

COMMITTEE SUBSTITUTE

FOR

H. B. 4012

(BY DELEGATES MORGAN, MANYPENNY,
MARTIN AND SWARTZMILLER)

(Originating in the Committee on Government Organization)
[February 7, 2012]

A BILL 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 ~~shall serve~~
- 2 serve on the following ~~business, profession or occupation~~
- 3 ~~licensing boards:~~
- 4 (1) ~~The West Virginia Board of Barbers and~~
- 5 ~~Cosmetologists;~~
- 6 (2) ~~The West Virginia board of chiropractic examiners;~~
- 7 (3) ~~The West Virginia board of hearing aid dealers;~~

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

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

12 ~~(6) The West Virginia radiologic technology board of~~
13 ~~examiners;~~

14 ~~(7) (2) The West Virginia board of registration for~~
15 ~~sanitarians; and The State Board of Sanitarians, as provided~~
16 ~~in article seventeen, chapter thirty.~~

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

19 (b) Effective July 1, 2012, the commissioner ~~shall serve~~
20 erves on the following advisory councils, boards and
21 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) The Nursing Home Licensing Advisory Council;~~

42 ~~(15)~~ (8) The Sewage Advisory Board;

43 ~~(16)~~ (9) The State Emergency Response Commission;

44 ~~(17)~~ (10) The State Groundwater Coordinating
45 Committee;

46 ~~(18) The Sudden Infant Death Syndrome Advisory~~
47 ~~Council;~~

48 ~~(19)~~ (11) The Water Development Authority;

49 ~~(20)~~ (12) The West Virginia Commission for the Deaf
50 and Hard of Hearing;

51 ~~(21)~~ (13) The West Virginia Infrastructure and Jobs
52 Development Council;

53 ~~(22) The West Virginia Solid Waste Management Board;~~
54 and

55 ~~(23)~~ (14) Any other advisory council, board or
56 commission as assigned by the secretary except for business,
57 professional or occupational licensing boards.

58 (c) Notwithstanding any other provision of this code to
59 the contrary, the commissioner may, at his or her discretion,
60 designate, in writing, a representative to serve in his or her
61 stead at the meetings and in the duties of all boards and

62 commissions on which the commissioner is designated as an
63 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 ~~serving~~ serves as proxy
69 ~~for~~ at 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, 2012, the board
3 is composed of ~~the director of health, ex officio, three~~ four
4 licensed chiropractors and one person to represent the
5 interest of the public. All ~~shall be~~ are appointed by the
6 Governor, ~~by and~~ with the advice and consent of the Senate,
7 from a list of three names recommended by the West
8 Virginia Chiropractic Society, Incorporated. Each
9 chiropractic member of the board shall have been a resident
10 of and engaged in the active practice of chiropractic in the
11 state for a period of at least five years preceding his or her
12 appointment.

13 (b) ~~On July 1, 1998, there shall be appointed, as provided~~
14 ~~in this section, one chiropractic member for a three-year~~
15 ~~term.~~ As existing chiropractic board members’ terms expire,

16 newly appointed ~~chiropractic~~ board members ~~shall be~~ are
17 appointed by the Governor for a term of office of three years.
18 No member may serve more than two full consecutive
19 three-year terms. When a vacancy in the membership of the
20 board occurs for ~~any~~ a cause other than the expiration of a
21 term, the Governor shall appoint a new member from a list
22 of three names recommended by West Virginia Chiropractic
23 Society, Incorporated, ~~a successor as a member of the board~~
24 to fill the unexpired portion of the term of office. ~~of the~~
25 ~~member whose office has been vacated.~~

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

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

32 (e) Each member of the board ~~shall receive~~ is entitled to
33 receive compensation in ~~an amount not to exceed the same~~

34 ~~compensation as is~~ the amount paid to members of the
35 Legislature for ~~their~~ interim duties ~~as recommended by the~~
36 ~~Citizens Legislative Compensation Commission and authorized~~
37 ~~by law~~ for each day or substantial portion thereof that he or she is
38 engaged in the work of the board or of its committees. ~~and shall~~
39 ~~be~~ Members are entitled to be reimbursed for all actual and
40 necessary expenses incurred in carrying out his or 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 ~~eleven~~ nine
7 members, appointed by the Governor by and with the advice
8 and consent of the Senate:

9 ~~(1) One Radiologic Health Specialist from the Radiation,~~
10 ~~Toxics and Indoor Air Division of the West Virginia~~
11 ~~Department of Health and Human Resources;~~

12 (1) Three licensed practitioners, two of whom shall be
13 Radiologists;

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

16 (3) One licensed Nuclear Medicine Technologist;

17 (4) One licensed Magnetic Resonance Imaging; and

18 (5) ~~Two~~ One citizen ~~members~~ member, who ~~are~~ is not
19 licensed under the provisions of this article and ~~do~~ does not
20 perform any services related to the practice licensed under
21 the provisions of this article.

22 (c) Each member shall be appointed for a term of three
23 years and may not serve more than two consecutive full
24 terms. A member having served two consecutive full terms
25 may not be appointed for one year after completion of his or
26 her second full term. A member continues to serve until a

27 successor has been appointed and has qualified. The terms
28 shall be staggered in accordance with the initial
29 appointments under prior enactments of this article.

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

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

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

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

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

45 member of the board immediately and automatically forfeits
46 membership to the board if he or she is convicted of a felony
47 under the laws of any state or the United States, or becomes
48 a nonresident of this state.

49 (i) The board shall designate one of its members as
50 chairperson and one member as secretary who shall serve at
51 the will of the board.

52 (j) Each member of the board shall receive compensation
53 and expense reimbursement in accordance with article one of
54 this chapter.

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

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

61 (m) Prior to commencing his or her duties as a member
62 of the board, each member shall take and subscribe to the

63 oath required by section five, article four of the Constitution
64 of 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 ~~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
6 a 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~~
12 ~~hearing-aid dealers or fitters to be first appointed to the board~~

13 ~~shall obtain a license under the provisions of this article~~
14 ~~within six months following their appointment to the board.~~

15 (b) The ~~term~~ terms of office of each member of the board
16 shall be four years, ~~excepting that as to the members first~~
17 ~~appointed to the board, one shall be appointed for two years;~~
18 ~~two shall be appointed for three years, and two shall be~~
19 ~~appointed for four years~~ staggered in accordance with initial
20 appointments under prior enactments of this act. A board
21 member shall serve until his or her successor has been ~~duly~~
22 appointed and qualified and any vacancy in the office of a
23 member shall be filled by appointment for the unexpired
24 term of such member. Any member of the board shall be
25 eligible for reappointment.

26 (c) The board shall annually at its meeting first
27 succeeding May 1 elect from its own members a chairman
28 and vice chairman.

29 (d) Each member of the board ~~shall~~ is entitled to receive
30 for each day actually engaged in the duties of his or her

31 office, a ~~per diem salary of \$100~~ an amount not to exceed the
32 amount paid to legislators for their interim duties, and shall
33 is entitled to be reimbursed for all reasonable and necessary
34 expenses actually incurred in the performance of his or her
35 duties as a member of such board.

36 (e) All fees and other moneys collected by the board,
37 pursuant to the provisions of this article, shall be kept in a
38 separate fund and shall be expended solely for the purposes of
39 this article. The compensation for the members of the board and
40 all expenses incurred under this article shall be paid from this
41 special fund and no such compensation or expenses shall be paid
42 from the General Revenue Fund of this state. All disbursements
43 of funds necessary to carry out the provisions of this article shall
44 be so disbursed only upon the authority of the board.

45 (f) The board ~~is hereby empowered, with the assistance~~
46 ~~of the department to generally supervise, shall~~ regulate and
47 control the practice of dealing in or fitting of hearing aids in
48 this state, and ~~in so doing,~~ shall administer qualifying

49 examinations in accordance with the provisions of this article
50 to test the knowledge and proficiency of all prospective
51 licensees or trainees.

52 (g) The board may purchase and maintain or rent
53 audiometric equipment and other facilities necessary to carry
54 out the examination of applicants as provided in this article
55 and may purchase such other equipment and supplies and
56 employ such persons as it deems appropriate to carry out the
57 provisions of this article.

58 (h) The board shall ~~promulgate reasonable rules and~~
59 ~~regulations in accordance with and subject to the provisions~~
60 ~~of chapter twenty-nine-a of this code~~ propose rules for
61 legislative approval in accordance with the provisions of
62 article three, chapter twenty-nine-a of this code:

63 (a) (1) For the proper performance of its duties;

64 (b) (2) To define and prescribe the ethical practice of
65 dealing in or fitting of hearing aids for the safety, protection
66 and welfare of the public;

67 (☉) (3) To govern the time, place and manner of conducting
68 the examinations required by this article and the standard, scope
69 and subject of such examinations, which examinations shall, as
70 a minimum, conform with the standards, scope and subjects set
71 forth in section six of this article and manner, and the form in
72 which applications for such examinations shall be filed;

73 (☉) (4) To establish procedures for determining whether
74 persons holding similar valid licenses from other states or
75 jurisdictions shall be required to take and successfully pass
76 the appropriate qualifying examination as a condition for
77 such licensing in this state; and

78 (☉) (5) To establish such fees for such examinations,
79 permits, licenses and renewals as may be necessary to cover
80 the costs of administration.

**~~§30-26-4. Powers and duties of the state department of health~~
Administrative duties; examinations; register; use
of fees.**

1 (a) Effective July 1, 2012, the administrative work of the
2 board shall be performed by ~~and in the state department of~~

3 ~~health~~ the board. The ~~department~~ board shall keep full and
4 complete records of all of ~~the~~ their proceedings ~~of the board~~
5 and ~~of its~~ accounts, which said records and accounts shall be
6 open to public inspection at all reasonable times.

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

15 ~~At the direction and request of the board the department~~
16 ~~shall conduct periodic inspections of the establishment and~~
17 ~~facilities of persons who are licensed to engage in the~~
18 ~~practice of dealing in or fitting of hearing aids and shall~~
19 ~~report its findings and the results of such inspections to the~~
20 ~~board.~~

21 ~~When requested by the board, the department may assist~~
22 ~~the board generally in carrying out any of the powers and~~
23 ~~duties granted to the board, but none of the cost incidental to~~
24 ~~such assistance, powers, functions and duties given to the~~
25 ~~department pursuant to this article shall be borne from any of~~
26 ~~the appropriations made to the department, but shall be borne~~
27 ~~by the board and to this extent the department shall be~~
28 ~~entitled to reimbursement from the funds of the board.~~

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