

**H. B. 2524**

(By Delegate Morgan, Stephens, Givens, Hartman,  
Hatfield, Martin, Staggers and Swartzmiller)

[Introduced January 17, 2011; referred to the  
Committee on Government Organization then the Judiciary.]

A BILL to repeal §30-32-22 and §30-32-23 of the Code of West  
Virginia, 1931, as amended; and to amend and reenact §30-32-1,  
§30-32-2, §30-32-3, §30-32-4, §30-32-5, §30-32-6, §30-32-7,  
§30-32-8, §30-32-9, §30-32-10, §30-32-11, §30-32-12, §30-32-  
13, §30-32-14, §30-32-15, §30-32-16, §30-32-17, §30-32-18,  
§30-32-19, §30-32-20 and §30-32-21 of said code, all relating  
to the practice of speech-language pathology and audiology;  
prohibiting practice without a license; providing exemptions;  
specifying applicability of other law; providing definitions;  
continuing the Board of Examiners for Speech-Language  
Pathology and Audiology; specifying qualifications of board  
members; providing terms and conditions of board members'  
service; providing for election of board officers; providing  
for compensation and expense reimbursement of board members;  
setting forth powers and duties of the board; providing  
rulemaking authority; continuing the Board of Examiners for

1 Speech-Language Pathology and Audiology Fund; providing  
2 qualifications for practicing speech-language pathology or  
3 audiology; providing for provisional licenses to practice  
4 while attaining required postgraduate professional experience;  
5 providing for waiver of requirements for persons who hold a  
6 license from another state with substantially equivalent  
7 standards; providing for practice pending disposition of  
8 application; requiring a license to practice in public  
9 schools; providing requirements for attaining a license to  
10 practice in public schools; providing scopes of practice for  
11 speech-language pathology and audiology; requiring speech-  
12 language pathology assistants and audiology assistants to  
13 register with the board; providing registration and  
14 supervision requirements for speech-language pathology  
15 assistants and audiology assistants; requiring a license to  
16 telepractice; providing conditions and requirements for  
17 telepractice; providing for renewal of licenses and  
18 registrations; providing for renewal of lapsed licenses and  
19 registrations; providing for the suspension, revocation and  
20 refusal to renew licenses and registrations; providing for the  
21 reinstatement of revoked licenses and registrations;  
22 authorizing actions to enjoin violations; providing for the  
23 investigation of complaints; setting forth complaint  
24 procedures and hearing procedures; establishing grounds for  
25 disciplinary actions; providing for rights of appeal and

1 judicial review; providing that a single act is sufficient to  
2 justify disciplinary action; providing for criminal  
3 proceedings; and providing for criminal penalties.

4 *Be it enacted by the Legislature of West Virginia:*

5 That §30-32-22 and §30-32-23 of the Code of West Virginia,  
6 1931, as amended, be repealed; and that §30-32-1, §30-32-2, §30-32-  
7 3, §30-32-4, §30-32-5, §30-32-6, §30-32-7, §30-32-8, §30-32-9, §30-  
8 32-10, §30-32-11, §30-32-12, §30-32-13, §30-32-14, §30-32-15, §30-  
9 32-16, §30-32-17, §30-32-18, §30-32-19, §30-32-20 and §30-32-21 of  
10 said code be amended and reenacted, all to read as follows:

11 **ARTICLE 32. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.**

12 **§30-32-1. Unlawful acts; persons and practices not affected.**

13 (a) It is unlawful for any person to practice or offer to  
14 practice speech-language pathology or audiology in this state  
15 without a license issued under the provisions of this article, or  
16 advertise or use any title or description tending to convey the  
17 impression that the person is a speech-language pathologist or  
18 audiologist unless the person has been licensed under the  
19 provisions of this article, and the license has not expired, been  
20 suspended or revoked.

21 (b) No business entity, except through a licensee, may render  
22 any service or engage in any activity which if rendered or engaged  
23 in by an individual, would constitute the practices licensed under  
24 the provisions of this article.

25 (c) As of July 1, 2012, speech-language pathologists and

1 audiologists employed or contracted by the West Virginia Board of  
2 Education, a county board of education or a Regional Education  
3 Service Agency are required to be licensed under the provisions of  
4 this article.

5 (d) As of July 1, 2012, speech-language pathology assistants  
6 and audiology assistants employed or contracted by the West  
7 Virginia Board of Education, a county board of education or a  
8 Regional Education Service Agency are required to be registered  
9 with the board under the provisions of this article.

10 (e) Nothing in this article shall be construed as preventing  
11 or restricting:

12 (1) Any person licensed or registered under any other law of  
13 this state from practicing the profession and performing services  
14 for which he or she is licensed or registered;

15 (2) A physician or surgeon licensed by this state while  
16 engaging in the profession for which he or she is licensed;

17 (3) A trained individual providing hearing testing or balance  
18 system assessment under the direct supervision of a licensed  
19 physician or surgeon;

20 (4) A person credentialed by this state as a teacher of the  
21 deaf;

22 (5) The activities and services of persons pursuing a course  
23 of study leading to a degree in speech-language pathology or  
24 audiology at a college or university, if:

25 (A) These activities and services constitute a part of a

1 planned course of study at that institution;

2 (B) They are designated by a title such as intern, trainee,  
3 student or by other title clearly indicating the status appropriate  
4 to their level of education; and

5 (C) They work under the supervision of a person licensed by  
6 this state to practice speech-language pathology or audiology;

7 (6) The activities of persons who are nonresidents of this  
8 state from engaging in the practice of speech-language pathology or  
9 audiology if the activities of such persons do not exceed five days  
10 in any calendar year and they:

11 (A) Meet the qualifications of this article;

12 (B) Register with the board in accordance with procedures  
13 specified in its rules; and

14 (C) Abide by the standards of professional conduct contained  
15 in this article and rules promulgated by the board;

16 (7) The practices and procedures of qualified licensed hearing  
17 aid dealers engaged solely in the practice of dealing in or fitting  
18 of hearing aids under article twenty-six of this chapter; or

19 (8) The activity of occupational hearing conservationists  
20 engaged in hearing testing as part of a hearing conservation  
21 program in compliance with regulations of the Occupational Safety  
22 and Health Administration.

23 (f) A person licensed under this article as an audiologist is  
24 not required to obtain a license under the provisions of article  
25 twenty-six of this chapter.

1 **§30-32-2. General provisions.**

2 The practices licensed under the provisions of this article  
3 and the West Virginia Board of Examiners for Speech-Language  
4 Pathology and Audiology are subject to the provisions of article  
5 one of this chapter, the provisions of this article, and any rules  
6 promulgated hereunder.

7 **§30-32-3. Definitions.**

8 The following terms have the following meanings:

9 (a) "Applicant" means a person applying for a license required  
10 by this article.

11 (b) "Assistant" means a speech-language pathology assistant or  
12 an audiology assistant as further defined in this section and who  
13 is registered with the board in accordance with the provisions of  
14 this article and legislative rule.

15 (c) "Audiologist" means a person who engages in the practice  
16 of audiology and who is licensed pursuant to the provisions of this  
17 article.

18 (d) "Audiology" means the application of principles, methods,  
19 and procedures related to hearing and the disorders of hearing and  
20 to related language and speech disorders.

21 (e) "Audiology disorders" means any and all conditions,  
22 whether of organic or nonorganic origin, peripheral or central,  
23 that impede the normal process of human communication including,  
24 but not limited to, disorders of auditory sensitivity, acuity,  
25 function or processing.

1       (f) "Audiology assistant" means a person who practices under  
2 the direction and supervision of an audiologist licensed under this  
3 article and who is registered with the board in accordance with  
4 this article and legislative rule.

5       (g) "Board" means the West Virginia Board of Speech-Language  
6 Pathology and Audiology.

7       (h) "Business entity" means any firm, partnership,  
8 association, company, corporation, limited partnership, limited  
9 liability company or other entity doing business in the State of  
10 West Virginia.

11       (i) "Direct supervision" means the actual physical presence of  
12 a supervising licensed speech-language pathologist or supervising  
13 licensed audiologist in the room where treatment is provided by an  
14 assistant.

15       (j) "General supervision" means initial direction and periodic  
16 inspection of the activities of an assistant by the supervising  
17 licensed occupational therapist, who is physically present in the  
18 building where treatment is provided and is quickly and easily  
19 available.

20       (k) "Initial supervision training" means training required of  
21 supervising licensed speech-language pathologists and supervising  
22 licensed audiologists before providing supervision of assistants,  
23 as further defined by legislative rule.

24       (l) "Instruction" means:

25       (1) Providing speech-language pathology or audiology services

1 in infant/toddler, preschool, elementary or secondary school  
2 programs; or

3 (2) Teaching students in institutions of higher education.

4 (m) "Level I license" means a license to practice exclusively  
5 in public schools issued pursuant to the provisions of section  
6 eleven of this article.

7 (n) "License" means a license issued pursuant to the  
8 provisions of this article.

9 (o) "Licensee" means a person who is licensed pursuant to the  
10 provisions of this article.

11 (p) "Provisional license" means a license issued pursuant to  
12 the provisions of section nine of this article.

13 (q) "Registrant" means an assistant who is registered pursuant  
14 to the provisions of this article.

15 (r) "Registration" means a registration issued pursuant to the  
16 provisions of this article.

17 (s) "Speech-language pathologist" means any person who engages  
18 in the practice of speech-language pathology and who is licensed  
19 pursuant to the provisions of this article.

20 (t) "Speech-language pathology" means the application of  
21 principles, methods and procedures related to the development,  
22 disorders and effectiveness of human communication and related  
23 functions.

24 (u) "Speech-language pathology assistant" means a person who  
25 practices under the direction and supervision of a speech-language

1 pathologist licensed under this article and who is registered with  
2 the board in accordance with this article and legislative rule.

3 (v) "Speech-language pathology disorders" means conditions,  
4 whether of organic or nonorganic origin, that impede the normal  
5 process of human communication including, but not limited to,  
6 disorders and related disorders of speech, articulation, fluency,  
7 voice, verbal and written language, auditory comprehension,  
8 cognition/communication, and oral, pharyngeal and/or laryngeal  
9 sensorimotor competencies.

10 (w) "Telepractice" means the application of telecommunication  
11 technology to deliver speech-language pathology or audiology  
12 services through real time interaction from one site to another for  
13 assessment, intervention or consultation in a manner sufficient to  
14 ensure patient confidentiality.

15 **§30-32-4. Board of Examiners for Speech-language Pathology and**  
16 **Audiology.**

17 (a) The West Virginia Board of Examiners for Speech-Language  
18 Pathology and Audiology is continued. The members of the board in  
19 office on July 1, 2011 may, unless sooner removed, continue to  
20 serve until their respective terms expire or until their successors  
21 have been appointed and qualified.

22 (b) The Governor shall appoint, by and with the advice and  
23 consent of the Senate:

24 (1) Two persons who are Speech-language Pathologists;

25 (2) Two persons who are Audiologists; and

1 (3) One citizen member who is not licensed under this article.

2 (c) The terms shall be for three years. No member may serve  
3 for more than two consecutive terms.

4 (d) Each licensed member of the board, at the time of his or  
5 her appointment, must have held a license in this state for at  
6 least three years;

7 (e) Each member of the board must be a resident of this state  
8 during the appointment term.

9 (f) No board member may serve as an officer of the West  
10 Virginia Speech Language and Hearing Association concurrently with  
11 his or her service on the board.

12 (g) A vacancy on the board shall be filled by appointment by  
13 the Governor for the unexpired term of the member whose office is  
14 vacant.

15 (h) The Governor may remove any member from the board for  
16 neglect of duty, incompetency or official misconduct.

17 (i) A licensed member of the board immediately and  
18 automatically forfeits membership to the board if his or her  
19 license or registration to practice is suspended or revoked.

20 (j) A member of the board immediately and automatically  
21 forfeits membership to the board if he or she is convicted of a  
22 felony under the laws of any jurisdiction or becomes a nonresident  
23 of this state.

24 (k) The board shall elect annually one of its members as  
25 chairperson and one of its members as secretary-treasurer who shall

1 serve at the will and pleasure of the board.

2 (l) Each member of the board is entitled to receive  
3 compensation and expense reimbursement in accordance with article  
4 one of this chapter.

5 (m) A majority of the members of the board constitutes a  
6 quorum.

7 (n) The board shall hold at least one annual meeting. Other  
8 meetings shall be held at the call of the chairperson or upon the  
9 written request of four members, at the time and place as  
10 designated in the call or request.

11 (o) Prior to commencing his or her duties as a member of the  
12 board, each member shall take and subscribe to the oath required by  
13 section five, article four of the Constitution of this state.

14 (p) Board members are immune from civil liability for the  
15 performance of their official duties so long as they act in good  
16 faith.

17 **§30-32-5. Powers and duties of the board.**

18 (a) The board has all the powers and duties set forth in this  
19 article, by legislative rule, in article one of this chapter and  
20 elsewhere in law.

21 (b) The board shall:

22 (1) Hold meetings and conduct hearings;

23 (2) Establish requirements for licenses and registrations;

24 (3) Establish procedures for submitting, approving and  
25 rejecting applications for licenses and registrations;

1       (4) Determine the qualifications of any applicant for a  
2 license or registration;

3       (5) Propose rules for legislative approval relating to  
4 professional conduct and ethical standards of practice;

5       (6) Communicate disciplinary actions to relevant state and  
6 federal authorities, the American Speech-Language-Hearing  
7 Association, the West Virginia Speech-Language and Hearing  
8 Association and other applicable authorities when public safety is  
9 at risk;

10       (7) Maintain an office and hire, discharge, establish the job  
11 requirements and fix the compensation of employees and contracted  
12 employees necessary to enforce the provisions of this article;

13       (8) Investigate alleged violations of the provisions of this  
14 article, legislative rules, orders and final decisions of the  
15 board;

16       (9) Conduct disciplinary hearings of persons regulated by the  
17 board;

18       (10) Determine disciplinary action and issue orders;

19       (11) Institute appropriate legal action for the enforcement of  
20 the provisions of this article;

21       (12) Maintain an accurate registry of names and addresses of  
22 all persons regulated by the board;

23       (13) Keep accurate and complete records of its proceedings,  
24 and certify the same as may be necessary and appropriate;

25       (14) Establish by legislative rule the continuing education

1 and competency requirements for licensees and registrants;

2 (15) Issue, renew, combine, deny, suspend, revoke or reinstate  
3 licenses and registrations pursuant to the provisions of this  
4 article;

5 (16) Establish a fee schedule;

6 (17) Take all other actions necessary and proper to effectuate  
7 the purposes of this article; and

8 (18) Propose rules in accordance with the provisions of  
9 article three, chapter twenty-nine-a of this code to implement the  
10 provisions of this article.

11 (c) The board may:

12 (1) Approve and contract with third parties to administer the  
13 examinations required under the provisions of this article;

14 (2) Sue and be sued in its official name as an agency of this  
15 state; and

16 (3) Confer with the Attorney General or his or her assistants  
17 in connection with legal matters and questions.

18 (4) Perform random audits of continuing education and  
19 supervision records and documentation of licensure and registration  
20 requirements to determine compliance with this article and  
21 legislative rule.

22 **§30-32-6. Rulemaking.**

23 (a) The board shall propose rules for legislative approval, in  
24 accordance with the provisions of article three, chapter twenty-  
25 nine-a of this code, to implement the provisions of this article,

1 including:

2 (1) Standards and requirements for licenses and registrations;

3 (2) Requirements, qualifications and designation of third  
4 parties to establish educational requirements and to prepare and/or  
5 administer examinations and reexaminations;

6 (3) Procedures for the issuance and renewal of a license,  
7 registration and limited license to practice in public schools;

8 (4) A fee schedule;

9 (5) Continuing education and competency requirements for  
10 licensees and registrants;

11 (6) Establishment of competency standards;

12 (7) The procedures for denying, suspending, revoking,  
13 reinstating or limiting the practice of a licensee or registrant;

14 (8) Requirements for reinstatement of revoked licenses and  
15 registrations;

16 (9) Guidelines for telepractice;

17 (10) Rules to define the role of the speech-language pathology  
18 assistant or audiology assistant, including, but not limited to:

19 (A) The supervisory responsibilities of licensees;

20 (B) The ratio of assistants to licensees;

21 (C) The scope of duties and restrictions of responsibilities  
22 of assistants;

23 (D) The frequency, duration and documentation of supervision  
24 required under the provisions of this article;

25 (E) The quantity and content of pre-service and in-service

1 instruction; and

2 (F) The procedures for renewing, suspending or revoking the  
3 registration of assistants; and

4 (11) Any other rules necessary to effectuate the provisions of  
5 this article.

6 (b) The board may promulgate emergency rules in accordance  
7 with section fifteen, article three, chapter twenty-nine-a of this  
8 code to establish:

9 (1) Requirements and procedures for the issuance of a Level I  
10 license to practice exclusively in public schools in accordance  
11 with section eleven of this article; and

12 (2) Requirements and procedures for telepractice in accordance  
13 with the provisions of section fourteen of this article, including  
14 the scope of duties and restrictions of responsibilities of  
15 assistants in telepractice.

16 (c) All rules in effect on the effective date of this article  
17 remain in effect until they are amended or repealed, and references  
18 to provisions of former enactments of this article are interpreted  
19 to mean provisions of this article.

20 **§30-32-7. Funds.**

21 (a) All fees and other moneys, except administrative fines,  
22 received by the board shall be deposited in a separate special  
23 revenue fund in the State Treasury designated the "Board of  
24 Examiners for Speech-Language Pathology and Audiology Fund", which  
25 is continued. The fund is used by the board for the administration

1 of this article. Except as may be provided in article one of this  
2 chapter, the board retains the amount in the special revenue  
3 account from year to year. No compensation or expense incurred  
4 under this article is a charge against the General Revenue Fund.

5 (b) Any amount received as fines, imposed pursuant to this  
6 article, shall be deposited into the General Revenue Fund of the  
7 State Treasury.

8 **§30-32-8. Qualifications for licensure as a speech-language**  
9 **pathologist or audiologist.**

10 (a) To be eligible for licensure by the board as a speech-  
11 language pathologist, the applicant shall:

12 (1) Make application to the board, upon a form prescribed by  
13 the board;

14 (2) Pay to the board an application fee as established by the  
15 board;

16 (3) Possess at least a master's degree or equivalent in  
17 speech-language pathology from an educational institution approved  
18 by the board which consists of coursework approved by the board and  
19 delineated in legislative rule;

20 (4) Complete supervised clinical practicum experiences from an  
21 educational institution or its cooperating programs, the content of  
22 which shall be approved by the board and delineated in the rules;

23 (5) Complete a postgraduate professional experience as  
24 approved by the board and described in legislative rule; and

25 (6) Pass the national examination in speech-language

1 pathology.

2 (b) To be eligible for licensure by the board as a  
3 audiologist, the applicant shall:

4 (1) Make application to the board, upon a form prescribed by  
5 the board;

6 (2) Pay to the board an application fee as established by the  
7 board;

8 (3) Possess at least a doctorate degree or equivalent in  
9 audiology from an educational institution approved by the board  
10 which consists of coursework approved by the board and delineated  
11 in legislative rule;

12 (4) Complete supervised clinical practicum experiences from an  
13 educational institution or its cooperating programs, the content of  
14 which shall be approved by the board and delineated in the rules;

15 (5) Complete a postgraduate professional experience as  
16 approved by the board and described in legislative rule; and

17 (6) Pass the national examination in audiology.

18 (c) Subject to the renewal requirements set forth in section  
19 fifteen of this article, a license issued by the board under prior  
20 enactments of this article shall for all purposes be considered a  
21 license issued under this article.

22 **§30-32-9. Provisional licenses.**

23 (a) The board shall issue a provisional license to an  
24 applicant who, except for the postgraduate professional experience  
25 set forth in subdivision (5), subsection (a) of section eight of

1 this article, or subdivision (5), subsection (b) of section eight  
2 of this article:

3 (1) Meets the academic, practicum, and examination  
4 requirements of this article;

5 (2) Submits an application to the board, upon a form  
6 prescribed by the board, including a plan for the content of the  
7 postgraduate professional experience; and

8 (3) Pays to the board the appropriate application fee for a  
9 provisional license.

10 (b) A person holding a provisional license may practice  
11 speech-language pathology or audiology only under the general  
12 supervision of a person licensed to practice in the professional  
13 field for which the provisional license was issued.

14 (c) The term for provisional licenses and the conditions for  
15 their renewal are to be determined by the board and delineated in  
16 legislative rule.

17 **§30-32-10. Waiver of requirements; practice pending disposition**  
18 **of application.**

19 (a) The board shall waive the examination requirement for an  
20 applicant who either:

21 (1) Presents proof of current licensure in a state that has  
22 standards that are substantially equivalent to those of this state;  
23 or

24 (2) Holds a certificate of clinical competence in speech-  
25 language pathology or audiology from the American Speech-Language-

1 Hearing Association in the professional field for which they seek  
2 licensure.

3 (b) An applicant who holds current licensure from another  
4 state with substantially equivalent standards or who holds the  
5 certificate of clinical competence from the American Speech-  
6 Language-Hearing Association may practice speech-language pathology  
7 or audiology in this state, pending the board's disposition of the  
8 application, if the applicant:

9 (1) Is practicing in the professional field in which the  
10 licensure or certificate of clinical competence was granted; and

11 (2) Has filed an application with the board and paid the  
12 appropriate application fee.

13 **§30-32-11. Level I license to practice exclusively in public**  
14 **schools.**

15 (a) As of July 1, 2011, the board shall issue a Level I  
16 License to practice speech-language pathology exclusively in public  
17 schools to applicants who:

18 (1) Apply for a Level I License to practice speech-language  
19 pathology exclusively in public schools on or before July 1, 2012;

20 (2) Provide proof of being employed or contracted by the West  
21 Virginia Board of Education, a county board of education or a  
22 Regional Education Service Agency on or before July 1, 2011 in the  
23 field of speech-language pathology; and

24 (3) Possess at least a bachelor's degree or equivalent in  
25 speech-language pathology from an educational institution approved

1 by the board which consists of coursework approved by the board and  
2 delineated in legislative rule.

3 (b) As of July 1, 2011, the board shall issue a Level I  
4 License to practice audiology exclusively in public schools to  
5 applicants who:

6 (1) Apply for a Level I License to practice audiology  
7 exclusively in public schools on or before July 1, 2012;

8 (2) Provide proof of being employed or contracted by the West  
9 Virginia Board of Education, a county board of education or a  
10 Regional Education Service Agency on or before July 1, 2011 in the  
11 field of audiology; and

12 (3) Possess at least a master's degree or equivalent in  
13 audiology from an educational institution approved by the board  
14 which consists of coursework approved by the board and delineated  
15 in legislative rule.

16 **§30-32-12. Scope of practice for speech-language pathology and**  
17 **audiology.**

18 (a) The practice of speech-language pathology includes:

19 (1) Prevention, screening, consultation, assessment and  
20 diagnosis, treatment, intervention, management, counseling and  
21 follow-up services for disorders of speech (i.e., articulation,  
22 fluency, resonance and voice), language (i.e., phonology,  
23 morphology, syntax, preliteracy and language-based skills),  
24 swallowing or other upper aerodigestive functions;

25 (2) Cognitive aspects of communication (i.e., attention,

1 memory, problem solving);

2 (3) Establishing augmentative and alternative communication  
3 techniques and strategies, including developing, selecting and  
4 prescribing of systems and devices (e.g., speech generating  
5 devices) and providing training in their use;

6 (4) Providing services to individuals with hearing loss and  
7 their families (e.g., auditory training, speech reading, speech and  
8 language intervention secondary to hearing loss;

9 (5) Screening hearing of individuals who can participate in  
10 conventional pure-tone air conduction methods and screening middle  
11 ear pathology through screening tympanometry for the purpose of  
12 referral for further evaluation: *Provided*, That judgments and  
13 descriptive statements about the results of the screenings are  
14 limited to pass/fail determinations.

15 (6) Using any instrumentation (e.g., videofluoroscopy) to  
16 observe, collect data and measure parameters of communication and  
17 swallowing; and

18 (7) Selecting, fitting and establishing effective use of  
19 prosthetic/adaptive devices for communication, swallowing or other  
20 upper aerodigestive functions.

21 (b) The practice of audiology includes:

22 (1) Facilitating the conservation of auditory system function,  
23 developing and implementing environmental and occupational hearing  
24 conservation programs;

25 (2) Screening, identifying, assessing and interpreting,

1 preventing and rehabilitating peripheral and central auditory  
2 system disorders;

3 (3) Providing and interpreting behavioral and electro-  
4 physiological measurements of auditory and vestibular functions;

5 (4) Selecting, prescribing, fitting, programming and  
6 dispensing of amplification, assistive listening and alerting  
7 devices and other systems (e.g., implantative devices) and  
8 providing training in their use;

9 (5) Providing audiologic and aural rehabilitation and related  
10 counseling services to individuals with hearing impairments and  
11 their families;

12 (6) Providing vestibular rehabilitation;

13 (7) Cerumen removal; and

14 (8) Screening of speech-language and other factors affecting  
15 communication disorders: *Provided*, That judgments and descriptive  
16 statements about the results of the screenings are limited to  
17 pass/fail determinations.

18 **§30-32-13. Speech-language pathology and audiology assistants;**  
19 **supervision requirements.**

20 (a) Speech-language pathology assistants and audiology  
21 assistants shall register with the board in accordance with the  
22 provisions of this article and legislative rule, and shall:

23 (1) Possess a minimum of an associate's degree from an  
24 institution or technical training program with a program of study  
25 designed to prepare the student to be a speech language pathology

1 or audiology assistant;

2 (2) Meet all requirements set forth in legislative rule; and

3 (3) Work only under the supervision of a licensee licensed in  
4 the professional field in which the assistant is working.

5 (b) Licensees who supervise assistants shall:

6 (1) Report to the board the name of each assistant working  
7 under the licensee's supervision;

8 (2) Complete initial supervision training prior to accepting  
9 an assistant for supervision and upgrade supervision training on a  
10 regular basis;

11 (3) Document preservice training and credentials of the  
12 assistant;

13 (4) Provide direct supervision of the first three hours of  
14 treatment by the assistant for each patient or client, followed by  
15 a minimum of one direct observation for each subsequent two week  
16 period and document the direct observation;

17 (5) Provide general supervision and be responsible for the  
18 extent, kind and quality of service provided by the assistant and  
19 for all services provided by the assistant, consistent with this  
20 article and the board's legislative rule;

21 (6) Ensure that persons receiving services from an assistant  
22 receive prior written notification that services are to be  
23 provided, in whole or in part, by an assistant; and

24 (7) Meet all requirements set forth in legislative rule.

25 **§30-32-14. Telepractice.**

1       (a) Speech-language pathologists and audiologists may provide  
2 services in this state by telepractice only if licensed under the  
3 provisions of this article.

4       (b) Speech-language pathologists and audiologists providing  
5 services by telepractice shall deliver services consistent with the  
6 quality of services delivered in person, and shall:

7       (1) Secure informed consent of the student, patient or client  
8 before the services are provided;

9       (2) Maintain the confidentiality of the student, patient or  
10 client as required by law;

11       (3) Provide documentation of the delivery of services;

12       (4) Train assistants before allowing them to assist in the  
13 delivery of service by telepractice, and document the training and  
14 delivery of service by the assistants; and

15       (5) Meet any other requirements which may be set forth in  
16 legislative rule.

17 **§30-32-15. Renewal of license or registration; renewal of lapsed**  
18 **license or registration; suspension, revocation and**  
19 **refusal to renew; reinstatement of revoked license**  
20 **or registration.**

21       (a) Licenses and registrations may be renewed biennially, upon  
22 documentation of required continuing education and payment of a  
23 renewal fee.

24       (b) A license or registration which has lapsed may be renewed

1 within one year of its expiration date in the manner set by the  
2 board.

3 (c) A license or registration which has lapsed for more than  
4 one year but fewer than five years may be reinstated, upon  
5 documentation of continuing education credits earned during the  
6 lapsed period equal to the credits required for renewal and payment  
7 of a reinstatement fee.

8 (d) A license or registration which has lapsed for more than  
9 five years may not be reinstated. A new license or registration  
10 may be issued to an applicant who complies with the requirements  
11 relating to the issuance of an original license or registration in  
12 effect at the time of the application.

13 (e) The board may suspend, revoke or refuse to renew a license  
14 or registration for any reason which would justify the denial of an  
15 original application for licensure or registration.

16 (f) The board may consider the reinstatement of a license or  
17 registration which has been revoked upon a showing that the  
18 applicant can resume practicing with reasonable skill and safety.

19 **§30-32-16. Actions to enjoin violations.**

20 (a) If the board obtains information that any person has  
21 engaged in, is engaging in or is about to engage in any act which  
22 constitutes or will constitute a violation of the provisions of  
23 this article, the rules promulgated pursuant to this article, or a  
24 final order or decision of the board, it may issue a notice to the  
25 person to cease and desist in engaging in the act and/or apply to

1 the circuit court in the county of the alleged violation for an  
2 order enjoining the act.

3 (b) The circuit courts of this state may issue a temporary  
4 injunction pending a decision on the merits, and may issue a  
5 permanent injunction based on its findings in the case.

6 (c) The judgment of the circuit court on an application  
7 permitted by the provisions of this section is final unless  
8 reversed, vacated or modified on appeal to the West Virginia  
9 Supreme Court of Appeals.

10 **§30-32-17. Complaints; investigations; due process procedure;**  
11 **grounds for disciplinary action.**

12 (a) The board may upon its own motion based on credible  
13 information, and shall, upon the written complaint of any person,  
14 cause an investigation to be made to determine whether grounds  
15 exist for disciplinary action under this article or the legislative  
16 rules of the board.

17 (b) Upon initiation or receipt of the complaint, the board  
18 shall provide a copy of the complaint to the licensee or  
19 registrant.

20 (c) After reviewing any information obtained through an  
21 investigation, the board shall determine if probable cause exists  
22 that the licensee or registrant has violated any provision of  
23 subsection (g) of this section or rules promulgated pursuant to  
24 this article.

25 (d) Upon a finding that probable cause exists that the

1 licensee or registrant has violated any provision of this  
2 subsection (g) of this section or rules promulgated pursuant to  
3 this article, the board may enter into a consent decree or hold a  
4 hearing for the suspension or revocation of the license or  
5 registration or the imposition of sanctions against the licensee or  
6 registrant.

7 (e) Any member of the board may issue subpoenas and subpoenas  
8 duces tecum to obtain testimony and documents to aid in the  
9 investigation of allegations against any person regulated by the  
10 article.

11 (f) Any member of the board may sign a consent decree or other  
12 legal document on behalf of the board.

13 (g) The board may, after notice and opportunity for hearing,  
14 deny or refuse to renew, suspend or revoke the license or  
15 registration of, impose probationary conditions upon or take  
16 disciplinary action against, any licensee or registrant for any of  
17 the following reasons once a violation has been proven by a  
18 preponderance of the evidence:

19 (1) Obtaining a license or registration by fraud,  
20 misrepresentation or concealment of material facts;

21 (2) Being convicted of a felony or other crime related to the  
22 practice of the professions regulated by this article;

23 (3) Being guilty of unprofessional conduct as defined by  
24 legislative rule of the board;

25 (4) Violating provisions of this article or a lawful order or

1 legislative rule of the board;

2 (5) Providing substandard care as an speech-language  
3 pathologist, audiologist or assistant due to a deliberate or  
4 negligent act or failure to act regardless of whether actual injury  
5 to a patient or client is established;

6 (6) Providing substandard care as a speech-language pathology  
7 or audiology assistant, including exceeding the authority to  
8 perform components of service selected and delegated by the  
9 supervising speech-language pathologist or audiologist regardless  
10 of whether actual injury to a patient is established;

11 (7) Knowingly delegating responsibilities to an individual who  
12 does not have the knowledge, skills or abilities to perform those  
13 responsibilities;

14 (8) Failing to provide appropriate supervision to a speech-  
15 language pathology assistant or audiology assistant in accordance  
16 with this article and legislative rules of the board;

17 (9) Practicing as an speech-language pathologist, audiologist  
18 or assistant when competent services to recipients may not be  
19 provided due to the speech-language pathologist's, audiologist's or  
20 assistant's own physical or mental impairment;

21 (10) Having had a speech-language pathologist, audiologist or  
22 assistant license or registration revoked or suspended, other  
23 disciplinary action taken, or an application for licensure or  
24 registration refused, revoked or suspended by the proper  
25 authorities of another jurisdiction;

1       (11) Engaging in sexual misconduct. For the purposes of this  
2 subdivision, sexual misconduct includes:

3       (A) Engaging in or soliciting sexual relationships, whether  
4 consensual or nonconsensual, while a relationship exists between  
5 that person as a patient or client and the speech-language  
6 pathologist, audiologist or assistant; or

7       (B) Making sexual advances, requesting sexual favors or  
8 engaging in physical contact of a sexual nature with patients or  
9 clients;

10       (12) Aiding or abetting a person who is not licensed as a  
11 speech-language pathologist, audiologist or assistant in this state  
12 and who directly or indirectly performs activities requiring a  
13 license or registration;

14       (13) Abandoning or neglecting a patient or client under and in  
15 need of immediate professional care without making reasonable  
16 arrangements for the continuation of care; or

17       (14) Engaging in any act which has endangered or is likely to  
18 endanger the health, welfare or safety of the public.

19       (h) For the purposes of subsection (g) of this section,  
20 effective July 1, 2011, disciplinary action may include:

21       (1) Reprimand;

22       (2) Probation;

23       (3) Administrative fine, not to exceed \$1,000 per day per  
24 violation;

25       (4) Mandatory attendance at continuing education seminars or

1 other training;

2 (5) Practicing under supervision or other restriction;

3 (6) Requiring the licensee or registrant to report to the  
4 board for periodic interviews for a specified period of time;

5 (7) Denial, suspension, revocation or nonrenewal of license or  
6 registration; or

7 (8) Other disciplinary action considered by the board to be  
8 necessary to protect the public, including advising other parties  
9 whose legitimate interests may be at risk.

10 **§30-32-18. Procedures for hearing; right of appeal.**

11 (a) Hearings shall be governed by the provisions of section  
12 eight, article one of this chapter.

13 (b) The board may conduct the hearing or elect to have an  
14 administrative law judge conduct the hearing.

15 (c) If the hearing is conducted by an administrative law  
16 judge, the administrative law judge shall prepare a proposed  
17 written order at the conclusion of a hearing containing findings of  
18 fact and conclusions of law. The proposed order may contain  
19 proposed disciplinary actions if the board so directs. The board  
20 may accept, reject or modify the decision of the administrative law  
21 judge.

22 (d) Any member of the board has the authority to administer  
23 oaths, examine any person under oath and issue subpoenas and  
24 subpoenas duces tecum.

25 (e) If, after a hearing, the board determines the licensee or

1 registrant has violated any provision of this article or the  
2 board's rules, a formal written decision shall be prepared which  
3 contains findings of fact, conclusions of law and a specific  
4 description of the disciplinary actions imposed.

5 **§30-32-19. Judicial review.**

6 Any licensee or registrant adversely affected by a decision of  
7 the board entered after a hearing may obtain judicial review of the  
8 decision in accordance with section four, article five, chapter  
9 twenty-nine-a of this code, and may appeal any ruling resulting  
10 from judicial review in accordance with article six, chapter  
11 twenty-nine-a of this code.

12 **§30-32-20. Single act evidence of practice.**

13 In any action brought or in any proceeding initiated under  
14 this article, evidence of the commission of a single act prohibited  
15 by this article is sufficient to justify a penalty, injunction,  
16 restraining order or conviction without evidence of a general  
17 course of conduct.

18 **§30-32-21. Criminal proceedings; penalties.**

19 (a) When, as a result of an investigation under this article  
20 or otherwise, the board has reason to believe that a licensee or  
21 registrant has committed a criminal offense, the board may bring  
22 the information to the attention of an appropriate law-enforcement  
23 official.

24 (b) Effective July 1, 2011, a person violating a provision of  
25 this article is guilty of a misdemeanor and, upon conviction, shall

1 be fined not less than \$500 nor more than \$1,000 or confined in a  
2 correctional facility not more than six months, or both fined and  
3 confined.

NOTE: The purpose of this bill is to rewrite the article governing the practice of speech-language pathology and audiology to update standards and conform to current drafting conventions; and to require, after July 1, 2012, speech-language pathologists and audiologists who work in public schools to be licensed, and speech-language pathology assistants and audiology assistants who work in public schools to register, with the Board of Speech-Language Pathology and Audiology.

This article has been completely rewritten; therefore, it has been completely underscored.