

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4012

(By Delegate Morgan, Manypenny,
Martin and Swartzmiller)



Passed March 10, 2012

To Take Effect From Passage

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FOR

H. B. 4012

(BY DELEGATES MORGAN, MANYPENNY,
MARTIN AND SWARTZMILLER)

[Passed March 10, 2012; to take effect from passage.]

AN ACT to amend and reenact §16-1-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-16-4 of said code; to amend and reenact §30-23-5 of said code; and to amend and reenact §30-26-3 and §30-26-4 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; allowing certain boards to receive compensation not to exceed the amount paid to legislators; and updating the name of certain boards.

Be it enacted by the Legislature of West Virginia:

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; that §30-23-5 of said code be amended and reenacted; and that §30-26-3 and §30-26-4 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) Effective July 1, 2012, the commissioner serves on the
2 following licensing boards:

3 (1) The West Virginia Board of Medicine, provided in
4 article three, chapter thirty; and

5 (2) The State Board of Sanitarians, as provided in article
6 seventeen, chapter thirty.

7 (b) Effective July 1, 2012, the commissioner serves on
8 the following advisory councils, boards and commissions:

9 (1) The Advisory Committee on Cancer (Cancer
10 Registry);

11 (2) The Air Quality Board;

12 (3) The Appalachian States Low-level Radioactive Waste
13 Commission;

14 (4) The Child Fatality Review Team;

15 (5) The Childhood Immunization Advisory Committee;

16 (6) The Early Intervention Coordinating Council;

- 17 (7) The Interagency Council on Osteoporosis;
- 18 (8) The Sewage Advisory Board;
- 19 (9) The State Emergency Response Commission;
- 20 (10) The State Groundwater Coordinating Committee;
- 21 (11) The Water Development Authority;
- 22 (12) The West Virginia Commission for the Deaf and
23 Hard of Hearing;
- 24 (13) The West Virginia Infrastructure and Jobs
25 Development Council;
- 26 and
- 27 (14) Any other advisory council, board or commission as
28 assigned by the secretary.

29 (c) Notwithstanding any other provision of this code to
30 the contrary, the commissioner may, at his or her discretion,
31 designate, in writing, a representative to serve in his or her
32 stead at the meetings and in the duties of all boards and
33 commissions on which the commissioner is designated as an
34 ex officio member. The appropriately designated
35 representative or proxy acts with the full power and authority
36 of the commissioner in voting, acting upon matters
37 concerning the public health and welfare and other business
38 that is properly the duty of any board or commission. The
39 representative serves as proxy at the commissioner's will and
40 pleasure. The provisions of this section do not apply to the
41 West Virginia Board of Medicine, the Air Quality Board or
42 other board, commission or body on which the commissioner

43 is designated by this code as chairman ex officio, secretary ex
44 officio or a board, commission or body on which the
45 commissioner is designated by this code as being that person
46 whose signature must appear on licenses, minutes or other
47 documents necessary to carry out the intents and purposes of
48 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 "West Virginia Board of Chiropractic" is
2 continued. Effective July 1, 2012, the board is composed of
3 four licensed chiropractors and one person to represent the
4 interest of the public. All are appointed by the Governor,
5 with the advice and consent of the Senate, from a list of three
6 names recommended by the West Virginia Chiropractic
7 Society, Incorporated. Each chiropractic member of the
8 board shall have been a resident of and engaged in the active
9 practice of chiropractic in the state for a period of at least five
10 years preceding his or her appointment.

11 (b) As existing board members' terms expire, newly
12 appointed board members are appointed by the Governor for
13 a term of office of three years. No member may serve more
14 than two full consecutive three-year terms. When a vacancy
15 in the membership of the board occurs for a cause other than
16 the expiration of a term, the Governor shall appoint a new
17 member from a list of three names recommended by West
18 Virginia Chiropractic Society, Incorporated, to fill the
19 unexpired portion of the term of office.

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

23 (d) The board shall conduct an annual training program to
24 familiarize new board members with their duties.

25 (e) Each member of the board is entitled to receive
26 compensation in the amount paid to members of the
27 Legislature for interim duties for each day or substantial
28 portion that he or she is engaged in the work of the board or
29 of its committees. Members are entitled to be reimbursed for
30 actual and necessary expenses incurred in carrying out his or
31 her duties.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-5. Medical Imaging and Radiation Therapy Technology Board of Examiners.

1 (a) The West Virginia Medical Imaging and Radiation
2 Therapy Technology Board of Examiners is continued. The
3 members of the board in office, unless sooner removed,
4 continue to serve until their respective terms expire and until
5 their successors have been appointed and qualified.

6 (b) The board shall consist of the following nine
7 members, appointed by the Governor by and with the advice
8 and consent of the Senate:

9 (1) Three licensed practitioners, two of whom shall be
10 Radiologists;

11 (2) Three licensed Radiologic Technologists, one of
12 whom shall be an active medical imaging educator;

13 (3) One licensed Nuclear Medicine Technologist;

14 (4) One licensed Magnetic Resonance Imaging; and

15 (5) One citizen member, who is not licensed under the
16 provisions of this article and does not perform any services
17 related to the practice licensed under the provisions of this
18 article.

19 (c) Each member shall be appointed for a term of three
20 years and may not serve more than two consecutive full
21 terms. A member having served two consecutive full terms
22 may not be appointed for one year after completion of his or
23 her second full term. A member continues to serve until a
24 successor has been appointed and has qualified. The terms
25 shall be staggered in accordance with the initial appointments
26 under prior enactments of this article.

27 (d) Each member of the board shall be a resident of West
28 Virginia during the appointment term.

29 (e) The Radiologic Technologists, Nuclear Medicine
30 Technologists and the Magnetic Resonance Imaging
31 Technologists serving on the board shall maintain an active
32 license with the board.

33 (f) A vacancy on the board shall be filled by appointment
34 by the Governor for the unexpired term of the member whose
35 office is vacant.

36 (g) The Governor may remove any member from the board
37 for neglect of duty, incompetency or official misconduct.

38 (h) A licensed member of the board immediately and
39 automatically forfeits membership to the board if his or her
40 license to practice has been suspended or revoked. A

41 member of the board immediately and automatically forfeits
42 membership to the board if he or she is convicted of a felony
43 under the laws of any state or the United States, or becomes
44 a nonresident of this state.

45 (i) The board shall designate one of its members as
46 chairperson and one member as secretary who shall serve at
47 the will of the board.

48 (j) Each member of the board shall receive compensation
49 and expense reimbursement in accordance with article one of
50 this chapter.

51 (k) A majority of the members serving on the board shall
52 constitute a quorum.

53 (l) The board shall hold at least two annual meetings.
54 Other meetings shall be held at the call of the chairperson or
55 upon the written request of two members, at such time and
56 place as designated in the call or request.

57 (m) Prior to commencing his or her duties as a member of
58 the board, each member shall take and subscribe to the oath
59 required by section five, article four of the Constitution of
60 this state.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

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 (a) There is continued the West Virginia board of
2 hearing-aid dealers, which is composed of five members to be

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

11 (b) The terms of office of each member of the board shall
12 be four years, staggered in accordance with initial
13 appointments under prior enactments of this act. A board
14 member shall serve until his or her successor has been
15 appointed and qualified and any vacancy in the office of a
16 member shall be filled by appointment for the unexpired term
17 of such member. Any member of the board shall be eligible
18 for reappointment.

19 (c) The board shall annually at its meeting first
20 succeeding May 1 elect from its own members a chairman
21 and vice chairman.

22 (d) Each member of the board is entitled to receive for
23 each day actually engaged in the duties of his or her office, an
24 amount not to exceed the amount paid to legislators for their
25 interim duties, and is entitled to be reimbursed for all
26 reasonable and necessary expenses actually incurred in the
27 performance of his or her duties as a member of such board.

28 (e) All fees and other moneys collected by the board,
29 pursuant to the provisions of this article, shall be kept in a
30 separate fund and shall be expended solely for the purposes
31 of this article. The compensation for the members of the
32 board and all expenses incurred under this article shall be
33 paid from this special fund and no such compensation or
34 expenses shall be paid from the General Revenue Fund of this

35 state. All disbursements of funds necessary to carry out the
36 provisions of this article shall be so disbursed only upon the
37 authority of the board.

38 (f) The board shall regulate and control the practice of
39 dealing in or fitting of hearing aids in this state, and shall
40 administer qualifying examinations in accordance with the
41 provisions of this article to test the knowledge and
42 proficiency of all prospective licensees or trainees.

43 (g) The board may purchase and maintain or rent
44 audiometric equipment and other facilities necessary to carry
45 out the examination of applicants as provided in this article
46 and may purchase such other equipment and supplies and
47 employ such persons as it deems appropriate to carry out the
48 provisions of this article.

49 (h) The board shall propose rules for legislative approval
50 in accordance with the provisions of article three, chapter
51 twenty-nine-a of this code:

52 (1) For the proper performance of its duties;

53 (2) To define and prescribe the ethical practice of dealing
54 in or fitting of hearing aids for the safety, protection and
55 welfare of the public;

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

63 (4) To establish procedures for determining whether
64 persons holding similar valid licenses from other states or
65 jurisdictions shall be required to take and successfully pass
66 the appropriate qualifying examination as a condition for
67 such licensing in this state; and

68 (5) To establish such fees for such examinations, permits,
69 licenses and renewals as may be necessary to cover the costs
70 of administration.

§30-26-4. Administrative duties; examinations; register; use of fees.

1 (a) Effective July 1, 2012, the administrative work of the
2 board shall be performed by the board. The board shall keep
3 full and complete records of all of their proceedings and
4 accounts, which said records and accounts shall be open to
5 public inspection at all reasonable times.

6 (b) The board is authorized to conduct, supervise, and
7 administer the qualifying examinations authorized and
8 required by this article, to maintain for a register or record of
9 persons who apply for a license or a temporary trainee permit
10 as well as a register or record of the name and last-known
11 business address of all persons to whom a license or trainee
12 permit is issued pursuant to this article.

13 (c) Effective July 1, 2012, the board shall bear the costs
14 of carrying out the powers and duties granted to it by this
15 article from the fees collected by it for these purposes.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2012.

Governor