



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

4/25/2023 8:14:26 AM

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: Dietitians TITLE-SERIES: 31-05  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 31-05 Continuing Professional Education Requirements

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: §30-35-4

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§30-35-4

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 3/14/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 4/14/2023

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

n/a

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule established continuing education professional education requirements for initiation and renewal of licensure. This rule was updated to appropriate terminology since it was first written. To strengthen our licensure, per PERD recommendations, all licensees will be required to complete a Board mandated continuing education session (1 hour), applicable to licensees within their 2-year CEU reporting period. Add new licensure applicants (for provisional and new licensure applicants) will complete a WVBOLD mandated education session (1 hour) before receiving their license.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

n/a

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

n/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

**Yes**

**Mallory J Mount -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 31  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF LICENSED DIETITIANS

SERIES 5  
CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

**§§31-5-1. General.**

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

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

1.3. Filing Date. -- ~~May 10, 2001.~~

1.4. Effective Date. -- ~~July 1, 2001.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force after August 1, 2030.

**§§31-5-2. Application.**

This legislative rule applies to licensees who apply to have their licenses renewed and to persons or organizations who provide continuing professional education courses.

**§§31-5-3. Definitions.**

3.1. “Approved Provider” means a person or organization offering continuing professional education who is approved by the Board.

3.2. “Course” means a systematic learning experience, at least fifty (50) minutes in length, which deals with and is designed for the acquisition of knowledge, skills and information relevant to professional nutrition and 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.

3.4 “Independent Study” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

3.5 “Webinar” means a web-based seminar, presentation, lecture, or workshop that is transmitted over the internet.

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

~~4.1. Except as provided for in section 5 of this rule, in order to be an approved provider, a person or organization shall submit to the Board an application for approval 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.~~

~~§§31-5-54.~~ **Approved Providers.**

~~5.1. With the exception of those organizations listed under Section 5.2. of this rule, a provider may only use the title "approved provider" when the person or organization has submitted a provider application form to the Board and has been issued a provider number by the Board.~~

~~5.2-4.1.~~ The following organizations are considered "approved" and do not have to submit an application form or receive a provider number:

~~5.2.4.4.1.1.~~ The West Virginia Academy of Nutrition and Dietetics ~~Dietetic Association~~;

~~5.2.2.4.1.2.~~ Any national, state or district Academy of Nutrition and Dietetics affiliation ~~dietetic associations~~;

~~5.2.3.4.1.3.~~ The American Medical Association;

~~5.2.4.4.1.4.~~ The West Virginia Medical Association;

~~5.2.5.4.1.5.~~ The American Nurses Association;

~~5.2.6.4.1.6~~ The West Virginia Nurses Association; ~~and~~

~~5.2.5.4.1.7.~~ Accredited schools or colleges; ~~and~~

~~4.1.8~~ other providers that are also approved by the Commission on Dietetic Registration.

~~5.3. 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.~~

~~5.4. Except for those approved providers listed under Section 5.2 of this rule, all approved providers shall keep the following records for a period of four (4) years in one identified location:~~

~~5.4.1. Course outlines of each approved course given;~~

~~5.4.2. A record of the time and places of each approved course given;~~

~~5.4.3. Course instructor curriculum vitae or resumes;~~

~~5.4.4. 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~~

~~5.4.5. Participant evaluation forms for each approved course given.~~

~~5.5. 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:~~

~~5.5.1. The provider's name and, if applicable, number;~~

~~5.5.2. The course title;~~

~~5.5.3. The participant's name and, if applicable, his or her dietitian license number;~~

~~5.5.4. The date and location of the course; and~~

~~5.5.5. The number of continuing professional education hours completed.~~

~~5.6. With the exception of those approved providers listed under Section 5.2 of this rule, 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.~~

### **§§31-5-65. Approval Of Continuing Professional Education Courses.**

~~65.1. Only an approved provider may offer continuing professional education courses.~~

~~6.2. With the exception of the approved providers listed under sub-section 5.2. of this rule, an approved provider shall submit a request to the Board and receive Board approval for a course prior to offering courses for continuing professional education. The approved provider shall submit the request with the following information:~~

~~6.2.1. The provider's name, provider number, address, telephone number and contact person;~~

~~6.2.2. The course's title, date, location, and number of continuing professional education hours;~~

~~6.2.3. The type and method of instruction and educational objectives to be met; and~~

~~6.2.4. A course outline, course description, and instructor information and qualifications; and~~

~~6.2.5. 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 e-mail a copy of that advertisement to the Board within ten (10) days after its publication.~~

~~6.3. Except for approved providers listed in Section 5.2 of this rule, 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.~~

~~6.4. Except for approved providers listed in Section 5.2 of this rule, 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.~~

~~65.52. The content of all courses of continuing professional education shall be relevant to the practice of nutrition/dietetics and shall:~~

~~65.52.1. Be related to the knowledge and/or technical skills required to practice professional nutrition/dietetics; or~~

~~65.52.2.~~ Be related to direct and/or indirect patient care. Courses in professional nutrition/dietetics practice management or medical ethics are also acceptable.

65.63 The licensee may engage in other types of activities identified in the individual licensee's professional development portfolio for Commission on Dietetic Registration (CDR) certification. The licensee may engage in programs/activities via webinars and independent study, in accordance with the definitions and standards in these rules.

~~6.6. An approved provider shall notify the Board of any changes to the date, location, instructor or content of an approved course.~~

### **§§31-576. Activities Eligible for Continuing Professional Education Credits.**

76.1. A licensee shall meet requirements for continuing professional education.

76.1.1. 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) (from an approved provider) that relates directly to professional growth and development.

76.1.2. Dietitians practicing under a provisional permit shall complete a minimum of ten (10) hours of continuing professional education in the previous one year period. Dietitians practicing under a provisional permit in years 2 or 3 will need to complete a minimum of ten (10) hours of continuing professional education in the previous one year period.

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

~~7.2.1. A licensee or a person who has a provisional permit on or before July 1, 1999 shall submit continuing professional education units for the July 1, 1999 through June 30, 2001 period and every two years thereafter.~~

76.2.1. ~~Effective July 1, 1999,~~ The two (2) year reporting period starts with the effective date of the license and runs through one renewal of the license. The end of the reporting period is at the expiration date of the renewed license.

76.3. Continuing professional education hours may include:

76.3.1. Educational activities.

76.3.1.1. 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.

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

76.3.1.3. The Board shall grant one (1) CPE hour for up to fifty (50) minutes of educational presentation.

76.3.1.4. 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 CPE hours.

76.3.1.65. 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 CPE hours.

76.3.32. Academic Courses.

76.3.32.1. A licensee may take courses for credit or audit, including those taken by correspondence.

76.3.32.2. The Board will approve an academic course for CPE hours when the licensee successfully completes the course at an accredited college or university.

76.3.32.3. For courses taken for credit, the Board shall grant fifteen (15) CPE hours per one (1) credit for each semester course; fourteen (14) CPE hours per one (1) credit for each trimester course; and ten (10) CPE hours per one (1) credit for each quarter course.

76.3.32.4. For courses taken for audit, the Board shall grant eight (8) CPE hours per one (1) credit for each semester course; seven (7) CPE hours per one (1) credit for each trimester course; and five (5) CPE hours per one (1) credit for each quarter course.

76.3.43. Instruction of approved continuing professional education courses.

76.3.3.1. 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.

76.3.3.2. A licensee who participates as a member of a panel presentation for an approved course is not entitled to earn continuing professional education credit as an instructor.

~~76.3.5.4. All other CPE hours shall be determined by the Board.~~ The Board shall determine all other CPE hours.

76.3.6.5. 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:

76.3.6.5.1. 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 the activities are part of a planned, organized learning program approved in advance by the Board;

76.3.6.5.2. Viewing trade and educational exhibits and poster presentations, and

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

~~76.4. Organizations not approved by the Board to provide continuing education will not be accepted. To request continuing professional education hours from organizations not approved by the Board, the licensee shall submit to the Board:~~

~~76.4.1. The name of the activity;~~

~~76.4.2. The dates of the activity and completion;~~

~~76.4.3. The number of CPE hours earned in the activity;~~

~~76.4.4. The location of the activity;~~

~~76.4.5. The contact person or coordinator of the activity and his or her telephone number;~~

~~76.4.6. The goals of the activity; and~~

~~76.4.7. The total continuing professional education hours requested for the activity.~~

**~~§31-5-8. Instructors.~~**

~~8.1. It is the responsibility of each approved provider to use qualified instructors.~~

~~8.2. Instructors teaching approved continuing professional education courses shall have the following minimum qualifications:~~

~~8.2.1. An instructor shall be knowledgeable, current and skillful in the subject matter of the course. The instructor shall:~~

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

~~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.~~

~~8.2.2. 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.~~

**~~§31-5-9. Advertisements.~~**

~~9.1. Information disseminated by approved providers publicizing continuing professional education shall be true and not misleading and shall include the following:~~

~~9.1.1. A clear, concise description of the course's content and its objectives;~~

~~9.1.2. The date and location of the course;~~

~~9.1.3. The provider's name and telephone number;~~

~~9.1.4. The statement "This course is provided by an approved provider, Provider Number \_\_\_\_\_, and has been approved by the West Virginia Board of Licensed Dietitians for \_\_\_\_\_ hours of continuing professional education"; and~~

~~9.1.5. The provider's policy on refunds for cases of non-attendance or cancellations.~~

~~9.2. 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.~~

### ~~§31-5-10. Denial, Withdrawal and Appeal of Approval.~~

~~10.1. 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:~~

~~10.1.1. Conviction of crime substantially related to the activities of a provider; or~~

~~10.1.2. Failure to comply with any provision of the W. Va. Code §30-35-1 et seq. and this rule.~~

~~10.2. 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.~~

~~10.3. 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.~~

~~10.4. If the Board denies 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, the Board may grant a retroactive approval.~~

### ~~§§31-5-117. Record Keeping and Reporting.~~

~~117.1. 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 the Board's website on forms provided by the Board along with the approved renewal application form from the Board.~~

~~117.2. The Board may audit once each year a random sample of licensees who have reported compliance with the continuing professional education requirement.~~

~~117.3. It constitutes unprofessional conduct for any licensee to misrepresent completion of the required continuing professional education.~~

~~117.4. 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.

~~417~~.5. A licensee is solely responsible for maintaining adequate records for his or her continuing professional education hours.

~~417~~.6. 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, the title of the course or program, the date and location of the course and the number of continuing professional education hours awarded.

**~~§§31-5-428~~. Requests for Extension.**

~~428~~.1. A licensee who does not earn the required number of CPE hours may, no later than the due date specified in Section 7.2. of this rule, petition the Board in writing to extend the time necessary to earn the required number of CPE hours. Each petition shall indicate:

~~428~~.1.1. The number of hours earned to date or of the failure to earn hours;

~~428~~.1.2. The licensee's detailed plan to insure he or she will, if granted the opportunity by the Board, earn the required number of the CPE hours in a timely manner;

~~428~~.1.3. The nature of the extenuating circumstances which prevented the licensee from earning the required hours during the current two (2) year period; and

~~428~~.1.4. Written supportive documentation to any claim of extenuating circumstances, including, but not limited to, statements from an employer or health practitioner as may be requested by the Board.

~~428~~.2. The Board, at its sole discretion, may, upon reviewing the written request, extend the time to earn the required continuing professional education hours.

**~~§§31-5-439~~. Sanctions and Appeals.**

~~439~~.1. The license of a licensee who fails to meet the continuing professional education requirements lapses.

~~439~~.1.1. The Board shall notify the licensee, in writing, that his or her license has lapsed within thirty (30) working days of receipt of the reporting forms.

~~439~~.1.2. If no forms are filed, the license shall automatically lapse with no further notification required.

~~439~~.2. The licensee may appeal decisions regarding continuing professional education hours by filing a written appeal with the Board.

~~439~~.2.1. Appeals shall be sent to the Board within thirty (30) calendar days after notification of a decision and shall be considered by an appeals panel appointed by the Board at its next scheduled meeting.

~~439~~.2.2. Until a decision is reached, the licensee shall be considered on active status.

~~439~~.2.3. The appeals panel shall meet within thirty (30) working days of its appointment by the Board.

~~439~~.2.4. The Board shall send a written decision to the licensee within thirty (30) working days of

the appeals panel meeting to consider the appeal.

**§31-5-10. Required Continuing Education for West Virginia Licensed Dietitians**

10.1. Effective July 1, 2024, all licensees will be required to complete a Board mandated continuing education session (1 hour), applicable to licensees within their 2-year reporting period.

10.1.1. Licensees may receive information on required Board CPE's through the Board email listserv and on the BOLD website. The licensee will be responsible to check the website to ensure compliance with requirements.

10.2. Effective July 1, 2025, all new licensure applicants (for provisional applicants and new licensure applicants) will complete a WVBOLD mandated education session (1 hour) before receiving their license.

10.2.1. New applicants will need to complete the 1 hour required CEU and pay the licensure fee before the license becomes valid.