

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #3

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AUG 29 2 58 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: WEST VIRGINIA BOARD OF LICENSED DIETITIANS TITLE NUMBER: 31

CITE AUTHORITY: LEGISLATIVE

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: CONTINUING PROFESSIONAL EDUCATION
REQUIREMENTS

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Helen Lodge
Authorized Signature

CONTINUING PROFESSIONAL EDUCATION PROPOSED RULE

W. Va. Code §§30-35 established the West Virginia Board of Licensed Dietitians (Board). The legislature subsequently approved regulations that included the Board's code of professional ethic, continuing education and standards examination and licensure and renewal requirements. The Office of the Legislative Auditor conducted a performance review of the Board in 1999 and made several suggestions. The Board has re-written its regulations based on the findings and recommendations of the legislative auditor.

The purpose of this rule is to define continuing professional education requirements for dietitians. The code of ethics and licensure and renewal requirements are outlined in separate rules.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

Type of Rule: Legislative Interpretive Procedural

Agency: WEST VIRGINIA BOARD OF LICENSED DIETITIANS

Address: 54 TWIN VIEW LANE

HUNTINGTON, WV 25704

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of Above Estimates:

N/A

3. Objectives of These Rules:

TO OUTLINE CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS FOR LICENSED DIETITIANS.

Rule Title: CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: JULY 25, 2000

Signature of Agency Head or Authorized Representative:

Helen Lodge

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: AUGUST 29, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WEST VIRGINIA BOARD OF LICENSED DIETITIANS

LEGISLATIVE RULE TITLE: CONTINUING PROFESSIONAL EDUCATION
REQUIREMENTS

1. Authorizing statute(s) citation W. Va. CODE 30-35-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
JULY 25, 2000

b. What other notice, including advertising, did you give of the hearing?
N/A

c. Date of Public Hearing(s) *or* Public Comment Period ended:
AUGUST 24, 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

HELEN LODGE, PRESIDENT

WEST VIRGINIA BOARD OF LICENSED DIETITIANS

54 TWIN VIEW LANE

HUNTINGTON, WV 25704

g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

FILED

AUG 29 2 58 PM '00

TITLE 31
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF LICENSED DIETITIANS

OFFICE OF THE SECRETARY OF STATE

SERIES 5
CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

§31-5-1. General.

1.1. Scope. -- -This establishes continuing professional education requirements for renewal of licensure.

1.2. Authority. -- W. Va. Code §30-35-4.

1.3. Filing Date. --

1.4. Effective Date. --

§31-5-2. Application.

This legislative rule applies to renewal licenses and instructors of continuing professional education courses.

§32-5-3. Definitions.

3.1. "Approved Provider" means those persons or organizations offering continuing professional education who are approved by the Board.

3.2. Course means a systematic learning experience, at least one (1) hour in length, which deals with and is designed for the acquisition of knowledge, skills and information relevant to professional nutrition/dietetics practice.

3.3. "Licensee" means any dietitian licensed by the Board of Licensed Dietitians and, except as noted, any dietitian granted a provisional permit by the Board.

§31-5-4. Criteria for Provider Approval.

4.1. Except as provided for in section 6 of this rule, in order to be an approved provider, a provider shall submit to the Board an application on a form provided by the Board. All provider

applications and documentation submitted to the Board shall be typewritten and in English.

4.2. The approval of the provider expires one (1) year after it is issued by the Board and may be renewed upon the filing of the required application.

§31-5-5. Approved Providers.

5.1. For the purpose of this rule a provider may only use the title "approved provider" when the person or organization has submitted a provider application form and has been issued a provider number or is on the approved list of organizations listed herein. Programs approved by the following organizations will be considered "approved":

5.1.1. The West Virginia Dietetic Association;

5.1.2. Any national, state or district dietetic associations;

5.1.3. The American Medical Association;

5.1.4. The West Virginia Medical Association;

5.1.5. The American Nurses Association;

5.1.6. The West Virginia Nurses Association.

5.1.5. Accredited schools or colleges.

5.2. The Board shall issue only one (1) provider number to a person or organization. When two (2) or more approved providers co-sponsor a course, the course shall be identified

by only one (1) provider number and that provider shall assume responsibility for record keeping, advertising, issuance of certificates and instructor qualifications.

5.3. An approved provider shall keep the following records for a period of four (4) years in one identified location:

5.3.1. Course outlines of each approved course given;

5.3.2. The record of time and places of each approved course given;

5.3.3. Course instructor curriculum vitae or resumes;

5.3.4. The attendance record for each approved course which shows the name, signature and license number of licensed dietitians taking the course and a record of any certificates issued to them; and

5.3.5. Participant evaluation forms for each approved course given.

5.4. Approved providers shall issue, within sixty (60) days of the conclusion of an approved course, to each participant who has completed the course a certificate of completion which contains the following information:

5.4.1. The provider's name and, if applicable, number;

5.4.2. The course title;

5.4.3. The participant's name and, if applicable, his or her dietitian license number;

5.4.4. The date and location of the course; and

5.4.5. The number of continuing professional education hours completed.

5.5. An approved provider shall notify the Board of any changes to the date, location,

instructor or content of an approved course.

5.6. An approved provider shall notify the Board within thirty (30) days of any changes in its organizational structure or the person responsible for the provider's continuing professional education course, including name, address, or telephone number changes.

5.7. Provider approval is non-transferable.

5.8. The Board may audit during reasonable business hours records, courses, instructors and related activities of an approved provider.

§31-5-6. Approval Of Continuing Professional Education Courses.

6.1. Except as approved by the Board, only an approved provider may offer continuing professional education courses.

6.2. The content of all courses of continuing professional education shall be relevant to the practice of nutrition/dietetics and shall:

6.2.1. Be related to the knowledge and/or technical skills required to practice professional nutrition/dietetics; or

6.2.2. Be related to direct and/or indirect patient care. Courses in professional nutrition/dietetics practice management or medical ethics are also acceptable.

§31-5-7. Activities Eligible for Continuing Professional Education Credits.

7.1. All licensees must meet requirements for continuing professional education.

7.1.1. Every other renewal period, or every two (2) years, an active licensee shall have a minimum of twenty (20) hours of continuing professional education (CPE) that relates directly to professional growth and development from an approved provider.

7.1.2. Dietitians practicing under a

provisional permit must complete a minimum of ten (10) hours of continuing professional education in the previous one year period.

7.2. Continuing professional education hours may only apply if they are acquired during the two (2) year reporting period. There will be no carry-over of hours from one (1) period to the next.

7.2.1. Licensees who were active or have a provisional permit on or before July 1, 1999 will be allowed to submit continuing professional education units for the July 1, 1999 through June 30, 2000 period;

7.2.2. Active licensees licensed after July 1, 1999 will be on a two (2) year period ending at their second expiration date.

7.3. Continuing professional education hours may include:

7.3.1. Educational activities.

7.3.1.1. A licensee may earn continuing professional education hours by attending professional meetings and other formally organized learning events that are recognized by the Board and offered by an approved provider of continuing professional education.

7.3.1.2. The licensee shall only receive credit for those continuing professional education hours that meet the specifications established by the Board.

7.3.1.3. One (1) CPE hour will be granted for up to sixty (60) minutes of educational presentation.

7.3.1.4. Licensees should report only full hours. Licensees should round down for less than thirty (30) minutes and round up for thirty (30) minutes or more.

7.3.1.5. A licensee may not count time spent in assigned reading, outside writing assignments or similar activities, travel time, meeting time devoted to business activities,

entertainment, and refreshment breaks and meals in the calculation of contact hours.

7.3.1.6. A licensee may count an integral part of an approved continuing professional education program that occurs during a meal, such as a speech or panel discussion, in the calculation of contact hours.

7.3.2. The Board will grant CPE hours for viewing trade and educational exhibits and poster presentations in accordance with a schedule established by the Board.

7.3.3. Academic Courses.

7.3.3.1. Courses may be taken for credit or audit, including those taken by correspondence, must be successfully completed at/by an accredited college or university.

7.3.3.2. CPE hours will be approved on the following schedule:

	One Credit	For Credit	For Audit
Semester		Fifteen (15)	Eight (8)
Trimester		Fourteen (14)	Seven (7)
Quarter		Ten (10)	Five (5)

7.3.4. Instruction of approved continuing professional education courses.

7.3.4.1. Instructors of approved continuing professional education courses may receive a maximum of two (2) hours of continuing professional education credit per year. An instructor may claim credit only where the individual acts as an instructor of an approved course.

7.3.4.2. Participation as a member of a panel presentation for an approved course shall not entitle the participant to earn continuing professional education credit as an instructor.

7.3.5. All other CPE hours will be determined by the Board.

7.3.6. A licensee may obtain CPE hours for any other program which is approved by the Board, at the Board's discretion, including, but not limited to:

7.3.6.1. Self-directed, professional nutrition/dietetics study activities including, but not limited to, formally organized learning events; college courses taken outside an accredited nutrition/dietetics program; writing for professional nutrition/dietetics publications; nutrition/dietetics teaching or training assignments if not part of the primary job duties; independent study, research, or tutoring of a professional nutrition/dietetic nature; and making presentations on a professional nutrition/dietetic issues, provided that such activities are part of a planned, organized learning program approved in advance by the Board; and

7.3.6.2. Continuing professional education hours from organizations who are not approved providers if the course relates to the professional growth and development of the licensee.

§31-5-10. Application for Course Approval.

10.1. Except for courses approved or offered by providers on the approved list include in section 5 of this rule, in order to obtain approval for a course, an approved provider shall submit to the Board a request for course approval, in English, on a form provided by the Board or in a similar format which contains the following information:

10.1.1. The provider's name, provider number, address, telephone number and contact person;

10.1.2. Course title, date, location, and number of continuing professional education hours;

10.1.3. The type and method of instruction and educational objectives to be met;

10.1.4. A course outline, course descrip-

tion, and instructor information and qualifications; and

10.1.5. All proposed public advertisements which are intended to be used by the approved provider to advertise the course. Where the provider uses a public advertisement which is developed after the course has been approved and which was not provided to the Board with the course request, the provider shall mail a copy of that advertisement to the Board within ten (10) days after its publication.

10.2. An approved provider shall obtain Board approval for every course that is offered for continuing professional education credit. Where a previously approved course is to be repeated, the provider shall apply to the Board for approval of each subsequent administration of the course.

10.3. An approved provider shall submit all requests for course approval to the Board at least forty-five (45) days before the course is first offered.

§31-5-11. Instructors.

11.1. It is the responsibility of each approved provider to use qualified instructors.

11.2. Instructors teaching approved continuing professional education courses shall have the following minimum qualifications:

11.2.1. An instructor, shall be knowledgeable, current and skillful in the subject matter of the course as evidenced through:

A. holding a baccalaureate or higher degree from a college or university and written documentation of experience in the subject matter;

B. have at least one (1) year's experience within the last two (2) years in the specialized area in which he or she is teaching.

11.2.2. A licensed dietitian instructor shall:

A. be currently licensed or certified in his or her area of expertise if appropriate;

B. show written evidence of specialized training, which may include, but not be limited to, a certificate of training or an advanced degree in the given subject area; or

C. have at least one (1) year's teaching experience within the last two (2) years in the specialized area in which he or she teaches.

§31-5-12. Advertisements.

12.1. Information disseminated by approved providers publicizing continuing professional education shall be true and not misleading and shall include the following:

12.1.1. A clear, concise description of the course content and/or objectives;

12.1.2. The date and location of the course;

12.1.3. The provider's name and telephone number;

12.1.4. The statement "This course has been approved by an organization listed in Section 5 of this rule or by the West Virginia Board of Licensed Dietitians, Provider Number _____, for _____ hours of continuing professional education"; and

12.1.5. The provider's policy on refunds for cases of non-attendance or cancellations.

12.2. A provider shall not describe a course as being Board approved until written confirmation of approval by the Board has been received by the provider. Where a provider is waiting for a determination by the Board on its request for course approval, the provider may advertise that the course is "pending" approval. A provider which advertises that its course is pending approval shall assume all responsibility if a course is subsequently denied by the Board.

§31-5-13. Denial, Withdrawal and Appeal of Approval.

13.1. The Board may withdraw its approval of a provider or deny a provider application for causes which include, but are not limited to, the following:

13.1.1. Conviction of crime substantially related to the activities of a provider; or

13.1.2. Failure to comply with any provision of the W. Va. Code §30-35-1 et seq..

13.2. Any material misrepresentation of fact by a provider or applicant in any information required to be submitted to the Board is grounds for withdrawal of approval or denial of an application.

13.3. The Board may withdraw its approval of a provider or a course after giving the provider written notice setting forth its reasons for withdrawal and after giving the provider a reasonable opportunity to be heard by the Board or its designee.

13.4. Should the Board deny approval of a provider or a course request, the applicant may appeal the action by filing a letter stating the reason with the Board: The letter-of appeal shall be filed with the Board within thirty (30) days of the mailing of the applicant's notification of the Board's denial. The appeal shall be considered by the Board or its designee. In the event that the Board or its designee considers the appeal after the date of the course for which the appeal is being made, a retroactive approval may be granted.

§31-5-14. Record Keeping and Reporting.

14.1. Each licensee at the time of license renewal shall sign a statement under penalty of false swearing that he or she has or has not complied with the continuing professional education requirements. The licensee shall submit the record of continuing education activities on forms provided by the Board along with the approved

renewal application form from the Board.

14.2. The Board may audit once each year a random sample of licensee who have reported compliance with the continuing professional education requirement.

14.3. It constitutes unprofessional conduct for any licensee to misrepresent completion of the required continuing professional education.

14.4. Any licensee selected for audit shall submit documentation or records of continuing professional education course work he or she has taken and completed. The Board may request additional documentation including, but not limited to, program notes, payment receipts, certificates of attendance, a statement by the authorized provider and/or other proof of program attendance.

14.5. A licensee shall be solely responsible for maintaining adequate records for their continuing professional education hours.

14.6. To request continuing professional education hours from organizations not approved by the Board, the licensee must submit to the Board:

14.6.1. The name of the activity;

14.6.2. The date(s) of the activity and completion;

14.6.3. The number of contact hours earned in the activity;

14.6.4. The location of the activity;

14.6.5. The contact person/coordinator of the activity and their telephone number;

14.6.6. The goals of the activity; and

14.6.7. The total continuing professional education hours requested for the activity.

14.7. Licensees requesting continuing professional education hours for individual professional activities shall maintain, for a minimum of three (3) years written records which describe:

14.7.1. The nature of the activity;

14.7.2. The date(s) of the activity;

14.7.3. The number of contact hours earned in the activity; and

14.7.4. The reference citations for any text, journal or publication utilized as an activity.

14.8. Each licensee shall retain for a minimum of three (3) years records of all continuing professional education programs attended which indicate the provider's name, title of the course or program, date and location of course and the number of continuing professional education hours awarded.

§31-5-15. Requests for Extension.

15.1. A licensee who does not earn the required number of contact hours may, no later than the specified due date above, petition the Board in writing to extend the time necessary to earn the required number of contact hours. Each petition will indicate:

15.1.1. The number of hours earned to date or of failure to earn hours;

15.1.2. The licensee's detailed plan to insure he or she will, if granted the opportunity by the Board, earn the remainder of the mandatory hours in a timely manner;

15.1.3. The nature of the extenuating circumstances which may have prevented the licensee from earning the required hours during the current two (2) year period; and

15.1.4. Written supportive documentation to any claim of extenuating circumstances, including, but not limited to, statements from employer or health practitioner as may be re-

quested by the Board.

15.2. The Board, at its sole discretion, may, upon reviewing the written request, extend the time to earn the required continuing professional education hours.

§31-5-16. Sanctions and Appeals.

5.16.1. The license of a licensee who fails to meet the continuing professional education requirements will lapse.

5.16.1.1. The Board will notify the licensee, in writing, that their license has lapsed within thirty (30) working days of receipt of the reporting forms.

5.16.1.2. If no forms are filed, the license will automatically lapse with no further notification required.

5.16.2. The licensee may appeal decisions regarding continuing professional education hours by filing a written appeal.

5.16.2.1. Appeals must be sent to the Board within thirty (30) calendar days after notification of a decision and will be considered by an appeals panel appointed by the Board at its next scheduled meeting.

5.16.2.2. Until a decision is reached, the licensee shall be considered on active status.

5.15.2.3. A written decision will be sent to the licensee within thirty (30) working days of the scheduled meeting.