

COMMITTEE SUBSTITUTE

FOR

H. B. 2370

(BY DELEGATES MORGAN, MANYPENNY, MARTIN,
AND SWARTZMILLER)

(Originating in the House Committee on Government Organization)
[January 18, 2011]

A BILL to amend and reenact §16-1-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-16-4 of said code; and to amend and reenact §30-26-3 of said code; all relating to boards; changing the membership of boards; removing the Commissioner of the Bureau for Public Health from certain boards; removing the requirement that the commissioner provide support to certain boards; and updating the name of certain boards.

That §16-1-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §30-16-4 of said code be amended and reenacted and that §30-26-3 of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-7. Duties and powers of the commissioner; service on advisory councils; boards and commissions; authority to designate a representative to serve in his or her place on certain boards and commissions.

1 (a) The commissioner shall serve on the following
2 ~~business, profession or occupation~~ licensing boards:

3 ~~(1) The West Virginia Board of Barbers and~~
4 ~~Cosmetologists;~~

5 ~~(2) The West Virginia board of chiropractic examiners;~~

6 ~~(3) The West Virginia board of hearing aid dealers;~~

7 ~~(4)~~ (1) The West Virginia Board of Medicine, provided
8 in article three, chapter thirty;

9 ~~(5) The West Virginia nursing home administrators~~
10 ~~licensing board;~~

11 ~~(6)~~ (2) The West Virginia radiologic technology board of
12 examiners The West Virginia Medical Imaging and
13 Radiation Therapy Technology Board of Examiners, as
14 provided in article twenty-three, chapter thirty; and

15 ~~(7) (3) The West Virginia board of registration for~~
16 ~~sanitarians~~ The State Board of Sanitarians, as provided in
17 article seventeen, chapter thirty.

18 ~~(8) Any other licensing board or commission as directed~~
19 ~~by the secretary.~~

20 (b) The commissioner ~~shall serve~~ serves on the following
21 advisory councils, boards and commissions:

22 (1) The Advisory Committee on Cancer (Cancer
23 Registry);

24 ~~(2) The Advisory Committee on Hemophilia;~~

25 ~~(3)~~ (2) The Air Quality Board;

26 ~~(4)~~ (3) The Appalachian States Low-level Radioactive
27 Waste Commission;

28 ~~(5) The Attorney General of West Virginia Public Health~~
29 ~~Trust;~~

30 ~~(6) The Breast and Cervical Cancer Screening Program~~
31 ~~Advisory Coalition;~~

32 ~~(7)~~ (4) The Child Fatality Review Team;

33 ~~(8) The Clinical Laboratories Quality Assurance Act~~
34 ~~Advisory Board;~~

35 ~~(9)~~ (5) The Childhood Immunization Advisory
36 Committee;

37 ~~(10)~~ (6) The Early Intervention Coordinating Council;

38 ~~(11)~~ (7) The Interagency Council on Osteoporosis;

39 ~~(12) The Jail and Prison Standards Commission;~~

40 ~~(13) The Medical Service Fund Advisory Council;~~
41 ~~(14)~~ (8) The Nursing Home Licensing Advisory Council;
42 ~~(15)~~ (9) The Sewage Advisory Board;
43 ~~(16)~~ (10) The State Emergency Response Commission;
44 ~~(17)~~ (11) The State Groundwater Coordinating
45 Committee;
46 ~~(18) The Sudden Infant Death Syndrome Advisory~~
47 ~~Council;~~
48 ~~(19)~~ (12) The Water Development Authority;
49 ~~(20)~~ (13) The West Virginia Commission for the Deaf
50 and Hard of Hearing;
51 ~~(21)~~ (14) The West Virginia Infrastructure and Jobs
52 Development Council;
53 ~~(22) The West Virginia Solid Waste Management Board;~~
54 and
55 ~~(23)~~ (15) Any other advisory council, board or
56 commission as assigned by the secretary except for business,
57 profession or occupation licensing boards.
58 ~~(c)~~ (b) Notwithstanding any other provision of this code
59 to the contrary, the commissioner may, at his or her
60 discretion, designate, in writing, a representative to serve in
61 his or her stead at the meetings and in the duties of all boards

62 and commissions on which the commissioner is designated
 63 as an ex officio member. The appropriately designated
 64 representative or proxy ~~may act~~ acts with the full power and
 65 authority of the commissioner in voting, acting upon matters
 66 concerning the public health and welfare and ~~any~~ other
 67 business that is properly the duty of any board or
 68 commission. ~~with~~ The representative ~~servi~~ ng ~~serve~~ s as proxy
 69 for a the commissioner's ~~at his or her~~ will and pleasure.
 70 *Provided, That* The provisions of this section do not apply to
 71 the ~~medical licensing board;~~ West Virginia Board of
 72 Medicine, the Air Quality Board or ~~any~~ other board,
 73 commission or body on which the commissioner is
 74 designated by this code as chairman ex officio, secretary ex
 75 officio or ~~any~~ a board, commission or body on which the
 76 commissioner is designated by this code as being that person
 77 whose signature must appear on licenses, minutes or other
 78 documents necessary to carry out the intents and purposes of
 79 the board, commission or body.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 16. CHIROPRACTORS.

§30-16-4. West Virginia Board of Chiropractic; establishment and composition.

1 (a) The ~~board known as the~~ “West Virginia Board of
2 Chiropractic” is continued. Effective July 1, 2011, the board is
3 composed of ~~the director of health, ex officio, three~~ four
4 licensed chiropractors and one person to represent the interest of
5 the public. All ~~shall be~~ are appointed by the Governor, ~~by and~~
6 with the advice and consent of the Senate, from a list of three
7 names recommended by the West Virginia Chiropractic Society,
8 Incorporated. Each chiropractic member of the board shall have
9 been a resident of and engaged in the active practice of
10 chiropractic in the state for a period of at least five years
11 preceding his or her appointment.

12 (b) ~~On July 1, 1998, there shall be appointed, as provided~~
13 ~~in this section, one chiropractic member for a three-year~~
14 ~~term.~~ As existing chiropractic board members’ terms expire,
15 newly appointed ~~chiropractic~~ board members ~~shall be~~ are
16 appointed by the Governor for a term of office of three years.
17 No member may serve more than two full consecutive three-
18 year terms. When a vacancy in the membership of the board
19 occurs for ~~any~~ a cause other than the expiration of a term, the
20 Governor shall appoint a new member from a list of three
21 names recommended by West Virginia Chiropractic Society,
22 Incorporated, ~~a successor as a member of the board~~ to fill the

23 unexpired portion of the term of office. ~~of the member whose~~
24 ~~office has been vacated.~~

25 (c) The Governor may remove any member of the board
26 in case of incompetency, neglect of duty, gross immorality or
27 malfeasance in office.

28 (d) The board shall conduct ~~a~~ an annual training program
29 ~~to be held annually~~ to familiarize new board members with
30 their duties.

31 (e) Each member of the board ~~shall receive~~ is entitled to
32 receive compensation in an amount not to exceed the same
33 ~~compensation as is~~ the amount paid to members of the
34 Legislature for their interim duties ~~as recommended by the~~
35 ~~Citizens Legislative Compensation Commission and authorized~~
36 ~~by law~~ for each day or substantial portion thereof that he or she
37 is engaged in the work of the board or of its committees. ~~and~~
38 ~~shall be~~ Members are entitled to be reimbursed for ~~all~~ actual and
39 necessary expenses incurred in carrying out his or her duties.

ARTICLE 26. HEARING-AID DEALERS AND FITTERS.

§30-26-3. West Virginia board of hearing-aid dealers created; members; qualifications; term; oath; salary and expenses; powers and duties.

1 There is ~~hereby created~~ ~~continued~~ the West Virginia
2 board of hearing-aid dealers, which ~~shall be~~ is composed of

3 five members to be appointed by the Governor, by and with
4 the advice and consent of the Senate. The members of the
5 board shall be residents of this state. One member shall be a
6 person licensed to practice medicine in this state and one
7 member shall hold a degree in audiology from an accredited
8 college or university. The remaining three members shall be
9 persons having no less than five years' experience as
10 hearing-aid dealers or fitters and shall hold a valid license
11 under the provisions of this article, except that the hearing-
12 aid dealers or fitters to be first appointed to the board shall
13 obtain a license under the provisions of this article within six
14 months following their appointment to the board.

15 The term of office of each member of the board shall be
16 four years, excepting that as to the members first appointed
17 to the board, one shall be appointed for two years; two shall
18 be appointed for three years; and two shall be appointed for
19 four years. A board member shall serve until his or her
20 successor has been ~~duly~~ appointed and qualified and any
21 vacancy in the office of a member shall be filled by
22 appointment for the unexpired term of such member. Any
23 member of the board shall be eligible for reappointment.

24 The board shall annually at its meeting first succeeding May
25 1 elect from its own members a chairman and vice chairman.

26 Each member of the board shall receive for each day
27 actually engaged in the duties of his or her office, a per diem
28 salary of one hundred dollars and shall be reimbursed for all
29 reasonable and necessary expenses actually incurred in the
30 performance of his or her duties as a member of such board. All
31 fees and other moneys collected by the board, pursuant to the
32 provisions of this article, shall be kept in a separate fund and
33 shall be expended solely for the purposes of this article. The
34 compensation for the members of the board and all expenses
35 incurred under this article shall be paid from this special fund
36 and no such compensation or expenses shall be paid from the
37 General Revenue Fund of this state. All disbursements of funds
38 necessary to carry out the provisions of this article shall be so
39 disbursed only upon the authority of the board.

40 The board is hereby empowered, with the assistance of the
41 ~~department to generally supervise,~~ shall regulate and control the
42 practice of dealing in or fitting of hearing aids in this state, and
43 in so doing, shall administer qualifying examinations in
44 accordance with the provisions of this article to test the
45 knowledge and proficiency of all prospective licensees or
46 trainees.

47 The board may purchase and maintain or rent
48 audiometric equipment and other facilities necessary to carry
49 out the examination of applicants as provided in this article
50 and may purchase such other equipment and supplies and
51 employ such persons as it deems appropriate to carry out the
52 provisions of this article.

53 The board shall promulgate reasonable rules and
54 regulations in accordance with and subject to the provisions
55 of chapter twenty-nine-a of this code:

56 (a) For the proper performance of its duties;

57 (b) To define and prescribe the ethical practice of dealing
58 in or fitting of hearing aids for the safety, protection and
59 welfare of the public;

60 (c) To govern the time, place and manner of conducting
61 the examinations required by this article and the standard,
62 scope and subject of such examinations, which examinations
63 shall, as a minimum, conform with the standards, scope and
64 subjects set forth in section six of this article and manner and
65 form in which applications for such examinations shall be
66 filed;

67 (d) To establish procedures for determining whether
68 persons holding similar valid licenses from other states or

69 jurisdictions shall be required to take and successfully pass
70 the appropriate qualifying examination as a condition for
71 such licensing in this state;

72 (e) To establish such fees for such examinations, permits,
73 licenses and renewals as may be necessary to cover the costs
74 of administration.