

**WEST VIRGINIA LEGISLATURE**  
*Performance Evaluation and Research Division*

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**John Sylvia**  
Director



September 11, 2023

The Honorable Jack David Woodrum, Chair  
West Virginia Senate  
Room 214W, Bldg. 1  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

The Honorable Chris Phillips, Chair  
West Virginia House of Delegates  
Room 213E, Bldg. 1  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

Dear Chairmen:

Pursuant to House Bill 4333, passed during the 2022 legislative session, the Board of Hearing Aid Dealers and Fitters (Board) terminated on June 30, 2023. According to West Virginia (W. Va.) Code §4-10-13, when the Legislature terminates an agency or regulatory board, the terminated agency is required to file a written statement with the Secretary of the Department of Administration (DOA) and the Performance Evaluation and Research Division (PERD) describing the disposition of the agency's funds, assets, equipment, and records. In addition, PERD is required to review the agency's written statement and report our results of the review to the Joint Standing Committee on Government Organization. This letter constitutes PERD's review of the Board's compliance with the termination process and to confirm the disposition of the Board's assets, equipment, and records. A copy of the Board's written statement is also included.

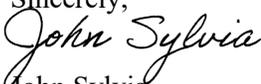
The following list details the Board's actions as required by the wind-up process described in W. Va. Code §4-10-13:

- The Board continued to carry out its functions during the wind-up period.
- The Board filed a written statement with the Secretary of the DOA and with PERD describing the disposition of its funds, assets, equipment, and records on July 5, 2023.
- The Board's remaining special revenue account balance of \$11,401 was transferred to the State's General Revenue Fund on June 30, 2023.
- Furniture, computers, office equipment, and other assets were **not** transferred to the Surplus Property Division. The justification for this is that under a memorandum of understanding, the Board and two other regulatory boards, the Board of

Landscape Architects and the Board of Funeral Service Examiners, share total administrative costs within the same office space. The Board contacted the Acting Finance Director of the DOA and he determined that transferring the Board's assets to the Board of Landscape Architects would be appropriate for multiple reasons. While the Board of Hearing Aid Dealers owns these assets, they are also used by the Board of Landscape Architects which operates from the same space and would likely face financial hardship purchasing these items for itself. Transferring these assets to the Surplus Property Division, moving them to Institute, and moving them back to their current location would be inefficient and costly for the Board of Landscape Architects. Since these assets totaled less than \$1,000 in value, the DOA authorized the Board of Landscape Architects to receive the assets at its office in the People's Building at 179 Summers Street Suite 319, Charleston, West Virginia. These assets include a desktop computer, monitor, desktop printer-copier, and office chair.

- Personnel records were **not** transferred to the Division of Personnel. The matter was discussed with the DOA, and it was determined that the personnel files of former board members and staff are to be maintained at the current location where the Board of Funeral Service Examiners and the Board of Landscape Architects operate, which is where the Board's sole employee continues to work. **While this is sensible, the Division of Personnel should also retain a copy of these records in case a former employee or board member seeks future employment with the State of West Virginia.**
- Program and fiscal records were **not** transferred to the DOA. Since the supervision and regulation of hearing aid dealers and fitters will continue under the Board of Speech-Language Pathology and Audiology (W. Va. 30-26-21(b)), according to House Bill 4333, it was determined that the Board's applicant and licensee records would be sent to the Board of Speech-Language Pathology and Audiology. Fiscal records are being maintained at the People's Building and will be available to the Board of Speech-Language Pathology and Audiology if necessary. **The Department of Administration should also receive a copy of the fiscal records.**

W. Va. Code §4-10-12 and §4-10-13 contemplates a situation where regulation of an occupation is fully terminated instead of being transferred to another entity, which is the case here. The Board of Hearing Aid Dealers and Fitters provided operational reasons why it did not precisely follow the process described in W. Va. Code and included documentation from the Department of Administration authorizing its actions. The Board's actions, however, fulfilled the intent of the law and were in the best interest of state government. **PERD recommends the Division of Personnel and Department of Administration receive and maintain copies of personnel and fiscal records.**

Sincerely,  
  
John Sylvia