WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

House Bill No. 4477

(By Delegates Douglas, Marshall, Angotti, Azinger, L. Smith and Tucker)

Passed March 10, 2000

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections one, two, three, seven, eight and fourteen, article thirty-five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section two-a, relating to the board of examiners for licensed dietitians; defining a scope of practice; providing license fees, renewal fees and reinstatement fees may be established by rule; penalties; and removing limitation on reimbursement of expenses.

Be it enacted by the Legislature of the West Virginia:

That section one, two, three, seven, eight and fourteen, article thirty-five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section two-a, all to read as follows:

ARTICLE 35. BOARD OF DIETITIANS.
§30-35-1. License to practice.

(a) After the thirtieth day of June, one thousand nine hundred ninety-seven, anyone who represents or implies to the public by use of the title "dietitian" or "licensed dietitian" or any other title intended to convey the impression that he or she is authorized to practice dietetics in this state must be licensed pursuant to this article.

(b) No person may use any title, sign, card or other device which indicates that such person is a licensed dietitian unless expressly authorized and licensed pursuant to the provisions of this article: Provided, That a dietitian registered by the commission on dietetic registration may use the title of registered dietitian: Provided, however, That the requirements and provisions of this article do not apply to any person employed as a cook at any public or private educational institution in this state.

(c) Nothing in this article may be construed to affect individuals who furnish nutrition information on food, food materials or dietary supplements or who engage in explanation to customers about food, food materials or dietary supplements in connection with the marketing and distribution of those products, and who do not use the title "dietician" or "licensed dietician."


As used in this article, the following terms shall have the meanings ascribed to them:

(a) "Board" means the West Virginia board of licensed dietitians;

(b) "Commission on dietetic registration" means the commission on dietetic registration that is a member of the national commission for health certifying agencies;
(c) "Fund" means the board of examiners for dietitians' administrative fund created pursuant to the provisions of section five of this article;

(d) "Licensed dietitian” means any person who has obtained a license to practice as a licensed dietitian from the West Virginia board of licensed dietitians;

(e) "Medical nutrition therapy” or "nutrition therapy” means nutritional diagnostic assessment and nutrition therapy services for the purpose of disease management.

(f) "Registered dietitian” means a person registered by the commission on dietetic registration.

§30-35-2a. Scope of practice.

(a) The primary scope of practice of licensed dietitians is the provision of medical nutrition therapy. Licensed dietitians may also perform other nutrition related services to promote the general health, well-being and the prevention of chronic diseases or conditions.

(b) Nothing in this article may be construed to prohibit or otherwise limit the practice of a profession by persons who are licensed, certified or registered under the laws of this state and who are performing services within their authorized scope of practice.

§30-35-3. Board of licensed dietitians.

(a) There is hereby created the West Virginia board of licensed dietitians. The board consists of five members who shall be appointed by the governor, by and with the advice and consent of the Senate. The governor shall make appointments from a list of not less than eight names submitted to the governor by the West Virginia dietetic association. Each
member of the board shall be a citizen of the United States and
a resident of this state. Four members shall have experience as
a registered or licensed dietitian for a minimum of three years
preceding the date of appointment. One member of the board
shall be a lay person who is not a registered or licensed dietitian
and not subject to the practice requirements of this subsection.

(b) The governor shall appoint initially one member for a
term of one year, one for a term of two years, one for a term of
three years and two for a term of four years. Thereafter, the
members of the board shall be appointed for overlapping terms
of four years: Provided, That each member shall serve no more
than two consecutive four-year terms: Provided, however, That
appointments to fill a vacancy may not be considered as one of
two consecutive terms: Provided further, That terms in effect
on the effective date of this section shall be considered as one
of two consecutive terms.

(c) In the event a board member is unable to complete a
term, the governor shall appoint a person with similar qualifica-
tions to complete the unexpired term. Each vacancy occurring
on the board shall be filled by appointment within sixty days
after such vacancy is created.

(d) Each member of the board may receive compensation
for attendance at official meetings not to exceed the amount
paid to members of the Legislature for their interim duties as
recommended by the citizens legislative compensation commis-
son and authorized by law, and may be reimbursed for actual
and necessary expenses incurred for each day or portion thereof
engaged in the discharge of official duties in a manner consis-
tent with guidelines of the travel management office of the
department of administration.

(e) At its initial meeting, and annually thereafter, the
members shall elect a chair, vice chair and secretary. The chair
shall preside over the meetings and hearings of the board. The vice chair shall assume the chair’s duties in the absence of the chair. All meetings shall be general meetings for the consideration of any matter which may properly come before the board. A majority of the board constitutes a quorum for the transaction of business. The board shall meet at least once a year and at such other times and places as it may determine; and shall meet on the call of the chair. It shall be the duty of the chair to call a meeting of the board on the written request of three members thereof. The board shall keep an accurate record of all proceedings and maintain such board records. The board may employ personnel necessary to accomplish the performance of its duties: Provided, That the board may not expend more than it has available to it solely through the fees established in this article or as established in accordance with section six, article one of this chapter.

§30-35-7. Qualifications; licensure; examinations; waivers and fees.

(a) An applicant for a license to engage in practice as a licensed dietitian shall submit to the board written evidence, verified by oath, that he or she:

1. Complies with the code of ethics adopted by the board;

2. Has completed a major course of study in human nutrition, dietetics, food systems management or equivalent thereof and possesses a baccalaureate or post-baccalaureate degree; and

3. Has completed a planned continuous professional experience component in dietetic practice of not less than nine hundred hours under the supervision of a registered or licensed dietitian.

(b) Each applicant is required to pass a written examination demonstrating competence in the discipline of dietetics and
nutrition. Each written examination may be supplemented by an
oral examination. The board shall determine the times and
places for examinations.

(c) Upon successfully passing such examination or exami-
nations, the board shall issue to the applicant a license to
engage in practice as a licensed dietitian. In the event an
applicant has failed to pass examinations on three occasions, the
applicant shall, in addition to the other requirements of this
section, present to the board such other evidence of his or her
qualifications as the board may prescribe.

(d) Prior to the thirtieth day of June, one thousand nine
hundred ninety-seven, the board shall waive the examination
requirements of this section and shall grant a license to any
person who:

1. Is registered by the commission on dietetic registration
   as a registered dietitian; or

2. Possesses a baccalaureate or postbaccalaureate degree
   and has completed a major course of study in the fields of
   human nutrition, dietetics, food systems management or
   equivalent, as approved by the board, and has been engaged in
   the practice of dietetics or nutrition for three of the last ten
   years.

(e) Upon application and submission of the applicable fee,
the board may waive the examination requirements of this
section and issue a license to practice as a licensed dietitian to
an applicant who is registered by the commission on dietetic
registration or who has been duly licensed as a nutritionist or
dietitian under the laws of another state if the standards for
licensing in that state are no less stringent than those required
under the provisions of this article.

(f) Any person applying for a dietitian license shall submit
a fee of fifty dollars or such reasonable fee as established by
rule pursuant to section six, article one of this chapter with the
application to the board, which fee shall be deposited to the
credit of the fund provided in section five of this article.

§30-35-8. Renewal of licenses; reinstatement; fees; penalties;
inactive lists.

(a) The license of every person licensed under the provi-
sions of this article shall be annually renewed except as
otherwise provided by this section. At such times as the board,
in its discretion, may determine, the board shall mail a renewal
application to every person whose license was initially granted
or renewed during the previous calendar year. All persons
seeking renewal shall submit a completed application and a
fifty-dollar annual renewal fee or such reasonable renewal fee
as established by rule pursuant to section six, article one of this
chapter. Upon receipt of the application and fee, the board shall
verify the accuracy of the application and, if it is accurate, issue
to the applicant a certificate of renewal of the license for the
current year. The certificate of renewal entitles the holder
thereof to practice dietetics for the period stated on the certifi-
cate of renewal.

(b) Any licensee who allows his or her license to lapse by
failing to renew for a period not exceeding three years, may be
reinstated by the board upon receipt of a satisfactory explana-
tion for such failure to renew his or her license and payment of
the annual renewal fee plus a reinstatement fee of twenty-five
dollars or such reasonable reinstatement fee as established by
rule pursuant to section six, article one of this chapter.

(c) Any person allowing his or her license to lapse for a
period exceeding three years is required, to be reinstated as a
licensed dietitian, to pass a written examination established by
the board, and to pay to the board a licensing fee of fifty dollars
or such reasonable licensing fee as established by rule pursuant
to section six, article one of this chapter.
(d) Any person engaged in the practice of licensed dietetics during the time his or her license has lapsed is in violation of the provisions of this article and is subject to the penalties provided in section fourteen of this article.

(e) Any licensed dietitian who desires to retire from practice temporarily shall submit a written notice of such retirement to the board. Upon receipt of such notice the board shall place the name of such person upon the inactive list. Any person remaining on the inactive list may not engage in the practice of licensed dietetics in this state and is not subject to the payment of any renewal fees. Upon submission of an application for renewal of license and payment of the renewal fee for the current year, a licensed dietitian may resume active practice.


(a) It is a misdemeanor for any person, corporation or association to:

(1) Sell, fraudulently obtain, furnish or assist in selling, fraudulently obtaining or furnishing any dietitian license or license record;

(2) Engage in the practice as a licensed dietitian under cover of any diploma, license or record illegally or fraudulently obtained;

(3) Represent or imply to the public that he or she is authorized to use the title "dietitian" or "licensed dietitian" or any other title intended to convey that impression, unless duly licensed pursuant to the provisions of this article;

(4) Engage in the practice as a licensed dietitian during the time his or her license is suspended or revoked; or
(5) Otherwise violate any provisions of this article.

(b) Any person, corporation or association who violates the provisions of subsection (a) of this section or any rule promulgated hereunder is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars for each offense.
That Joint Committee on Enrolled Bills hereby certifies that the
foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

President of the Senate

Speaker of the House of Delegates

The within ________ disapproved____ this the ________ day of ________, 2000.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/21/10
Time 3:14 pm