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# 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

# ENROLLED

## H. B. 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.**

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

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

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

**§30-35-2. Definitions.**

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

3 (a) “Board” means the West Virginia board of licensed  
4 dietitians;

5 (b) “Commission on dietetic registration” means the  
6 commission on dietetic registration that is a member of the  
7 national commission for health certifying agencies;

8 (c) "Fund" means the board of examiners for dietitians'  
9 administrative fund created pursuant to the provisions of  
10 section five of this article;

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

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

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

### **§30-35-2a. Scope of practice.**

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

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

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

1 (a) There is hereby created the West Virginia board of  
2 licensed dietitians. The board consists of five members who  
3 shall be appointed by the governor, by and with the advice and  
4 consent of the Senate. The governor shall make appointments  
5 from a list of not less than eight names submitted to the  
6 governor by the West Virginia dietetic association. Each

7 member of the board shall be a citizen of the United States and  
8 a resident of this state. Four members shall have experience as  
9 a registered or licensed dietitian for a minimum of three years  
10 preceding the date of appointment. One member of the board  
11 shall be a lay person who is not a registered or licensed dietitian  
12 and not subject to the practice requirements of this subsection.

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

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

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

37 (e) At its initial meeting, and annually thereafter, the  
38 members shall elect a chair, vice chair and secretary. The chair

39 shall preside over the meetings and hearings of the board. The  
40 vice chair shall assume the chair's duties in the absence of the  
41 chair. All meetings shall be general meetings for the consider-  
42 ation of any matter which may properly come before the board.  
43 A majority of the board constitutes a quorum for the transaction  
44 of business. The board shall meet at least once a year and at  
45 such other times and places as it may determine; and shall meet  
46 on the call of the chair. It shall be the duty of the chair to call a  
47 meeting of the board on the written request of three members  
48 thereof. The board shall keep an accurate record of all proceed-  
49 ings and maintain such board records. The board may employ  
50 personnel necessary to accomplish the performance of its  
51 duties: *Provided*, That the board may not expend more than it  
52 has available to it solely through the fees established in this  
53 article or as established in accordance with section six, article  
54 one of this chapter.

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

- 1 (a) An applicant for a license to engage in practice as a  
2 licensed dietitian shall submit to the board written evidence,  
3 verified by oath, that he or she:
- 4 (1) Complies with the code of ethics adopted by the board;
- 5 (2) Has completed a major course of study in human  
6 nutrition, dietetics, food systems management or equivalent  
7 thereof and possesses a baccalaureate or post-baccalaureate  
8 degree; and
- 9 (3) Has completed a planned continuous professional  
10 experience component in dietetic practice of not less than nine  
11 hundred hours under the supervision of a registered or licensed  
12 dietitian.
- 13 (b) Each applicant is required to pass a written examination  
14 demonstrating competence in the discipline of dietetics and

15 nutrition. Each written examination may be supplemented by an  
16 oral examination. The board shall determine the times and  
17 places for examinations.

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

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

29 (1) Is registered by the commission on dietetic registration  
30 as a registered dietitian; or

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

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

45 (f) Any person applying for a dietitian license shall submit  
46 a fee of fifty dollars or such reasonable fee as established by

47 rule pursuant to section six, article one of this chapter with the  
48 application to the board, which fee shall be deposited to the  
49 credit of the fund provided in section five of this article.

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

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

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

23 (c) Any person allowing his or her license to lapse for a  
24 period exceeding three years is required, to be reinstated as a  
25 licensed dietitian, to pass a written examination established by  
26 the board, and to pay to the board a licensing fee of fifty dollars  
27 or such reasonable licensing fee as established by rule pursuant  
28 to section six, article one of this chapter.



29 (d) Any person engaged in the practice of licensed dietetics  
30 during the time his or her license has lapsed is in violation of  
31 the provisions of this article and is subject to the penalties  
32 provided in section fourteen of this article.

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

**§30-35-14. Prohibitions and penalties.**

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

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

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

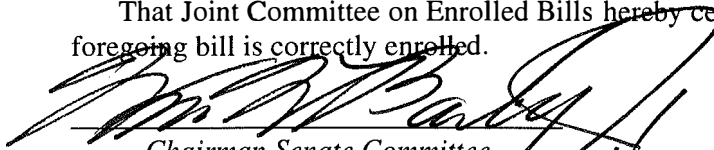
9 (3) Represent or imply to the public that he or she is  
10 authorized to use the title "dietitian" or "licensed dietitian" or  
11 any other title intended to convey that impression, unless duly  
12 licensed pursuant to the provisions of this article;

13 (4) Engage in the practice as a licensed dietitian during the  
14 time his or her license is suspended or revoked; or

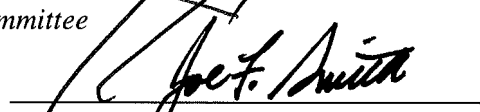
15 (5) Otherwise violate any provisions of this article.

16 (b) Any person, corporation or association who violates the  
17 provisions of subsection (a) of this section or any rule promul-  
18 gated hereunder is guilty of a misdemeanor and, upon convic-  
19 tion thereof, shall be fined not less than one hundred dollars nor  
20 more than five hundred dollars for each offense.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



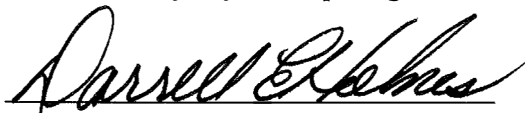
*Chairman Senate Committee*



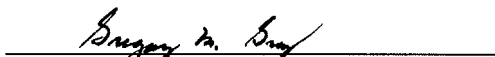
*Chairman House Committee*

Originating in the House.

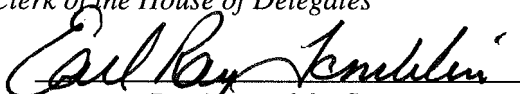
In effect ninety days from passage.



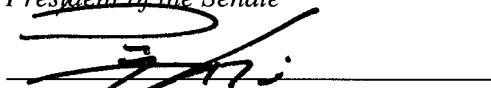
*Clerk of the Senate*



*Clerk of the House of Delegates*

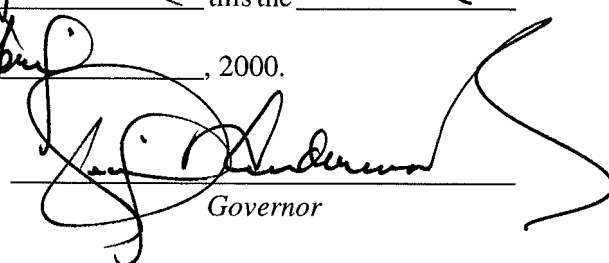


*President of the Senate*



*Speaker of the House of Delegates*

The within disapproved this the 5th  
day of April, 2000.



*Governor*

PRESENTED TO THE

GOVERNOR

Date 3/29/20

Time 3:14 pm