WEST VIRGINIA LEGISLATURE

ENROLLED

SENATE BILL NO. 419

(By Senator Bailey, et al)

PASSED April 12, 2001

In Effect 90 days from Passage
AN ACT to amend and reenact sections 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, all relating to the board of examiners for licensed dietitians; defining a scope of practice; terms of board members; compensation of board members; 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 sections 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.


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

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

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

4 (c) “Fund” means the board of examiners for dietitians’ administrative fund created pursuant to the provisions of section five of this article;

5 (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;

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

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

§30-35-2a. Scope of practice.

1 (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.

2 (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 continued 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 members of the board 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 qualifications to complete the unexpired term. Each vacancy occurring on the board shall be filled by appointment within sixty days after the 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 commission 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 consistent with guidelines of the travel management office of the department of administration.

(e) Annually, 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 trans- action of business. The board shall meet at least once a year and at such other times and places as it may deter- mine; and shall meet on the call of the chair. It is the duty of the chair to call a meeting of the board on the written request of three members of the board. The board shall keep an accurate record of all proceedings and maintain the 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 the 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) When an applicant successfully passes an examination or examinations, 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 other evidence of his or her qualifications that the board prescribes.

(d) 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.

(e) Any person applying for a dietitian license shall submit a fee of fifty dollars or a reasonable fee established by legislative rule pursuant to section six, article one of this chapter with the application to the board, which 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 provisions 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 a reasonable renewal fee established by legislative 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 its holder to practice dietetics for the period stated on the certificate 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 explanation for the failure to renew his or her license and payment of the annual renewal fee plus a reinstatement fee of twenty-five dollars or a reasonable reinstatement fee established by legislative 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 a reasonable licensing fee established by legislative 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 the
retirement to the board. Upon receipt of the notice the
board shall place the name of that person upon the inac-
tive 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.


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

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

3. (2) Engage in the practice as a licensed dietitian under
cover of any diploma, license or record illegally or fraudu-
lently obtained;

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

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

6. (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 under this article 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

Speaker House of Delegates

[Signature]

The within............. was approved.......... this the............. Day of ..........,.................., 2001.

Governor

[Signature]