

BEFORE THE IOWA BOARD OF DIETETICS

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IN THE MATTER OF

**LORI GRAFF,**

RESPONDENT

Case No. 11-001

**NOTICE OF HEARING AND  
STATEMENT OF CHARGES**

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**COMES NOW** the Iowa Board of **Dietetics** (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license 01105 on September 9, 1994. Respondent's license is current and will next expire on April 15, 2013. Respondent's address as reported to the Board is 285 Terrace Drive, Waukee, Iowa 50263.

**A. TIME, PLACE AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on **December 7, 2012**, before the Board of Dietetics. The hearing shall begin at **9:00 a.m.** and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Dietetics, 5<sup>th</sup> Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and

be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 645 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: September Lau, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 152A, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 152A, and 272C and 645 IAC chapter 83.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

## **C. SECTIONS OF STATUTES AND RULES INVOLVED**

### **Count I**

Respondent is charged pursuant to Iowa Code section 147.55(2) and 645 IAC 83.2(2)(c) (12/29/2010) with a failure to exercise the degree of care which is ordinarily exercised by the average dietitian acting in similar circumstances.

### **Count II**

Respondent is charged pursuant to Iowa Code section 147.55(2) and 645 IAC 83.(2)(d) with failure to conform to the minimal standard of acceptable and prevailing practice of licensed dietitians in the state.

## **D. FACTUAL CIRCUMSTANCES**

1. Respondent is licensed to practice as a dietitian in the state of Iowa. Her license is active and expires April 15, 2013.
2. Respondent is employed as a dietitian/wellness coach for Hy-Vee.
3. Respondent is certified as a “Lifestyle Eating and Performance” (LEAP)

therapist.

4. In conjunction with her employment for Hy-Vee, Respondent assists patients in completing an MRT—a test designed to measure food sensitivities. The orders for this blood test are pre-signed by Dr. Jack S. Pasula, a chiropractor from Florida, and distributed by Respondent. Dr. Pasula does not examine or evaluate the patients selected for this test.

5. Respondent interprets the test results and uses the results to develop an elimination diet (LEAP Program).

6. Respondent does not work under the direction of a physician or consult with physicians in carrying out this nutritional care.

7. Records for Respondent's clients lack individualized care plans, evidence of counseling regarding the LEAP Program, informed consent documents, or follow-up documentation.

8. For Respondent's clients on the LEAP Program, Respondent has not adequately assessed, developed, monitored and evaluated the plans of care and expected outcomes under a physician's supervision.

#### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact September Lau, Assistant Attorney General, at 515/281-7175.

## **F. PROBABLE CAUSE FINDING**

On this 14<sup>th</sup> day of September, 2012, the Iowa Board of Dietetics found probable cause to file this Notice of Hearing and Statement of Charges.