

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4333

BY DELEGATES STEELE AND FOSTER

[Passed March 12, 2022; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §30-26-21; to amend and reenact §30-32-5 and §30-32-7 of said code; and to
3 amend said code by adding thereto a new section, designated §30-32-10a, all relating to
4 sunsetting the Board of Hearing-Aid Dealers and Fitters; directing wind up and termination
5 of board; continuing licensure and regulation of hearing aid dealers and fitters under board
6 until date of termination, with certain exception; permitting mail order or online sales of
7 hearing aids; transferring licensure and regulation of hearing aid dealers and fitters to
8 West Virginia Board of Examiners for Speech-Language Pathology and Audiology upon
9 termination of Board of Hearing-Aid Dealers and Fitters; revising composition of Board of
10 Examiners for Speech-Language Pathology and Audiology; providing for rules of Board of
11 Hearing-Aid Dealers and Fitters in effect at board's termination to remain in effect until
12 amended or repealed by Board of Examiners for Speech-Language Pathology and
13 Audiology; establishing process and qualifications for licensure of hearing aid dealers and
14 fitters by Board of Examiners for Speech-Language Pathology and Audiology upon
15 termination or sunset of Board of Hearing-Aid Dealers and Fitters; and authorizing
16 advertising and sale of hearing aids by mail upon effective date of legislation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 26. HEARING-AID DEALERS AND FITTERS.

§30-26-21. Sunset and transfer of duties provision; effective date.

1 (a) The State Board of Hearing-Aid Dealers and Fitters established in this article shall
2 terminate on June 30, 2023, unless continued by the Legislature. Pursuant to §4-10-12 and §4-
3 10-13 of this code, the board shall commence all necessary activities pertinent to the wind-up of
4 all board-related activities. Notwithstanding the termination of the board, the regulation and
5 licensure of hearing aid fitters engaged in the practice of dealing in or fitting of hearing aids under
6 §30-26-1 *et seq.* of this code shall continue with the exception of §30-26-17(6) of this code.

7 (b) Upon termination of the board, the West Virginia Board of Examiners for Speech-
8 Language Pathology and Audiology shall supervise, regulate, and control the practice of dealing
9 in or fitting of hearing aids in this state. Notwithstanding any other provision of code, hearing aids,
10 mean any wearable device or instrument intended to aid, improve, or compensate for defective
11 or impaired human hearing, may be advertised for mail-order sale in any advertising medium and
12 sold by mail-order sale to any person in this state upon the effective date of this legislation.

ARTICLE 32. SPEECH LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

§30-32-5. Board of Examiners for Speech-Language Pathology and Audiology.

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

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

- 7 (1) Three persons who are licensed speech-language pathologists;
- 8 (2) Two persons who are licensed audiologists;
- 9 (3) One person who is a licensed hearing aid fitter; and
- 10 (4) One citizen member who is not licensed or registered under this article.

11 (c) The terms are for three years. No member may serve for more than two consecutive
12 terms.

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

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

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

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

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

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

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

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

30 (l) Each member of the board is entitled to receive compensation and expense
31 reimbursement in accordance with §30-1-1 *et seq.* of this code.

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

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

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

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

§30-32-7. Rulemaking.

1 (a) The board shall propose rules for legislative approval, in accordance with the
2 provisions of §29A-3-1 *et seq.* of this code, to implement the provisions of this article, including:

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

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

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

8 (4) A fee schedule;

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

10 (6) Establishment of competency standards;

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

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

14 (9) Guidelines for telepractice;

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

17 (A) The supervision requirements of licensees;

18 (B) The ratio of assistants to licensees;

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

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

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

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

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

25 (b) The board may promulgate emergency rules in accordance with §29A-3-15 of this code
26 to establish requirements and procedures for telepractice in accordance with the provisions of this
27 article, including the scope of duties and restrictions of assistants in telepractice.

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

31 (d) All rules in effect upon the sunset or termination of the Board of Hearing Aid Dealers
32 and Fitters shall remain in effect until those rules are amended or repealed by the Board of
33 Examiners of Speech Language Pathology and Audiology in accordance with the provisions of
34 §29A-3-1 of this code.

§30-32-10a. Application for licensure; qualification for licensure; examination.

1 (a) Each person desiring to obtain a license from the board to engage in the practice of
2 dealing in or fitting of hearing aids shall make application to the board. The application shall be
3 made in such manner and form as prescribed by the board and shall be accompanied by the
4 prescribed fee. The application shall state under oath that the applicant:

- 5 (1) Is a resident of this state;
- 6 (2) Is free of a felony conviction bearing a rational nexus to the profession pursuant to
7 §30-1-24 of this code
- 8 (3) Is 18 years of age or older;
- 9 (4) Has an education equivalent to a four-year course in an accredited high school; and
- 10 (5) Is free of chronic infectious or contagious diseases.

11 (b) The board, after first determining that the applicant is qualified and eligible to take the
12 examination, shall notify the applicant that he or she has fulfilled all of the qualifications and
13 eligibility requirements as required and shall advise him or her of the date, time, and place for him
14 or her to appear to be examined as required by the provisions of this article and the regulations
15 promulgated by the board pursuant to this article. The board may promulgate rules relating to the
16 frequency of examinations and other such related topics pursuant to §29A-3-1 of this code.

17 (c) Before obtaining a license to engage in the practice of dealing in or fitting of hearing-
18 aids, an applicant must meet the following requirements:

19 (1) The applicant must pass the International Licensing Examination for Hearing
20 Healthcare Professionals, prepared by the International Hearing Society, or an equivalent
21 examination selected by the board.

22 (2) The applicant must pass a practical examination, which shall be a nationally
23 recognized test selected by the board, or a test designed by the board to test the applicant's
24 proficiency in the following techniques as they pertain to the fitting of hearing aids:

25 (A) Pure tone audiometry, including air conduction testing;

26 (B) Live voice or recorded voice speech audiometry, including speech reception threshold
27 testing and speech discrimination testing; and

28 (C) Masking when indicated and effective masking.

29 (3) The applicant must pass an examination, which shall be developed by the board, to
30 test an applicant's competency in the following subjects:

31 (A) Ability to counsel the person or family who will receive the hearing aid relative to the
32 care and use of the instrument;

33 (B) Knowledge regarding the medical and rehabilitative facilities for hearing-handicapped
34 children and adults in the area being served;

35 (C) Knowledge and understanding of the grounds for revocation, suspension, or probation
36 of a license as outlined in this article or in rule; and

37 (D) Knowledge and understanding of criminal offenses relating to the profession.

38 (d) The board may promulgate rules to implement the requirements of this section,
39 including emergency rules promulgated pursuant to the provisions of §29A-3-1 of this code.

40 (e) The provisions of this section will take effect upon the sunset or termination of the
41 Board of Hearing Aid Dealers and Fitters, which in no event will be later than July 1, 2023.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2022.

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Governor