style-type: none"> • Child molestation/abuse • Serious drug charges • Felony assault and battery • Crime of moral turpitude (e.g. theft, forgery, 	Requiring case-by-case review and measure
<p>CATEGORY II – PATTERN</p> <p>Multiple arrests for the same or similar types of crimes – maybe minor or relatively minor – but possibly indicating a penchant for such acts</p>	Requiring monitoring (with case-by-case exception)
<p>CATEGORY III – RECENTNESS</p> <p>Criminal charges occurring within the past 7 years Requiring case-by-case determination as to whether the issues raise any practice/professional concerns</p>	Requiring case-by-case decision – possible monitoring
<p>CATEGORY IV - INVOLVES SPECIFIC PROFESSIONAL ISSUES OR CREATING CONCERNS OVER PROFESSIONAL CHARACTER (e.g. drug dependence)</p>	Requiring case-by-case review
<p>CATEGORY V - (“MAY BE OK”) Potentially serious and may be of some concern, but applicant provides statement sufficient to reassure Board of rehabilitation.</p>	Cleared and approved
<p>CATEGORY VI – OLD</p> <p>More than 7 years ago and the record is clear since then – pointing to a temporary lapse of judgment and not indicating propensity for crime</p>	Cleared and approved
<p>CATEGORY VII – CLEAR</p> <p>Very minor and isolated charges such as misdemeanor assaults</p>	Cleared and approved

1985 RULE: Arrests, charges, or convictions – other than in Category I – will be cleared and not considered in reviewing the answer to the crime question. (NOTE: This cut-off date is rolling; accordingly, in 2014, the 1985 Rule became 1986 Rule.)

DISCIPLINE

CRIMINAL BACKGROUND CHECK

POLICY and PROCEDURE: 11

POLICY: Persons applying to the Board of Nursing (Board) for licensure or certification by examination, endorsement, reinstatement or renewal as nursing personnel shall undergo a criminal background check.

AUTHORITY: CRIMINAL BACKGROUND CHECK LAW (CBC)/HORA

DATE APPROVED: May 2, 2012
Revised: July 11, 2012

PROCEDURE: *All applicants for licensure or certification by the Board shall complete a CBC as a step in the licensure process. Positive CBCs will be referred for review.*

A. Positive CBCs reviewed by the Investigations Unit and Board staff

1. The following criteria will be used to triage positive CBCs.
 - a. Type and severity of crime
 - b. Person's age at time of offense
 - c. Completion of sentence/sanctions
 - d. Time elapsed since crime
 - e. Time elapsed since conviction
 - f. Time elapsed since completion of sentence/sanctions
 - g. Additional arrests and convictions
 - h. Work history
 - i. Uses candor in reporting event
 - j. Crime occurred within last seven years
 - k. Person still incarcerated
 - l. Person still under parole
 - m. Person still under court probation

n. History of multiple convictions

2. Cases not dismissed will be sent a letter by BON staff requesting court records, immigration status or other additional information.
3. Cases not dismissed will be sent a letter by BON staff requesting court records, immigration status or other additional information.
4. Applicants with DUIs/DWIs within the past five (5) years will be invited to COIN

B. Once requested information is received BON staff using the criteria above will either dismiss the case or refer to the Sanctions Review Committee. The SRC is composed of Board of Nursing Practice Consultants, Executive Director, Legal Counsel and a representative from the Investigation and/or Compliance Unit. Other staff (e.g. surveyor, licensing specialist) may be invited to provide input on cases as needed.

C. Positive CBC referrals to Sanctions Review Committee

1. The SRC will meet monthly to facilitate timely processing of positive CBC results.
2. The SRC has been authorized by the Board to:
 - a. Review CBCs and make initial triage decision
 - b. Initiate investigations based on board approved criteria
 - c. Make case decisions based upon approved board criteria
 - d. Submit reports and recommendations to the Board
3. The CBC will be used to inform decisions. The SRC will not retry a case or second-guess the criminal justice system. It will use conviction histories in decision-making regarding competence conduct and licensure.
4. There will be a case-by-case review of all applicants referred to SRC. The following will be considered in making a final determination:
 - a. Aggravating circumstances that may be considered as exacerbating the situation:
 - 1) Multiple or repeat criminal violations
 - 2) Prior disciplinary action
 - 3) Conviction for a crime against a child or vulnerable adult
 - 4) Conviction determined to be related to professional practice

- 5) Abuse of trust in order to commit the violations
- 6) Exploitation of unique position or knowledge
- 7) Financial benefit accrued by respondent
- 8) Knowing, willful or reckless conduct
- 9) Lack of rehabilitation potential
- 10) Lying under oath and/or on an application for a credential
- 11) Currently subject to court oversight (e.g., under probation for previous criminal convictions)

b. Mitigating circumstances in a case include:

- 1) Lack of previous convictions, in this or any other jurisdiction
- 2) The respondent acted under strong and immediate provocation
- 3) At a time prior to detection, the respondent compensated or made a good faith attempt to compensate the victim for the injury or loss sustained
- 4) The respondent was suffering from a mental or physical condition that significantly diminished his or her capacity for understanding the ramifications of or ability to control his or her conduct. This can only be applied if such condition is not an element of the violation (e.g., charges under impaired practitioner)
- 5) Engaged in and benefited from rehabilitation
- 6) The respondent sought and/or completed appropriate remedial measures prior to institution of disciplinary actions, i.e., responsible and accountable for own actions.
- 7) Isolated incident
- 8) Minimal risk of harm to patients or clients.

6. The SRC, following discussion, may:

- a. Refer the case to investigation
- b. Determine a sanction based upon Board approved protocols.
- c. Choose not to offer any sanction and direct case to Board if the matter is so

egregious as to warrant Board action or if SRC cannot agree upon a sanction.

7. Offers of sanction(s) by SRC may include:
 - a. Letter of concern
 - b. Reprimand
 - c. Remedial Education
 - d. Supervised Practice
 - e. Referral to COIN
 - f. Withdrawal of application for licensure
 - g. Administrative fine
 - h. Combination of any of the above

8. Recommendations for the following sanctions will be referred to the Board to request issuance of a NOI:
 - a. Reprimand
 - b. Probation
 - c. Suspension
 - d. Revocation
 - e. Denial of License or privilege to practice