

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 2531**

5 (By Delegates Morgan, Stephens, Paxton, Hartman, Ferns,
6 Howell, Folk, Smith, R., Faircloth, Arvon and Nelson, J.)
7

8 [Passed April 13, 2013; in effect from passage.]
9

10 AN ACT to amend and reenact §30-32-1, §30-32-2, §30-32-3, §30-32-4,
11 §30-32-5, §30-32-6, §30-32-7, §30-32-8, §30-32-9, §30-32-10,
12 §30-32-11, §30-32-12, §30-32-13, §30-32-14, §30-32-15,
13 §30-32-16, §30-32-17, §30-32-18, §30-32-19, §30-32-20 and
14 §30-32-21 of the Code of West Virginia, 1931, as amended; and
15 to amend said code by adding thereto two new sections,
16 designated §30-32-22 and §30-32-23, all relating to the Board
17 of Examiners of Speech-language Pathology and Audiology;
18 setting forth unlawful acts; providing exemptions; specifying
19 applicability of other law; providing definitions; continuing
20 the Board of Examiners for Speech-Language Pathology and
21 Audiology; specifying qualifications of board members;
22 providing terms and conditions of board members' service;
23 providing for election of board officers; providing for
24 compensation and expense reimbursement of board members;
25 setting forth powers and duties of the board; providing

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

1 sufficient to justify disciplinary action; providing for
2 criminal proceedings; providing for criminal penalties; and
3 requiring the Legislative Auditor to present a report to the
4 Joint Standing Committee on Government Organization on the
5 requirements for Speech-Language Pathologists, Audiologists
6 and Assistants to practice in public schools.

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

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

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

16 **§30-32-1. Unlawful acts; criminal penalties.**

17 (a) It is unlawful for any person to practice or offer to
18 practice speech-language pathology or audiology in this state, or
19 advertise or use any title or description tending to convey the
20 impression that the person is a speech-language pathologist or
21 audiologist unless the person has been licensed under the
22 provisions of this article, and the license has not expired, been
23 suspended or revoked.

24 (b) As of July 1, 2014, it is unlawful for any person to

1 practice or represent that he or she is qualified to practice as a
2 speech-language pathology assistant or an audiology assistant
3 unless the person has registered with the West Virginia Board of
4 Examiners for Speech-Language Pathology and Audiology under the
5 provisions of this article, and the registration has not expired,
6 been suspended or revoked.

7 (c) It is unlawful for any business entity, except through a
8 licensee, to render any service or engage in any activity which if
9 rendered or engaged in by an individual, would constitute the
10 practices licensed under the provisions of this article.

11 (d) Any person violating any provision of subsections (a), (b)
12 or (c) of this article is guilty of a misdemeanor and, upon
13 conviction thereof, shall be fined not less than \$500 nor more than
14 \$1,000 or confined in jail not more than six months, or both.

15 **§30-32-2. Exemptions.**

16 Nothing in this article prevents or restricts:

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

20 (2) A licensed physician or surgeon while engaging in the
21 profession for which he or she is licensed;

22 (3) A trained individual providing hearing testing or balance
23 system assessment under the direct supervision of a licensed
24 physician or surgeon;

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

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

6 (A) These activities and services constitute a part of a
7 planned course of study at that institution;

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

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

13 (6) The activities of persons who are nonresidents of this
14 state from engaging in the practice of speech-language pathology or
15 audiology if the activities of the persons do not exceed five days
16 in any calendar year and they:

17 (A) Meet the qualifications of this article;

18 (B) Register with the board in accordance with procedures
19 specified by the board; and

20 (C) Abide by the standards of professional conduct;

21 (7) The practice of a licensed hearing aid dealer engaged
22 solely in the practice of dealing in or fitting of hearing aids; or

23 (8) The activity of an occupational hearing conservationist
24 engaged in hearing testing as part of a hearing conservation

1 program in compliance with regulations of the Occupational Safety
2 and Health Administration.

3 **§30-32-3. General provisions.**

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

9 **§30-32-4. Definitions.**

10 The following terms have the following meanings:

11 (1) "Applicant" means a person applying for a license required
12 by this article.

13 (2) "Assistant" means a registered speech-language pathology
14 assistant or a registered audiology assistant.

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

18 (4) "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 (5) "Audiology assistant" means a person registered with the
22 board who practices under the supervision of an licensed
23 audiologist.

24 (6) "Audiology disorders" means any and all conditions,

1 whether of organic or nonorganic origin, peripheral or central,
2 that impede the normal process of human communication including,
3 but not limited to, disorders of auditory sensitivity, acuity,
4 function or processing.

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

7 (8) "Business entity" means any firm, partnership,
8 association, company, corporation, limited partnership, limited
9 liability company or other entity.

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

14 (10) "General supervision" means initial direction and
15 periodic inspection of the activities of an assistant by the
16 supervising licensed speech-language pathologist or supervising
17 licensed audiologist, who is physically present in the building
18 where treatment is provided and is quickly and easily available.

19 (11) "Initial supervision training" means training required of
20 supervising licensed speech-language pathologists and supervising
21 licensed audiologists before providing supervision of assistants.

22 (12) "Instruction" means:

23 (A) Providing speech-language pathology or audiology services
24 in infant/toddler, preschool, elementary or secondary school

1 programs; or

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

3 (13) "License" means a license issued pursuant to the
4 provisions of this article.

5 (14) "Licensee" means a person who is licensed pursuant to the
6 provisions of this article.

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

9 (16) "Registrant" means an assistant who is registered
10 pursuant to the provisions of this article.

11 (17) "Registration" means a registration issued pursuant to
12 the provisions of this article.

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

16 (19) "Speech-language pathology" means the application of
17 principles, methods and procedures related to the development,
18 disorders and effectiveness of human communication and related
19 functions.

20 (20) "Speech-language pathology assistant" means a person
21 registered with the board who practices under the supervision of a
22 licensed speech-language pathologist.

23 (21) "Speech-language pathology disorders" means conditions,
24 whether of organic or nonorganic origin, that impede the normal

1 process of human communication including, but not limited to,
2 disorders and related disorders of speech, articulation, fluency,
3 voice, verbal and written language, Auditory comprehension,
4 cognition/communication, and oral, pharyngeal and/or laryngeal
5 sensorimotor competencies.

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

11 **§30-32-5. Board of Examiners for Speech-language Pathology and**
12 **Audiology.**

13 (a) The West Virginia Board of Examiners for Speech-Language
14 Pathology and Audiology is continued. The members of the board in
15 office on July 1, 2013 may, unless sooner removed, continue to
16 serve until their respective terms expire or until their successors
17 have been appointed and qualified.

18 (b) The board consists of the following members appointed by
19 the Governor by and with the advice and consent of the Senate:

20 (1) Two persons who are licensed speech-language pathologists;

21 (2) Two persons who are licensed audiologists; and

22 (3) One citizen member who is not licensed or registered under
23 this article.

24 (c) The terms are for three years. No member may serve for

1 more than two consecutive terms.

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

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

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

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

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

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

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

22 (k) The board shall elect annually one of its members as
23 chairperson and one of its members as secretary-treasurer who shall
24 serve at the will and pleasure of the board.

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

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

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

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

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

16 **§30-32-6. Powers and duties of the board.**

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

20 (b) The board shall:

21 (1) Hold meetings and conduct hearings;

22 (2) Establish requirements for licenses and registrations;

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

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

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

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

11 (7) Investigate alleged violations of the provisions of this
12 article, legislative rules, orders and final decisions of the
13 board;

14 (8) Conduct disciplinary hearings of persons regulated by the
15 board;

16 (9) Determine disciplinary action and issue orders;

17 (10) Institute appropriate legal action for the enforcement of
18 the provisions of this article;

19 (11) Maintain an accurate registry of names and addresses of
20 all persons regulated by the board;

21 (12) Keep accurate and complete records of its proceedings,
22 and certify the same as may be necessary and appropriate;

23 (13) Issue, renew, combine, deny, suspend, revoke or reinstate
24 licenses and registrations pursuant to the provisions of this

1 article;

2 (14) Establish a fee schedule;

3 (15) Take all actions necessary and proper to effectuate the
4 purposes of this article; and

5 (16) Propose rules in accordance with the provisions of
6 article three, chapter twenty-nine-a of this code to implement the
7 provisions of this article.

8 (c) The board may:

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

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

13 (3) Confer with the Attorney General or his or her assistants
14 in connection with legal matters and questions; and

15 (4) Perform random audits of continuing education, supervision
16 records and documentation of licensure and registration
17 requirements to determine compliance with this article.

18 **§30-32-7. Rulemaking.**

19 (a) The board shall propose rules for legislative approval, in
20 accordance with the provisions of article three, chapter
21 twenty-nine-a of this code, to implement the provisions of this
22 article, including:

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

24 (2) Requirements, qualifications and designation of third

1 parties to establish educational requirements and to prepare and/or
2 administer examinations and reexaminations;

3 (3) Procedures for the issuance and renewal of a license,
4 registration and provisional license;

5 (4) A fee schedule;

6 (5) Continuing education and competency requirements for
7 licensees and registrants;

8 (6) Establishment of competency standards;

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

11 (8) Requirements for reinstatement of revoked licenses and
12 registrations;

13 (9) Guidelines for telepractice;

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

16 (A) The supervision requirements of licensees;

17 (B) The ratio of assistants to licensees;

18 (C) The scope of duties and restrictions of responsibilities
19 of assistants;

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

22 (E) The quantity and content of pre-service and in-service
23 instruction.

24 (11) Professional conduct and ethical standards of practice;

1 and

2 (12) Any other rules necessary to effectuate the provisions of
3 this article.

4 (b) The board may promulgate emergency rules in accordance
5 with section fifteen, article three, chapter twenty-nine-a of this
6 code to establish requirements and procedures for telepractice in
7 accordance with the provisions of this article, including the scope
8 of duties and restrictions of assistants in telepractice.

9 (c) All rules in effect on January 1, 2013 shall remain in
10 effect until they are amended or repealed, and references to
11 provisions of former enactments of this article are interpreted to
12 mean provisions of this article.

13 **§30-32-8. Funds.**

14 (a) All fees and other moneys, except administrative fines,
15 received by the board shall be deposited in a separate special
16 revenue fund in the State Treasury designated the "Board of
17 Examiners for Speech-Language Pathology and Audiology Fund", which
18 is continued. The fund is used by the board for the administration
19 of this article. Except as may be provided in article one of this
20 chapter, the board retains the amount in the special revenue
21 account from year to year. No compensation or expense incurred
22 under this article is a charge against the General Revenue Fund.

23 (b) Any amount received as fines, imposed pursuant to this
24 article, shall be deposited into the General Revenue Fund of the

1 State Treasury.

2 **§30-32-9. Qualifications for licensure as a speech-language**
3 **pathologist.**

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

6 (1) Make application to the board, upon a form prescribed by
7 the board;

8 (2) Pay to the board an application fee as established by the
9 board;

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

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

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

19 (6) Pass the national examination in speech-language
20 pathology; and

21 (7) Pass a jurisprudence examination developed by the board.

22 (b) Subject to the renewal requirements set forth in section
23 seventeen of this article, a license issued by the board under
24 prior enactments of this article shall for all purposes be

1 considered a license issued under this article.

2 **§30-32-10. Qualifications for licensure as an audiologist.**

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

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

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

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

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

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

18 (6) Pass the national examination in audiology; and

19 (7) Pass a jurisprudence examination developed by the board.

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

24 **§30-32-11. Provisional licenses.**

1 (a) The board may issue a provisional license to an applicant
2 who is in the process of obtaining postgraduate professional
3 experience and who:

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

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

9 (3) Pays the fee.

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

14 (c) The provisional license shall be valid for a term of one
15 year and may be renewed.

16 **§30-32-12. Waiver of requirements; practice pending disposition**
17 **of application.**

18 (a) The board shall waive the national examination
19 requirements in speech-language pathology and/or audiology 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

1 speech-language pathology or audiology from the American
2 Speech-Language-Hearing Association in the professional field for
3 which they seek licensure.

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

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

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

14 **§30-32-13. Scope of practice for speech-language pathology.**

15 The scope of practice for speech-language pathology includes:

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

22 (2) Cognitive aspects of communication (i.e., attention,
23 memory, problem solving);

24 (3) Establishing augmentative and alternative communication

1 techniques and strategies, including developing, selecting and
2 prescribing of systems and devices (e.g., speech generating
3 devices) and providing training in their use;

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

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

13 (6) Using instrumentation (e.g., videofluoroscopy) to observe,
14 collect data and measure parameters of communication and swallowing
15 as directed by a licensed physician; and

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

19 **§30-32-14. Scope of practice for audiology.**

20 (a) The scope of practice for audiology includes:

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

24 (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, fitting, programming and dispensing of
6 amplification, assistive listening and alerting devices and
7 programming 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 (b) A person licensed under this article as an audiologist is
19 not required to obtain a license under the provisions of article
20 twenty-six of this chapter.

21 **§30-32-15. Speech-language pathology and audiology assistants;**
22 **supervision requirements.**

23 (a) Commencing July 1, 2014, speech-language pathology
24 assistants and audiology assistants shall register with the board

1 and shall:

2 (1) Possess a minimum of an associate's degree from an
3 institution or technical training program with a program of study
4 designed to prepare the student to be a speech language pathology
5 or audiology assistant;

6 (2) Work only under the supervision of a licensee licensed in
7 the professional field in which the assistant is working; and

8 (3) Meet all requirements set by the board.

9 (b) Licensees who supervise assistants shall:

10 (1) Report to the board the name and field of practice of each
11 assistant working under the licensee's supervision;

12 (2) Complete initial supervision training prior to accepting
13 an assistant for supervision and upgrade supervision training as
14 required by the board;

15 (3) Document preservice training and credentials of the
16 assistant;

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

21 (5) Provide general supervision and be responsible for the
22 extent, kind and quality of service provided by the assistant and
23 for all services provided by the assistant;

24 (6) Ensure that persons receiving services from an assistant

1 receive prior written notification that services are to be
2 provided, in whole or in part, by an assistant; and

3 (7) Meet all other requirements set by the board.

4 **§30-32-16. Telepractice services.**

5 (a) Licensed speech-language pathologists and audiologists may
6 provide services in this state by telepractice.

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

10 (1) Acquire written informed consent from the student, patient
11 or client before the services are provided;

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

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

15 (4) Train assistants before allowing them to assist in the
16 delivery of service by telepractice, and document the training and
17 delivery of service by the assistants; and

18 (5) Meet any other requirements set by the board.

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

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

1 (b) A license or registration which has lapsed may be renewed
2 within one year of its expiration date in the manner set by the
3 board.

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

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

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

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

20 **§30-32-18. Actions to enjoin violations.**

21 (a) If the board obtains information that any person has
22 engaged in, is engaging in or is about to engage in any act which
23 constitutes or will constitute a violation of the provisions of
24 this article, the rules promulgated pursuant to this article, or a

1 final order or decision of the board, it may issue a notice to the
2 person to cease and desist in engaging in the act and/or apply to
3 the circuit court in the county of the alleged violation for an
4 order enjoining the act.

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

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

12 **§30-32-19. Complaints; investigations; due process procedure;**
13 **grounds for disciplinary action.**

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

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

22 (c) After reviewing any information obtained through an
23 investigation, the board shall determine if probable cause exists
24 that the licensee or registrant has violated any provision of this

1 article.

2 (d) Upon a finding that probable cause exists that the
3 licensee or registrant has violated any provision of this article
4 or rules promulgated pursuant to this article, the board may enter
5 into a consent decree or hold a hearing for the suspension or
6 revocation of the license or registration or the imposition of
7 sanctions against the licensee or registrant.

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

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

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

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

22 (2) Being convicted of a felony or misdemeanor crime of moral
23 turpitude;

24 (3) Being guilty of unprofessional conduct as defined by

1 legislative rule of the board;

2 (4) Violating provisions of this article, rule or a lawful
3 order of the board;

4 (5) Providing substandard care due to a deliberate or
5 negligent act or failure to act regardless of whether actual injury
6 to a patient or client is established;

7 (6) As an assistant, exceeding the authority to perform
8 components of service selected and delegated by the supervising
9 speech-language pathologist or audiologist regardless of whether
10 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) As a licensee, failing to provide appropriate supervision
15 to a speech-language pathology assistant or audiology assistant in
16 accordance with this article and legislative rules of the board;

17 (9) Practicing when competent services to recipients may not
18 be provided due to physical or mental impairment;

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

24 (11) Engaging in sexual misconduct which includes:

1 (A) Initiating or soliciting sexual relationships, whether
2 consensual or nonconsensual, while a professional relationship
3 exists between the licensee or registrant and a patient or client;
4 or

5 (B) Making sexual advances, requesting sexual favors or
6 engaging in physical contact of a sexual nature with a patient or
7 client;

8 (12) Aiding or abetting a person who is not licensed or
9 registered in this state and who directly or indirectly performs
10 activities requiring a license or registration;

11 (13) Abandoning or neglecting a patient or client in need of
12 immediate professional care without making reasonable arrangements
13 for the continuation of care; or

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

16 (h) Disciplinary action may include:

17 (1) Reprimand;

18 (2) Probation;

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

21 (4) Mandatory attendance at continuing education seminars or
22 other training;

23 (5) Practicing under supervision or other restriction;

24 (6) Requiring the licensee or registrant to report to the

1 board for periodic interviews for a specified period of time;

2 (7) Denial, suspension, revocation or nonrenewal of license or
3 registration; or

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

7 **§30-32-20. Procedures for hearing; right of appeal.**

8 (a) Notice and hearing requirements are governed by the
9 provisions of article one of this chapter.

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

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

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

22 (e) If, after a hearing, the board determines the licensee or
23 registrant has violated any provision of this article or the
24 board's rules, a formal written decision shall be prepared which

1 contains findings of fact, conclusions of law and a specific
2 description of the disciplinary actions imposed.

3 **§30-32-21. Judicial review.**

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

10 **§30-32-22. Single act evidence of practice.**

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

16 **§30-32-23. Required update of review of Legislative Auditor.**

17 On or before December 1, 2014, the Legislative Auditor shall
18 update the Sunrise Report of January 2013 on the requirements for
19 speech-language pathologists, audiologists and assistants to
20 practice in public schools, and present the report to the Joint
21 Standing Committee on Government Organization, with
22 recommendations.