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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

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**ENROLLED**

SENATE BILL NO. 419

(By Senator Bailey, et al )

—●—  
PASSED April 12, 2001

In Effect 90 days from Passage

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**ENROLLED**

**Senate Bill No. 419**

(BY SENATORS BAILEY, CRAIGO, FANNING, SHARPE, LOVE,  
MCCABE, MITCHELL, ROWE, HUNTER, OLIVERIO, WOOTON,  
SPOUSE, MCKENZIE AND REDD)

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[Passed April 12, 2001; in effect ninety days from passage.]

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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.**

**§30-35-2. Definitions.**

1 As used in this article, the following terms 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  
12 obtained a license to practice as a licensed dietitian from  
13 the West Virginia board of licensed dietitians;

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

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

**§30-35-2a. Scope of practice.**

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

6 (b) Nothing in this article may be construed to prohibit  
7 or otherwise limit the practice of a profession by persons

8 who are licensed, certified or registered under the laws of  
9 this state and who are performing services within their  
10 authorized scope of practice.

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

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

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

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

27 (d) Each member of the board may receive compensation  
28 for attendance at official meetings not to exceed the  
29 amount paid to members of the Legislature for their  
30 interim duties as recommended by the citizens legislative  
31 compensation commission and authorized by law and may

32 be reimbursed for actual and necessary expenses incurred  
33 for each day or portion thereof engaged in the discharge of  
34 official duties in a manner consistent with guidelines of  
35 the travel management office of the department of admin-  
36 istration.

37 (e) Annually, the members shall elect a chair, vice chair  
38 and secretary. The chair shall preside over the meetings  
39 and hearings of the board. The vice chair shall assume the  
40 chair's duties in the absence of the chair. All meetings  
41 shall be general meetings for the consideration of any  
42 matter which may properly come before the board. A  
43 majority of the board constitutes a quorum for the trans-  
44 action of business. The board shall meet at least once a  
45 year and at such other times and places as it may deter-  
46 mine; and shall meet on the call of the chair. It is the duty  
47 of the chair to call a meeting of the board on the written  
48 request of three members of the board. The board shall  
49 keep an accurate record of all proceedings and maintain  
50 the board records. The board may employ personnel  
51 necessary to accomplish the performance of its duties:  
52 *Provided*, That the board may not expend more than it has  
53 available to it solely through the fees established in this  
54 article or as established in accordance with section six,  
55 article 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  
3 evidence, verified by oath, that he or she:

4 (1) Complies with the code of ethics adopted by the  
5 board;

6 (2) Has completed a major course of study in human  
7 nutrition, dietetics, food systems management or the  
8 equivalent thereof and possesses a baccalaureate or post-  
9 baccalaureate degree; and

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

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

19 (c) When an applicant successfully passes an examina-  
20 tion or examinations, the board shall issue to the applicant  
21 a license to engage in practice as a licensed dietitian. In  
22 the event an applicant has failed to pass examinations on  
23 three occasions, the applicant shall, in addition to the  
24 other requirements of this section, present to the board  
25 other evidence of his or her qualifications that the board  
26 prescribes.

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

36 (e) Any person applying for a dietitian license shall  
37 submit a fee of fifty dollars or a reasonable fee established  
38 by legislative rule pursuant to section six, article one of  
39 this chapter with the application to the board, which shall  
40 be deposited to the credit of the fund provided in section  
41 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  
2 provisions of this article shall be annually renewed except  
3 as otherwise provided by this section. At such times as the  
4 board, in its discretion, may determine, the board shall  
5 mail a renewal application to every person whose license  
6 was initially granted or renewed during the previous  
7 calendar year. All persons seeking renewal shall submit a  
8 completed application and a fifty-dollar annual renewal  
9 fee or a reasonable renewal fee established by legislative  
10 rule pursuant to section six, article one of this chapter.  
11 Upon receipt of the application and fee, the board shall  
12 verify the accuracy of the application and, if it is accurate,  
13 issue to the applicant a certificate of renewal of the license  
14 for the current year. The certificate of renewal entitles its  
15 holder to practice dietetics for the period stated on the  
16 certificate of renewal.

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

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

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

36 (e) Any licensed dietitian who desires to retire from  
37 practice temporarily shall submit a written notice of the

38 retirement to the board. Upon receipt of the notice the  
39 board shall place the name of that person upon the inac-  
40 tive list. Any person remaining on the inactive list may  
41 not engage in the practice of licensed dietetics in this state  
42 and is not subject to the payment of any renewal fees.  
43 Upon submission of an application for renewal of license  
44 and payment of the renewal fee for the current year, a  
45 licensed dietitian may resume active 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  
5 or license record;

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

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

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

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

17 (b) Any person, corporation or association who violates  
18 the provisions of subsection (a) of this section or any rule  
19 promulgated under this article is guilty of a misdemeanor  
20 and, upon conviction thereof, shall be fined not less than  
21 one hundred dollars nor more than five hundred dollars for  
22 each offense.



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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *27<sup>th</sup>*  
Day of *April* ....., 2001.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 11:12 am