

HB1060_L.003

HOUSE COMMITTEE OF REFERENCE AMENDMENT
Committee on Agriculture, Livestock, & Natural Resources.

HB12-1060 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** article 35.3 to
4 title 12 as follows:

5 **ARTICLE 35.3**

6 **Dietitians**

7 **12-35.3-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
8 MAY BE CITED AS THE "DIETITIAN LICENSING ACT".

9 **12-35.3-102. Legislative declaration.** (1) THE GENERAL
10 ASSEMBLY HEREBY DECLARES THAT:

11 (a) THE SOLE PURPOSE OF THIS ARTICLE IS TO LICENSE DIETITIANS
12 WHO ARE REGISTERED WITH THE COMMISSION ON DIETETIC REGISTRATION
13 TO PRACTICE DIETETICS AND TO PRESERVE DIETETIC JOBS FOR COLORADO
14 DIETITIANS; AND

15 (b) THIS ARTICLE DOES NOT:

16 (I) REGULATE THE PRACTICE OF NUTRITION;

17 (II) PREVENT ANY INDIVIDUAL OR ENTITY FROM PROVIDING
18 NUTRITION SERVICES; OR

19 (III) PREVENT NUTRITION PROFESSIONALS FROM PRACTICING OR
20 PROVIDING NUTRITION SERVICES.

21 **12-35.3-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "ACADEMY" MEANS THE ACADEMY OF NUTRITION AND
24 DIETETICS OR ITS SUCCESSOR ENTITY.

25 (2) "COMMISSION" MEANS THE COMMISSION ON DIETETIC
26 REGISTRATION THAT IS ACCREDITED BY THE NATIONAL COMMISSION FOR
27 CERTIFYING AGENCIES AND SERVES AS THE CREDENTIALING BODY FOR THE
28 ACADEMY, OR ITS SUCCESSOR ENTITY.

29 (3) "DEGREE" MEANS A DEGREE RECEIVED FROM A COLLEGE OR
30 UNIVERSITY THAT WAS, AT THE TIME THE DEGREE WAS ISSUED, A UNITED
31 STATES REGIONALLY ACCREDITED BODY RECOGNIZED BY THE COUNCIL
32 FOR HIGHER EDUCATION ACCREDITATION, OR ITS SUCCESSOR ENTITY, AND
33 THE UNITED STATES DEPARTMENT OF EDUCATION.

34 (4) "DIETETICS" MEANS THE INTEGRATION, APPLICATION, AND
35 COMMUNICATION OF PRINCIPLES DERIVED FROM FOOD, NUTRITION, SOCIAL,
36 BUSINESS, AND BASIC SCIENCES BY A REGISTERED DIETITIAN WHO
37 PRACTICES MEDICAL NUTRITION THERAPY TO ACHIEVE AND MAINTAIN



1 OPTIMAL NUTRITION STATUS OF INDIVIDUALS THROUGH THE
2 DEVELOPMENT, PROVISION, AND MANAGEMENT OF EFFECTIVE FOOD AND
3 NUTRITION SERVICES IN A VARIETY OF SETTINGS, PERFORMED BY A
4 REGISTERED DIETICIAN WHO PRACTICES MEDICAL NUTRITION THERAPY.

5 (5) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
6 REGISTRATIONS WITHIN THE DEPARTMENT OF REGULATORY AGENCIES.

7 (6) "LICENSED DIETITIAN" MEANS A REGISTERED DIETITIAN WHO
8 IS LICENSED UNDER THIS ARTICLE TO PRACTICE DIETETICS.

9 (7) "MEDICALLY PRESCRIBED DIET" MEANS A DIET, PRESCRIBED BY
10 EITHER A PHYSICIAN LICENSED PURSUANT TO ARTICLE 36 OF THIS TITLE TO
11 PRACTICE MEDICINE OR AN INDIVIDUAL AUTHORIZED BY HIS OR HER
12 STATE-ISSUED LICENSE TO PRESCRIBE, WHEN SPECIFIC FOOD OR NUTRIENT
13 LEVELS NEED TO BE MONITORED, ALTERED, OR BOTH AS A COMPONENT OF
14 A TREATMENT PROGRAM FOR AN INDIVIDUAL WHOSE HEALTH STATUS IS
15 IMPAIRED OR AT RISK DUE TO DISEASE, INJURY, OR SURGERY.

16 (8) "MEDICAL NUTRITION THERAPY" MEANS THE SPECIFIC
17 APPLICATION OF DIETETICS FOR DISEASE MANAGEMENT AND TO TREAT OR
18 REHABILITATE AN ILLNESS, INJURY, OR CONDITION. "MEDICAL NUTRITION
19 THERAPY" INCLUDES:

20 (a) INTERPRETING DIETARY DATA AND RECOMMENDING NUTRIENT
21 NEEDS RELATIVE TO MEDICALLY PRESCRIBED DIETS, INCLUDING TUBE
22 FEEDINGS, SPECIALIZED INTRAVENOUS SOLUTIONS, AND SPECIALIZED ORAL
23 FEEDINGS;

24 (b) ANALYSIS OF FOOD AND PRESCRIPTION DRUG INTERACTIONS;
25 AND

26 (c) DEVELOPING AND MANAGING FOOD SERVICE OPERATIONS, THE
27 CHIEF FUNCTION OF WHICH IS NUTRITION CARE AND THE PROVISION OF
28 MEDICALLY PRESCRIBED DIETS.

29 (9) "NUTRITION SERVICES" MEANS ANY NUTRITION ASSESSMENT,
30 CARE, COUNSELING, EDUCATION, INTEGRATION, APPLICATION,
31 COMMUNICATION, OR ADVICE PERTAINING TO NUTRITION, EITHER WRITTEN
32 OR ORAL, PROVIDED BY ANY INDIVIDUAL OR ENTITY IN ANY PRACTICE
33 SETTING, PROGRAM, OR RETAIL STORE TO ACHIEVE AND MAINTAIN
34 OPTIMAL NUTRITION STATUS OF INDIVIDUALS THROUGH THE
35 DEVELOPMENT, PROVISION, AND MANAGEMENT OF EFFECTIVE FOOD AND
36 NUTRITION SERVICES. "NUTRITION SERVICES" INCLUDES COMMUNICATING,
37 COUNSELING, OR EDUCATING INDIVIDUALS REGARDING:

38 (a) PRINCIPLES OF GOOD NUTRITION AND FOOD PREPARATION;

39 (b) FOOD TO BE INCLUDED IN THE NORMAL DAILY DIET;

40 (c) THE ESSENTIAL NUTRIENTS NEEDED BY THE BODY;

41 (d) RECOMMENDED AMOUNTS OF THE ESSENTIAL NUTRIENTS,



1 BASED ON STANDARDS ESTABLISHED BY THE NATIONAL ACADEMY OF
2 SCIENCES;

3 (e) THE ACTIONS OF NUTRIENTS ON THE BODY;

4 (f) THE EFFECTS OF DEFICIENCIES OR EXCESSES OF NUTRIENTS; OR

5 (g) FOOD AND SUPPLEMENTS THAT ARE GOOD SOURCES OF
6 ESSENTIAL NUTRIENTS.

7 (10) "REGISTERED DIETITIAN" MEANS AN INDIVIDUAL REGISTERED
8 WITH THE COMMISSION.

9 **12-35.3-104. Scope of practice.** A LICENSED DIETITIAN MAY
10 ENGAGE IN THE PRACTICE OF DIETETICS AND MEDICAL NUTRITION
11 THERAPY.

12 **12-35.3-105. Title protection.** ONLY A PERSON LICENSED OR
13 OTHERWISE AUTHORIZED TO PRACTICE UNDER THIS ARTICLE MAY
14 PRACTICE DIETETICS OR MEDICAL NUTRITION THERAPY OR USE THE TITLE
15 "DIETITIAN" OR "LICENSED DIETITIAN" OR THE LETTERS "LD".

16 **12-35.3-106. Director - powers - rules.** (1) THE DIRECTOR IS
17 AUTHORIZED TO:

18 (a) LICENSE DIETITIANS IN A MANNER CONSISTENT WITH THIS
19 ARTICLE;

20 (b) KEEP A REGISTRY OF ALL APPLICANTS FOR LICENSURE AND OF
21 ALL LICENSED DIETITIANS;

22 (c) PROMULGATE RULES TO ADMINISTER AND ENFORCE THIS
23 ARTICLE;

24 (d) PROMULGATE THE LICENSURE STANDARDS PRESCRIBED IN THIS
25 ARTICLE, ANY AMENDMENTS TO THE STANDARDS, AND RULES RELEVANT
26 TO LICENSURE AS THE DIRECTOR DEEMS NECESSARY;

27 (e) ADOPT A CODE OF ETHICS AND STANDARDS OF PRACTICE AND
28 PROFESSIONAL RESPONSIBILITY FOR LICENSED DIETITIANS;

29 (f) ESTABLISH, COLLECT, AND DISBURSE FEES AS REQUIRED BY THIS
30 ARTICLE;

31 (g) ESTABLISH APPLICATION FORMS, DETERMINE THE
32 QUALIFICATIONS AND FITNESS OF APPLICANTS, AND ISSUE, RENEW, AND
33 REINSTATE LICENSES;

34 (h) ENFORCE CONTINUING PROFESSIONAL COMPETENCY
35 REQUIREMENTS ESTABLISHED BY THE COMMISSION FOR RENEWAL OF
36 DIETETIC REGISTRATION FOR THE PURPOSES OF LICENSURE;

37 (i) RECEIVE AND PROCESS COMPLAINTS AND INVESTIGATE
38 ALLEGED VIOLATIONS OF THIS ARTICLE. IN MAKING ITS INVESTIGATIONS
39 THE DIRECTOR MAY ISSUE SUBPOENAS, EXAMINE WITNESSES, AND
40 ADMINISTER OATHS.

1 (j) SEEK INJUNCTIVE RELIEF TO PROHIBIT ANY PERSON FROM
2 PROVIDING DIETETICS OR MEDICAL NUTRITION THERAPY WITHOUT A
3 LICENSE ISSUED PURSUANT TO THIS ARTICLE; AND

4 (k) PROVIDE FOR EXAMINATION OR WAIVER OF EXAMINATION FOR
5 APPLICANTS.

6 **12-35.3-107. Licensure - application - qualifications - licensure**
7 **by endorsement - renewals - fees. (1) Application.**

8 (a) A PERSON WHO
9 WISHES TO PRACTICE DIETETICS IN THIS STATE SHALL APPLY TO THE
10 DIRECTOR, BY A DATE AND IN THE MANNER DETERMINED BY THE DIRECTOR
11 BY RULE, FOR A LICENSE AND SHALL PAY THE FEE DETERMINED BY THE
12 DIRECTOR. THE APPLICANT SHALL CERTIFY AND FURNISH EVIDENCE
13 SATISFACTORY TO THE DIRECTOR THAT THE APPLICANT MEETS ALL OF THE
14 FOLLOWING CONDITIONS:

14 (I) IS AT LEAST TWENTY-ONE YEARS OF AGE;

15 (II) IS OF GOOD MORAL CHARACTER;

16 (III) HAS RECEIVED A BACCALAUREATE OR POST-BACCALAUREATE
17 DEGREE WITH A MAJOR COURSE OF STUDY IN HUMAN NUTRITION,
18 NUTRITION EDUCATION, PUBLIC HEALTH NUTRITION, FOOD AND NUTRITION,
19 DIETETICS, OR FOOD SYSTEMS MANAGEMENT OR AN EQUIVALENT MAJOR
20 COURSE OF STUDY AS APPROVED BY THE DIRECTOR. AN APPLICANT WHO
21 OBTAINED HIS OR HER EDUCATION OUTSIDE THE UNITED STATES AND ITS
22 TERRITORIES MUST HAVE THE APPLICANT'S ACADEMIC DEGREE VALIDATED
23 BY THE COMMISSION AS EQUIVALENT TO THE BACCALAUREATE OR
24 POST-BACCALAUREATE DEGREE CONFERRED BY A REGIONALLY
25 ACCREDITED COLLEGE OR UNIVERSITY IN THE UNITED STATES.

26 (IV) HAS COMPLETED A DOCUMENTED, SUPERVISED,
27 PRE-PROFESSIONAL PRACTICE EXPERIENCE COMPONENT IN DIETETICS OF
28 NOT LESS THAN ONE THOUSAND TWO HUNDRED HOURS UNDER THE
29 SUPERVISION OF A REGISTERED DIETITIAN, A LICENSED DIETITIAN, OR AN
30 INDIVIDUAL WITH A DOCTORAL DEGREE WITH A MAJOR COURSE OF STUDY
31 IN HUMAN NUTRITION, NUTRITION EDUCATION, FOOD AND NUTRITION,
32 DIETETICS, OR FOOD SYSTEMS MANAGEMENT. THE APPLICANT MUST
33 COMPLETE THE SUPERVISED PRACTICE EXPERIENCE IN THE UNITED STATES
34 OR ITS TERRITORIES. A SUPERVISOR WHO OBTAINED A DOCTORAL DEGREE
35 OUTSIDE THE UNITED STATES AND ITS TERRITORIES MUST HAVE THE
36 DEGREE VALIDATED BY THE COMMISSION AS EQUIVALENT TO THE
37 DOCTORAL DEGREE CONFERRED BY A UNITED STATES REGIONALLY
38 ACCREDITED COLLEGE OR UNIVERSITY.

39 (V) HAS SUCCESSFULLY COMPLETED THE EXAMINATION FOR
40 DIETITIANS ADMINISTERED BY THE COMMISSION.

41 (b) THE DIRECTOR MAY WAIVE THE REQUIREMENTS OF PARAGRAPH



1 (a) OF THIS SUBSECTION (1) FOR GROUNDS SPECIFIED BY THE COMMISSION
2 BY RULE.

3 (c) (I) FOR ONE YEAR BEGINNING ON THE EFFECTIVE DATE OF THIS
4 ARTICLE, THE DIRECTOR SHALL WAIVE THE EXAMINATION REQUIREMENT
5 AND MAY GRANT A LICENSE TO ANY APPLICANT WHO MAKES
6 SATISFACTORY APPLICATION TO THE DIRECTOR AND:

7 (A) IS REGISTERED WITH THE COMMISSION; OR

8 (B) HAS RECEIVED A BACCALAUREATE OR POST-BACCALAUREATE
9 DEGREE IN A PROGRAM IN DIETETICS OR AN EQUIVALENT MAJOR COURSE
10 OF STUDY AS APPROVED BY THE DIRECTOR, COMPLETED AN EXPERIENCE
11 COMPONENT AS APPROVED BY THE DIRECTOR, AND MET THE EDUCATIONAL
12 REQUIREMENTS OF THE COMMISSION.

13 (II) THE DIRECTOR SHALL WAIVE ANY ADDITIONAL EDUCATIONAL
14 REQUIREMENTS THE DIRECTOR CONSIDERS NECESSARY IF THE APPLICANT
15 PRESENTS SATISFACTORY EVIDENCE OF CURRENT REGISTRATION AS A
16 REGISTERED DIETITIAN.

17 (III) THE DIRECTOR SHALL WAIVE THE EXAMINATION
18 REQUIREMENTS IF AN APPLICATION FOR RENEWAL IS MADE WITHIN TWO
19 YEARS AFTER THE DATE OF LICENSE EXPIRATION.

20 (2) **License.** WHEN AN APPLICANT HAS FULFILLED THE
21 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL
22 ISSUE A LICENSE TO THE APPLICANT; EXCEPT THAT THE DIRECTOR MAY
23 DENY A LICENSE IF THE APPLICANT HAS COMMITTED ANY ACT THAT WOULD
24 BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-35.3-110.

25 (3) **Licensure by endorsement.** (a) AN APPLICANT FOR
26 LICENSURE BY ENDORSEMENT SHALL FILE AN APPLICATION AND PAY A FEE
27 AS PRESCRIBED BY THE DIRECTOR AND MUST HOLD A CURRENT, VALID
28 LICENSE OR REGISTRATION IN A JURISDICTION THAT REQUIRES
29 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED FOR
30 LICENSURE BY SUBSECTION (1) OF THIS SECTION.

31 (b) AN APPLICANT FOR LICENSURE BY ENDORSEMENT SHALL
32 SUBMIT WITH THE APPLICATION VERIFICATION THAT THE APPLICANT HAS
33 ACTIVELY PRACTICED FOR A PERIOD OF TIME DETERMINED BY DIRECTOR
34 RULES OR OTHERWISE MAINTAINED CONTINUED PROFESSIONAL
35 COMPETENCY AS DETERMINED BY THE DIRECTOR.

36 (c) UPON RECEIPT OF ALL DOCUMENTS REQUIRED BY PARAGRAPHS
37 (a) AND (b) OF THIS SUBSECTION (3), THE DIRECTOR SHALL REVIEW THE
38 APPLICATION AND MAKE A DETERMINATION OF THE APPLICANT'S
39 QUALIFICATION TO BE LICENSED BY ENDORSEMENT.

40 (d) THE DIRECTOR MAY DENY THE LICENSE IF THE APPLICANT HAS
41 COMMITTED AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION

1 UNDER SECTION 12-35.3-110.

2 (4) **License renewal.** (a) A LICENSED DIETITIAN SHALL RENEW
3 THE LICENSE ISSUED UNDER THIS ARTICLE ACCORDING TO A SCHEDULE OF
4 RENEWAL DATES ESTABLISHED BY THE DIRECTOR. THE LICENSED
5 DIETITIAN SHALL SUBMIT AN APPLICATION IN THE MANNER AND PAY A
6 RENEWAL FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.

7 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH
8 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR
9 RENEWS OR REINSTATES LICENSES PURSUANT TO SECTION 24-34-102 (8),
10 C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND DELINQUENCY
11 FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105, C.R.S. IF A
12 LICENSED DIETITIAN FAILS TO RENEW HIS OR HER LICENSE PURSUANT TO
13 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE LICENSE EXPIRES. A
14 PERSON WHOSE LICENSE HAS EXPIRED AND WHO CONTINUES TO PRACTICE
15 AS A DIETITIAN IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE
16 OR SECTION 24-34-102 (8), C.R.S., FOR REINSTATEMENT.

17 (c) THE DIRECTOR MAY RENEW A LICENSE UPON SATISFACTORY
18 COMPLETION OF THE RENEWAL APPLICATION, PAYMENT OF THE RENEWAL
19 FEE, AND THE SUCCESSFUL COMPLETION OF CONTINUING PROFESSIONAL
20 COMPETENCY REQUIREMENTS AS DETERMINED BY THE COMMISSION
21 PURSUANT TO SECTION 12-35.3-106 (1) (h).

22 (5) **Fees.** (a) THE DIRECTOR SHALL ESTABLISH AND COLLECT FEES
23 UNDER THIS ARTICLE PURSUANT TO SECTION 24-34-105, C.R.S. ALL FEES
24 COLLECTED UNDER THIS ARTICLE SHALL BE DETERMINED, COLLECTED, AND
25 APPROPRIATED IN THE SAME MANNER AS SET FORTH IN SECTION 24-34-105,
26 C.R.S., AND PERIODICALLY ADJUSTED IN ACCORDANCE WITH SECTION
27 24-75-402, C.R.S.

28 (b) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE
29 DIVISION SHALL TRANSMIT ALL FEES COLLECTED PURSUANT TO THIS
30 ARTICLE TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE
31 DIVISION OF REGISTRATIONS CASH FUND CREATED PURSUANT TO SECTION
32 24-34-105 (2) (b), C.R.S. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
33 APPROPRIATIONS FROM THE DIVISION OF REGISTRATIONS CASH FUND FOR
34 EXPENDITURES OF THE DIVISION INCURRED IN THE PERFORMANCE OF ITS
35 DUTIES UNDER THIS ARTICLE.

36 **12-35.3-108. Provisional permits - fees.** (1) THE DIRECTOR MAY
37 ISSUE A PROVISIONAL PERMIT TO PRACTICE AS A DIETITIAN UPON THE
38 FILING OF AN APPLICATION AND SUBMISSION OF EVIDENCE OF SUCCESSFUL
39 COMPLETION OF THE EDUCATION REQUIREMENTS OF SECTION 12-35.3-107
40 (1) (a) (III).

41 (2) A PROVISIONAL PERMIT EXPIRES ONE YEAR AFTER THE DATE OF



1 ISSUANCE. THE DIRECTOR MAY RENEW A PERMIT ONE TIME FOR A PERIOD
2 NOT TO EXCEED SIX MONTHS UPON SUBMISSION TO THE DIRECTOR OF A
3 SATISFACTORY EXPLANATION FOR THE APPLICANT'S FAILURE TO BECOME
4 LICENSED WITHIN THE ORIGINAL ONE-YEAR PERIOD.

5 (3) A PROVISIONAL PERMIT ALLOWS THE HOLDER TO PRACTICE
6 ONLY UNDER THE SUPERVISION OF A LICENSED DIETITIAN.

7 (4) THE DIRECTOR SHALL DETERMINE, BY RULE, THE FEE FOR A
8 PROVISIONAL PERMIT AND FOR EACH RENEWAL.

9 **12-35.3-109. Exemptions.** (1) THIS ARTICLE DOES NOT AFFECT OR
10 PREVENT THE FOLLOWING:

11 (a) A REGISTERED DIETITIAN FROM PROVIDING NUTRITION
12 SERVICES;

13 (b) A PERSON OR RETAILER THAT DOES NOT PURPORT TO BE A
14 LICENSED DIETITIAN FROM FURNISHING NUTRITION SERVICES;

15 (c) ANY PERSON LICENSED, CERTIFIED, CREDENTIALLED, OR
16 REGISTERED IN THIS STATE FROM ENGAGING IN THE PRACTICE FOR WHICH
17 HE OR SHE IS LICENSED, CERTIFIED, CREDENTIALLED, OR REGISTERED;

18 (d) ANY PERSON LICENSED, CERTIFIED, OR REGISTERED IN THIS
19 STATE UNDER ANY OTHER ARTICLE OF THIS TITLE FROM ENGAGING IN THE
20 PRACTICE OF DIETETICS OR NUTRITION SERVICES WHEN IT IS WITHIN HIS OR
21 HER SCOPE OF PRACTICE AND IS INCIDENTAL TO THE PRACTICE FOR WHICH
22 HE OR SHE IS LICENSED, CERTIFIED, OR REGISTERED;

23 (e) A STUDENT ENROLLED IN A PROGRAM IN DIETETICS OR
24 NUTRITION THAT HAS BEEN ACCREDITED BY THE ACCREDITATION COUNCIL
25 FOR EDUCATION IN NUTRITION AND DIETETICS, OR ITS SUCCESSOR ENTITY,
26 FROM ENGAGING IN THE PRACTICE OF DIETETICS UNDER THE SUPERVISION
27 OF A LICENSED DIETITIAN AS PART OF THE PROGRAM;

28 (f) A DIETITIAN WHO IS SERVING IN THE ARMED FORCES OR THE
29 PUBLIC HEALTH SERVICE OF THE UNITED STATES OR IS EMPLOYED BY THE
30 VETERANS ADMINISTRATION FROM ENGAGING IN THE PRACTICE OF
31 DIETETICS IF THE PRACTICE IS RELATED TO HIS OR HER SERVICE OR
32 EMPLOYMENT;

33 (g) A PERSON EMPLOYED BY OR UNDER CONTRACT WITH A SCHOOL
34 DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, CHARTER
35 SCHOOL, INSTITUTE CHARTER, FACILITY SCHOOL, OR STATE-OPERATED
36 LIKE SCHOOL AND WHO IS RESPONSIBLE FOR MENU PLANNING, PURCHASING
37 FOOD, MEAL PREPARATION, OR FOOD SAFETY FROM USING NUTRITION
38 SERVICES IN THE PERFORMANCE OF THE PERSON'S DUTIES AS LONG AS THE
39 PERSON DOES NOT PURPORT TO BE PRACTICING DIETETICS AND DOES NOT
40 CLAIM TO BE A LICENSED DIETITIAN;

41 (h) A PERSON WHO IS EMPLOYED AS AN INSTRUCTOR AT A UNITED

1 STATES REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY WITH A MAJOR
2 COURSE OF STUDY IN HUMAN NUTRITION, NUTRITION EDUCATION, PUBLIC
3 HEALTH NUTRITION, FOOD AND NUTRITION, DIETETICS, OR FOOD SYSTEMS
4 MANAGEMENT OR THE EQUIVALENT MAJOR COURSES OF STUDY FROM
5 PROVIDING INSTRUCTION IN THOSE FIELDS;

6 (i) A PERSON FROM OFFERING OR CONDUCTING ANY WEIGHT
7 CONTROL PROGRAM;

8 (j) A PERSON WHO EARNED AN EDUCATIONAL DEGREE IN
9 NUTRITION OR DIETETICS BUT DID NOT COMPLETE THE TRAINING OR
10 INTERNSHIP AND IS PRACTICING IN THE FIELD OF DIETETICS FROM
11 PROVIDING NUTRITION SERVICES; OR

12 (k) A DIETITIAN LICENSED OR REGISTERED IN ANOTHER STATE
13 FROM PRACTICING DIETETICS, BUT ONLY FOR UP TO NINETY DAYS AND
14 ONLY IF THE REQUIREMENTS FOR LICENSURE IN THE OTHER STATE ARE
15 SUBSTANTIALLY EQUAL TO THE REQUIREMENTS FOR LICENSURE
16 CONTAINED IN THIS ARTICLE.

17 (2) A PERSON WHO HAS SATISFIED THE REQUIREMENTS OF SECTION
18 12-35.3-107 (1) (a) (I) TO (1) (a) (IV) BUT HAS NOT YET PASSED THE
19 EXAMINATION COMPONENT REQUIRED BY SECTION 12-35.3-107 (1) (a) (V)
20 MAY PRACTICE UNDER THE SUPERVISION OF A LICENSED DIETITIAN FOR
21 ONE YEAR AFTER COMPLETION OF HIS OR HER EDUCATIONAL AND
22 EXPERIENTIAL PRACTICE.

23 **12-35.3-110. Grounds for discipline - disciplinary proceedings**
24 **- judicial review.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION
25 AGAINST A LICENSED DIETITIAN IF THE DIRECTOR FINDS THAT THE
26 LICENSED DIETITIAN HAS REPRESENTED HIMSELF OR HERSELF AS A
27 LICENSED DIETITIAN AFTER THE EXPIRATION, SUSPENSION, OR REVOCATION
28 OF HIS OR HER LICENSE.

29 (2) THE DIRECTOR MAY REVOKE, SUSPEND, OR IMPOSE A FINE
30 AGAINST A LICENSED DIETITIAN, DENY A LICENSE, PLACE A LICENSED
31 DIETITIAN ON PROBATION, ISSUE A LETTER OF ADMONITION, OR ISSUE A
32 CEASE-AND-DESIST ORDER TO A LICENSED DIETITIAN IN ACCORDANCE
33 WITH THIS SECTION UPON REASONABLE GROUNDS THAT THE LICENSED
34 DIETITIAN:

35 (a) HAS ENGAGED IN A SEXUAL ACT WITH A PERSON RECEIVING
36 SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR WITHIN SIX
37 MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE THERAPEUTIC
38 RELATIONSHIP. FOR THE PURPOSES OF THIS PARAGRAPH (a):

39 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
40 OR SEXUAL PENETRATION, AS DEFINED IN SECTION 18-3-401, C.R.S.

41 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING



1 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
2 TERMINATION OF TREATMENT.

3 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
4 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,
5 DECEPTION, OR MISREPRESENTATION;

6 (c) EXCESSIVELY OR HABITUALLY USES OR ABUSES ALCOHOL OR
7 HABIT-FORMING DRUGS OR HABITUALLY USES A CONTROLLED SUBSTANCE,
8 AS DEFINED IN SECTION 18-18-102, C.R.S., OR OTHER DRUGS HAVING
9 SIMILAR EFFECTS; EXCEPT THAT THE DIRECTOR HAS THE DISCRETION NOT
10 TO DISCIPLINE THE LICENSED DIETITIAN IF HE OR SHE IS PARTICIPATING IN
11 GOOD FAITH IN A DIRECTOR-APPROVED PROGRAM TO END THE USE OR
12 ABUSE;

13 (d) FAILS TO:

14 (I) NOTIFY THE DIRECTOR OF A PHYSICAL OR MENTAL ILLNESS OR
15 CONDITION THAT AFFECTS THE LICENSED DIETITIAN'S ABILITY TO TREAT
16 CLIENTS WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER
17 THE HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE;

18 (II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL OR
19 MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON UNABLE TO
20 PRACTICE WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER
21 THE HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE; OR

22 (III) COMPLY WITH THE LIMITATIONS AGREED TO UNDER A
23 CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-35.3-112;

24 (e) HAS VIOLATED THIS ARTICLE OR AIDED OR ABETTED OR
25 KNOWINGLY PERMITTED ANY PERSON TO VIOLATE THIS ARTICLE, A RULE
26 ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE DIRECTOR;

27 (f) HAS HAD A LICENSE, CERTIFICATE, OR REGISTRATION
28 SUSPENDED OR REVOKED FOR ACTIONS THAT ARE A VIOLATION OF THIS
29 ARTICLE;

30 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
31 CONTENDERE TO A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION
32 12-35.3-113. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
33 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE
34 EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
35 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTION 24-5-101,
36 C.R.S.

37 (h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY
38 DIETITIAN DIPLOMA, CERTIFICATE, REGISTRATION, LICENSE, RENEWAL OF
39 LICENSE, OR RECORD OR AIDED OR ABETTED SUCH ACT;

40 (i) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR
41 REVOCATION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE,

1 CERTIFICATE, OR REGISTRATION REQUIRED TO PRACTICE DIETETICS IN THIS
2 OR ANY OTHER JURISDICTION; OR

3 (j) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL
4 EXAMINATION WHEN ORDERED BY THE DIRECTOR PURSUANT TO SECTION
5 12-35.3-111.

6 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
7 SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
8 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
9 THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
10 DISCIPLINARY SANCTIONS IT MAY IMPOSE.

11 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
12 DISCIPLINE A LICENSED DIETITIAN WHEN THE DIRECTOR HAS REASONABLE
13 GROUNDS TO BELIEVE THAT THE LICENSED DIETITIAN HAS COMMITTED AN
14 ACT ENUMERATED IN THIS SECTION OR HAS VIOLATED A LAWFUL ORDER OR
15 RULE OF THE DIRECTOR.

16 (b) IN ANY PROCEEDING UNDER THIS SECTION, THE DIRECTOR MAY
17 ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY
18 DISCIPLINARY ACTION TAKEN AGAINST A LICENSED DIETITIAN IN ANOTHER
19 JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY
20 ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS FOR
21 DISCIPLINARY ACTION UNDER THIS ARTICLE.

22 (5) THE DIRECTOR SHALL CONDUCT DISCIPLINARY PROCEEDINGS
23 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE DIRECTOR
24 OR AN ADMINISTRATIVE LAW JUDGE APPOINTED AT THE DIRECTOR'S
25 DISCRETION SHALL CONDUCT THE HEARING AND OPPORTUNITY FOR
26 REVIEW PURSUANT TO THAT ARTICLE. THE DIRECTOR MAY EXERCISE ALL
27 POWERS AND DUTIES CONFERRED BY THIS ARTICLE DURING THE
28 DISCIPLINARY PROCEEDINGS.

29 (6) (a) NO LATER THAN THIRTY DAYS FOLLOWING THE DATE OF THE
30 DIRECTOR'S ACTION, THE DIRECTOR SHALL NOTIFY A LICENSED DIETITIAN
31 DISCIPLINED UNDER THIS SECTION, BY A CERTIFIED LETTER TO THE MOST
32 RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE LICENSED
33 DIETITIAN, OF THE ACTION TAKEN, THE SPECIFIC CHARGES GIVING RISE TO
34 THE ACTION, AND THE LICENSED DIETITIAN'S RIGHT TO REQUEST A
35 HEARING ON THE ACTION TAKEN.

36 (b) WITHIN THIRTY DAYS AFTER THE DIRECTOR SENDS THE
37 NOTIFICATION, THE LICENSED DIETITIAN MAY FILE A WRITTEN REQUEST
38 WITH THE DIRECTOR FOR A HEARING ON THE ACTION TAKEN. UPON RECEIPT
39 OF THE REQUEST THE DIRECTOR SHALL GRANT A HEARING TO THE
40 LICENSED DIETITIAN. IF THE LICENSED DIETITIAN FAILS TO FILE A WRITTEN
41 REQUEST FOR A HEARING WITHIN THIRTY DAYS, THE ACTION OF THE



1 DIRECTOR BECOMES FINAL ON THAT DATE.

2 (c) IF THE LICENSED DIETITIAN FAILS TO APPEAR AT THE HEARING
3 WITHOUT GOOD CAUSE, THE REQUEST FOR A HEARING IS WITHDRAWN, AND
4 THE DIRECTOR'S ACTION BECOMES FINAL ON THAT DATE. IF THE DIRECTOR
5 FAILS, WITHOUT GOOD CAUSE, TO APPEAR AT THE HEARING, THE
6 PROCEEDING IS DISMISSED.

7 (7) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
8 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
9 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS
10 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a), THE
11 ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
12 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
13 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
14 VIOLATION OF THIS ARTICLE.

15 (b) (I) IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND
16 THIS ARTICLE, THE DIRECTOR MAY INVESTIGATE, HOLD HEARINGS, AND
17 GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND
18 PERFORMANCE OF THE DIRECTOR'S POWERS AND DUTIES.

19 (II) IN ORDER TO AID THE DIRECTOR IN ANY HEARING OR
20 INVESTIGATION INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR
21 AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PARAGRAPH (c)
22 OF THIS SUBSECTION (7) MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF
23 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
24 WITNESSES AND THE PRODUCTION OF ALL RELEVANT RECORDS, PAPERS,
25 BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
26 INVESTIGATION, ACCUSATION, OR OTHER MATTER BEFORE THE DIRECTOR
27 OR AN ADMINISTRATIVE LAW JUDGE.

28 (III) UPON FAILURE OF ANY WITNESS OR LICENSED DIETITIAN TO
29 COMPLY WITH A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE
30 COUNTY IN WHICH THE SUBPOENAED PERSON OR LICENSED DIETITIAN
31 RESIDES OR CONDUCTS BUSINESS, UPON APPLICATION BY THE DIRECTOR
32 WITH NOTICE TO THE SUBPOENAED PERSON OR LICENSED DIETITIAN, MAY
33 ISSUE TO THE PERSON OR LICENSED DIETITIAN AN ORDER REQUIRING THE
34 PERSON OR LICENSED DIETITIAN TO APPEAR BEFORE THE DIRECTOR; TO
35 PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
36 EVIDENCE, OR MATERIALS IF SO ORDERED; OR TO GIVE EVIDENCE
37 TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. IF THE
38 PERSON OR LICENSED DIETITIAN FAILS TO OBEY THE ORDER OF THE COURT,
39 THE COURT MAY HOLD THE PERSON OR LICENSED DIETITIAN IN CONTEMPT
40 OF COURT.

41 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE

1 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT
2 HEARINGS, TAKE EVIDENCE, AND MAKE AND REPORT FINDINGS TO THE
3 DIRECTOR.

4 (8)(a) THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING
5 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS
6 TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY
7 PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE IS IMMUNE
8 FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR
9 ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS DIRECTOR,
10 STAFF, CONSULTANT, WITNESS, OR COMPLAINANT, RESPECTIVELY, IF THE
11 INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER
12 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
13 FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE
14 REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS
15 WARRANTED BY THE FACTS.

16 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
17 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
18 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR
19 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE
20 PARTICIPATION.

21 (9) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
22 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11),
23 C.R.S. THE DIRECTOR MAY INSTITUTE A JUDICIAL PROCEEDING IN
24 ACCORDANCE WITH SECTION 24-4-106, C.R.S., TO ENFORCE AN ORDER OF
25 THE DIRECTOR.

26 (10) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
27 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
28 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
29 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
30 PROSECUTION.

31 (11) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
32 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
33 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, THE COMPLAINT
34 SHOULD BE DISMISSED, BUT THE DIRECTOR HAS NOTICED INDICATIONS OF
35 POSSIBLE ERRANT CONDUCT BY THE LICENSED DIETITIAN THAT COULD
36 LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE DIRECTOR MAY
37 SEND A CONFIDENTIAL LETTER OF CONCERN TO THE LICENSED DIETITIAN.

38 (12) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
39 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
40 NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING
41 WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER OF ADMONITION TO



1 THE LICENSED DIETITIAN.

2 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
3 LICENSED DIETITIAN, THE DIRECTOR SHALL NOTIFY THE LICENSED
4 DIETITIAN OF HIS OR HER RIGHT TO REQUEST IN WRITING, WITHIN TWENTY
5 DAYS AFTER RECEIPT OF THE LETTER, THAT THE DIRECTOR INITIATE
6 FORMAL DISCIPLINARY PROCEEDINGS TO ADJUDICATE THE PROPRIETY OF
7 THE CONDUCT DESCRIBED IN THE LETTER OF ADMONITION.

8 (c) IF THE LICENSED DIETITIAN TIMELY REQUESTS ADJUDICATION,
9 THE DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND SHALL
10 PROCESS THE MATTER BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

11 (13) THE DIRECTOR MAY INCLUDE IN A DISCIPLINARY ORDER THAT
12 ALLOWS THE LICENSED DIETITIAN TO CONTINUE TO PRACTICE ON
13 PROBATION ANY CONDITIONS THE DIRECTOR DEEMS APPROPRIATE TO
14 ASSURE THAT THE LICENSED DIETITIAN IS PHYSICALLY, MENTALLY,
15 MORALLY, AND OTHERWISE QUALIFIED TO PRACTICE DIETETICS IN
16 ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS OF
17 PRACTICE. IF THE LICENSED DIETITIAN FAILS TO COMPLY WITH ANY
18 CONDITIONS IMPOSED BY THE DIRECTOR PURSUANT TO THIS SUBSECTION
19 (), AND THE FAILURE TO COMPLY IS NOT DUE TO CONDITIONS BEYOND THE
20 LICENSED DIETITIAN'S CONTROL, THE DIRECTOR MAY ORDER SUSPENSION
21 OF THE LICENSED DIETITIAN'S LICENSE TO PRACTICE DIETETICS IN THIS
22 STATE UNTIL THE LICENSED DIETITIAN COMPLIES WITH THE CONDITIONS.

23 (14) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
24 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
25 A LICENSED DIETITIAN IS ACTING IN A MANNER THAT IS AN IMMINENT
26 THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC, OR A PERSON IS
27 ACTING OR HAS ACTED WITHOUT THE REQUIRED LICENSE, THE DIRECTOR
28 MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY. THE DIRECTOR
29 SHALL INCLUDE IN THE ORDER THE STATUTES AND RULES ALLEGED TO
30 HAVE BEEN VIOLATED, THE FACTS ALLEGED TO CONSTITUTE THE
31 VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR
32 UNLICENSED PRACTICES IMMEDIATELY CEASE.

33 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
34 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (14), THE
35 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
36 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE
37 DIRECTOR SHALL CONDUCT THE HEARING PURSUANT TO SECTIONS
38 24-4-104 AND 24-4-105, C.R.S.

39 (15) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
40 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
41 A PERSON HAS VIOLATED ANY OTHER PROVISION OF THIS ARTICLE, IN

1 ADDITION TO ANY SPECIFIC POWERS GRANTED PURSUANT TO THIS ARTICLE,
2 THE DIRECTOR MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS
3 TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE
4 PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNLICENSED
5 PRACTICE.

6 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY A PERSON AGAINST
7 WHOM THE DIRECTOR HAS ISSUED AN ORDER TO SHOW CAUSE PURSUANT
8 TO PARAGRAPH (a) OF THIS SUBSECTION (15) OF THE ISSUANCE OF THE
9 ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL
10 BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
11 HEARING ON THE ORDER. THE DIRECTOR MAY SERVE THE NOTICE ON THE
12 PERSON AGAINST WHOM THE ORDER HAS BEEN ISSUED BY PERSONAL
13 SERVICE, BY FIRST-CLASS, POSTAGE PREPAID UNITED STATES MAIL, OR IN
14 ANOTHER MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR
15 MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS PARAGRAPH (b)
16 CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

17 (c) (I) THE DIRECTOR SHALL HOLD A HEARING ON AN ORDER TO
18 SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
19 CALENDAR DAYS AFTER THE DATE THE DIRECTOR TRANSMITS OR SERVES
20 THE NOTIFICATION AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION
21 (15). THE DIRECTOR MAY CONTINUE THE HEARING UPON AGREEMENT OF
22 ALL PARTIES BASED ON THE COMPLEXITY OF THE MATTER, NUMBER OF
23 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
24 BUT IN NO EVENT MAY THE DIRECTOR HOLD THE HEARING LATER THAN
25 SIXTY CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF
26 THE NOTIFICATION.

27 (II) IF A PERSON AGAINST WHOM THE DIRECTOR HAS ISSUED AN
28 ORDER TO SHOW CAUSE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
29 (15) DOES NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT
30 EVIDENCE THAT THE DIRECTOR PROPERLY SENT OR SERVED NOTIFICATION
31 ON THE PERSON PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (15)
32 AND MAY PRESENT SUCH OTHER EVIDENCE RELATED TO THE MATTER AS
33 THE DIRECTOR DEEMS APPROPRIATE. THE DIRECTOR SHALL ISSUE THE
34 ORDER WITHIN TEN DAYS AFTER THE DIRECTOR'S DETERMINATION
35 RELATED TO REASONABLE ATTEMPTS TO NOTIFY THE RESPONDENT, AND
36 THE ORDER BECOMES FINAL AS TO THAT PERSON BY OPERATION OF LAW.
37 THE DIRECTOR SHALL CONDUCT THE HEARING PURSUANT TO SECTIONS
38 24-4-104 AND 24-4-105, C.R.S.

39 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
40 AGAINST WHOM IT ISSUED THE ORDER TO SHOW CAUSE IS ACTING OR HAS
41 ACTED WITHOUT THE REQUIRED LICENSE, OR HAS OR IS ABOUT TO ENGAGE



1 IN ACTS OR PRACTICES CONSTITUTING A VIOLATION OF THIS ARTICLE, THE
2 DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST ORDER DIRECTING THE
3 PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR
4 UNLICENSED PRACTICES.

5 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
6 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (15), OF THE FINAL
7 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
8 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
9 AGAINST WHOM IT HAS ISSUED THE FINAL ORDER. THE FINAL ORDER
10 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS
11 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL
12 REVIEW.

13 (16) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
14 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED OR
15 IS ABOUT TO ENGAGE IN AN UNLICENSED ACT OR PRACTICE; AN ACT OR
16 PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE, A RULE
17 PROMULGATED PURSUANT TO THIS ARTICLE, OR AN ORDER ISSUED
18 PURSUANT TO THIS ARTICLE; OR AN ACT OR PRACTICE CONSTITUTING
19 GROUNDS FOR ADMINISTRATIVE SANCTION PURSUANT TO THIS ARTICLE,
20 THE DIRECTOR MAY ENTER INTO A STIPULATION WITH THE PERSON.

21 (17) IF ANY PERSON FAILS TO COMPLY WITH A FINAL
22 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
23 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
24 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
25 AND IF SO REQUESTED SUCH ATTORNEY SHALL BRING, SUIT FOR A
26 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
27 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

28 (18) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
29 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
30 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (9) OF
31 THIS SECTION.

32 **12-35.3-111. Mental and physical examination of licensed**
33 **dietitians.** (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE
34 THAT A LICENSED DIETITIAN IS UNABLE TO PRACTICE WITH REASONABLE
35 SKILL AND SAFETY, THE DIRECTOR MAY ORDER THE LICENSED DIETITIAN
36 TO TAKE A MENTAL OR PHYSICAL EXAMINATION ADMINISTERED BY A
37 PHYSICIAN OR OTHER LICENSED HEALTH CARE PROFESSIONAL DESIGNATED
38 BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE
39 LICENSED DIETITIAN'S CONTROL, IF THE LICENSED DIETITIAN FAILS OR
40 REFUSES TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION, THE
41 DIRECTOR MAY SUSPEND THE LICENSED DIETITIAN'S LICENSE UNTIL THE

1 DIRECTOR HAS MADE A DETERMINATION OF THE LICENSED DIETITIAN'S
2 FITNESS TO PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN ORDER FOR
3 EXAMINATION AND SHALL MAKE HIS OR HER DETERMINATION IN A TIMELY
4 MANNER.

5 (2) THE DIRECTOR SHALL INCLUDE IN AN ORDER REQUIRING A
6 LICENSED DIETITIAN TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION
7 THE BASIS OF THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE
8 LICENSED DIETITIAN IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND
9 SAFETY. FOR PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED
10 UNDER THIS ARTICLE, THE LICENSED DIETITIAN WAIVES ALL OBJECTIONS
11 TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S OR LICENSED
12 HEALTH CARE PROFESSIONAL'S TESTIMONY OR EXAMINATION REPORTS ON
13 THE GROUNDS THAT THEY ARE PRIVILEGED COMMUNICATION.

14 (3) THE LICENSED DIETITIAN MAY SUBMIT TO THE DIRECTOR
15 TESTIMONY OR EXAMINATION REPORTS FROM A PHYSICIAN CHOSEN BY THE
16 LICENSED DIETITIAN AND PERTAINING TO ANY CONDITION THAT THE
17 DIRECTOR HAS ALLEGED MAY PRECLUDE THE LICENSED DIETITIAN FROM
18 PRACTICING WITH REASONABLE SKILL AND SAFETY. THE DIRECTOR MAY
19 CONSIDER THE TESTIMONY AND REPORTS SUBMITTED BY THE LICENSED
20 DIETITIAN IN CONJUNCTION WITH, BUT NOT IN LIEU OF, THE TESTIMONY
21 AND EXAMINATION REPORTS OF THE PHYSICIAN DESIGNATED BY THE
22 DIRECTOR.

23 (4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
24 ORDERED BY THE DIRECTOR CANNOT BE USED AS EVIDENCE IN ANY
25 PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR, ARE NOT A PUBLIC
26 RECORD, AND SHALL NOT BE MADE AVAILABLE TO THE PUBLIC.

27 **12-35.3-112. Confidential agreement to limit practice -**
28 **violation - grounds for discipline.** (1) IF A LICENSED DIETITIAN HAS A
29 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
30 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO CLIENTS,
31 THE LICENSED DIETITIAN SHALL NOTIFY THE DIRECTOR OF THE ILLNESS OR
32 CONDITION IN A MANNER AND WITHIN A PERIOD DETERMINED BY THE
33 DIRECTOR. THE DIRECTOR MAY REQUIRE THE LICENSED DIETITIAN TO
34 SUBMIT TO AN EXAMINATION TO EVALUATE THE EXTENT OF THE ILLNESS
35 OR CONDITION AND ITS IMPACT ON THE LICENSED DIETITIAN'S ABILITY TO
36 PRACTICE WITH REASONABLE SKILL AND SAFETY TO CLIENTS.

37 (2) (a) UPON DETERMINING THAT A LICENSED DIETITIAN WITH A
38 PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED
39 SERVICES WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE
40 DIRECTOR MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE
41 LICENSED DIETITIAN IN WHICH THE LICENSED DIETITIAN AGREES TO LIMIT

1 HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE
2 ILLNESS OR CONDITION, AS DETERMINED BY THE DIRECTOR.

3 (b) AS PART OF THE AGREEMENT, THE LICENSED DIETITIAN IS
4 SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED
5 APPROPRIATE BY THE DIRECTOR.

6 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
7 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR MONITORING.

8 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
9 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A LICENSED
10 DIETITIAN IS NOT ENGAGING IN ACTIVITIES THAT CONSTITUTE GROUNDS
11 FOR DISCIPLINE PURSUANT TO SECTION 12-35.3-110. THE AGREEMENT
12 DOES NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE DIRECTOR.
13 HOWEVER, IF THE LICENSED DIETITIAN FAILS TO COMPLY WITH THE TERMS
14 OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, THE
15 FAILURE CONSTITUTES GROUNDS FOR DISCIPLINE PURSUANT TO SECTION
16 12-35.3-110 (2) (d), AND THE LICENSED DIETITIAN IS SUBJECT TO
17 DISCIPLINE IN ACCORDANCE WITH THAT SECTION.

18 (4) THIS SECTION DOES NOT APPLY TO A LICENSED DIETITIAN
19 SUBJECT TO DISCIPLINE UNDER SECTION 12-35.3-110 (2) (c).

20 **12-35.3-113. Penalties - unauthorized practice - costs.** (1) A
21 PERSON WHO PRACTICES OR ATTEMPTS TO PRACTICE DIETETICS WITHOUT
22 AN ACTIVE LICENSE ISSUED UNDER THIS ARTICLE COMMITS A
23 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY
24 A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS OR IMPRISONMENT FOR
25 A PERIOD NOT EXCEEDING SIX MONTHS, OR BOTH.

26 (2) EACH DAY OF VIOLATION CONSTITUTES A SEPARATE OFFENSE.

27 (3) IN ADDITION TO ANY OTHER FINE OR PENALTY THAT MAY BE
28 IMPOSED AGAINST ANY PERSON FOUND TO HAVE VIOLATED THIS ARTICLE,
29 THE DIRECTOR MAY ASSESS AND COLLECT ALL COSTS INCURRED IN
30 CONNECTION WITH DISCIPLINARY ACTIONS, INCLUDING INVESTIGATOR
31 FEES, STENOGRAPHER FEES, ATTORNEY FEES, AND HEARING COSTS. THE
32 DIRECTOR SHALL TRANSMIT ALL REVENUES COLLECTED PURSUANT TO THIS
33 SUBSECTION (3) TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO
34 THE DIVISION OF REGISTRATIONS CASH FUND CREATED IN SECTION
35 24-34-105 (2) (b) (I), C.R.S.

36 (4) THE DIRECTOR SHALL TRANSMIT ALL FINES COLLECTED
37 PURSUANT TO THIS ARTICLE TO THE STATE TREASURER, WHO SHALL CREDIT
38 THEM TO THE GENERAL FUND.

39 **12-35.3-114. Repeal of article.** THIS ARTICLE IS REPEALED,
40 EFFECTIVE SEPTEMBER 1, 2019. PRIOR TO ITS REPEAL, THE DEPARTMENT
41 OF REGULATORY AGENCIES SHALL REVIEW THE FUNCTIONS OF THE

1 DIRECTOR AND THE REGULATION OF LICENSED DIETITIANS AS PROVIDED IN
2 SECTION 24-34-104, C.R.S.

3 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
4 (50.5) introductory portion; and **add** (50.5) (e) as follows:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for termination, continuation, or reestablishment.**
7 (50.5) The following agencies, functions, or both, shall terminate on
8 September 1, 2019:

9 (e) THE REGULATION OF LICENSED DIETITIANS PURSUANT TO
10 ARTICLE 35.3 OF TITLE 12, C.R.S.

11 **SECTION 3. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety."

14 Page 1, line 101, strike "DIETITIANS." and substitute "DIETITIANS, AND,
15 IN CONNECTION THEREWITH, EXEMPTING FROM REGULATION PERSONS
16 WHO PROVIDE NUTRITION SERVICES."

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