

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

HOUSE BILL No. 4659

(By Mr. Speaker, Mr. Charles)



Passed March 10, 1990

In Effect 90 Days from Passage

ENROLLED
H. B. 4659

(By MR. SPEAKER, MR. CHAMBERS)

[Passed March 10, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact sections three, five, seven, nine and twelve, article twenty-six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting license fees for hearing-aid dealers and fitters to be established by rule.

Be it enacted by the Legislature of West Virginia:

That sections three, five, seven, nine and twelve, article twenty-six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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 There is hereby created the West Virginia board of
2 hearing-aid dealers, which shall be composed of five
3 members to be appointed by the governor, by and with
4 the advice and consent of the Senate. The members of
5 the board shall be residents of this state. One member
6 shall be a person licensed to practice medicine in this
7 state and one member shall hold a degree in audiology
8 from an accredited college or university. The remaining
9 three members shall be persons having no less than five
10 years' experience as hearing-aid dealers or fitters and

11 shall hold a valid license under the provisions of this
12 article, except that the hearing-aid dealers or fitters to
13 be first appointed to the board shall obtain a license
14 under the provisions of this article within six months
15 following their appointment to the board.

16 The term of office of each member of the board shall
17 be four years, excepting that as to the members first
18 appointed to the board, one shall be appointed for two
19 years; two shall be appointed for three years; and two
20 shall be appointed for four years. A board member shall
21 serve until his successor has been duly appointed and
22 qualified and any vacancy in the office of a member
23 shall be filled by appointment for the unexpired term
24 of such member. Any member of the board shall be
25 eligible for reappointment.

26 The board shall annually at its meeting first succeed-
27 ing the first day of May elect from its own members a
28 chairman and vice chairman.

29 Each member of the board shall receive for each day
30 actually engaged in the duties of his office, a per diem
31 salary of one hundred dollars and shall be reimbursed
32 for all reasonable and necessary expenses actually
33 incurred in the performance of his duties as a member
34 of such board. All fees and other moneys collected by
35 the board, pursuant to the provisions of this article, shall
36 be kept in a separate fund and shall be expended solely
37 for the purposes of this article. The compensation for the
38 members of the board and all expenses incurred under
39 this article shall be paid from this special fund and no
40 such compensation or expenses shall be paid from the
41 general revenue fund of this state. All disbursements of
42 funds necessary to carry out the provisions of this article
43 shall be so disbursed only upon the authority of the
44 board.

45 The board is hereby empowered, with the assistance
46 of the department to generally supervise, regulate and
47 control the practice of dealing in or fitting of hearing
48 aids in this state, and in so doing, shall administer
49 qualifying examinations in accordance with the provi-
50 sions of this article to test the knowledge and proficiency

51 of all prospective licensees or trainees.

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

58 The board shall promulgate reasonable rules and
59 regulations in accordance with and subject to the
60 provisions of chapter twenty-nine-a of this code:

61 (a) For the proper performance of its duties;

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

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

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

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

**§30-26-5. Application for licenses; qualifications of
applicants; fees; duties of the board with
respect thereto.**

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

7 oath that the applicant:

8 (1) Intends to maintain a permanent office or place of
9 business in this state or that the applicant has at the
10 time of application a permanent office or place of
11 business in another state within a reasonable commut-
12 ing distance from this state. The board shall determine
13 and prescribe by regulation the term "reasonable
14 distance" as used herein;

15 (2) Is a person of good moral character and that he
16 has never been convicted of nor is presently under
17 indictment for a crime involving moral turpitude;

18 (3) Is eighteen years of age or older;

19 (4) Has an education equivalent to a four-year course
20 in an accredited high school; and

21 (5) Is free of chronic infectious or contagious diseases.

22 Any person who fails to meet any of the standards set
23 forth in the next preceding paragraph shall not be
24 eligible or qualified to take the examination nor shall
25 any such person be eligible or qualified to engage in the
26 practice of dealing in or fitting of hearing aids.

27 The board, after first determining that the applicant
28 is qualified and eligible in every respect to take the
29 examination, shall notify the applicant that he has
30 fulfilled all of the qualifications and eligibility require-
31 ments as required by this section and shall advise him
32 of the date, time and place for him to appear to be
33 examined as required by the provisions of this article
34 and the regulations promulgated by the board pursuant
35 to this article.

36 The board, with the aid and assistance of the depart-
37 ment, shall give at least one annual examination of the
38 type required by this article and may give such
39 additional examinations, at such times and places, as the
40 board and the department may deem proper, giving
41 consideration to the number of applications.

**§30-26-7. Results of examination disclosed to applicant;
issuance of license; fees.**

1 (a) Any person who has taken the examination shall
2 be notified by the board within thirty days following
3 such examination as to whether he has satisfactorily
4 passed the examination. If such person has failed to pass
5 the examination, he shall be notified of the reasons for
6 such failure and the particular portions of the exami-
7 nation which he failed to pass. Such person shall also
8 be advised of his right to take the examination in the
9 future.

10 If such applicant has satisfactorily passed the exam-
11 ination, he shall be advised of that fact by the board and,
12 upon payment of the prescribed fee, the board shall
13 register the applicant as a licensee and shall issue a
14 license to such applicant. Such license shall remain in
15 effect until the next succeeding thirtieth day of June.

16 (b) Within six months following the effective date of
17 this article, any applicant for a license who has been
18 engaged in the practice of dealing in or fitting of
19 hearing aids in this state for a period of three years
20 immediately prior to such effective date, shall be so
21 registered and issued a license without being required
22 to undergo or take the examination required by this
23 article: *Provided*, That such person meets all other
24 requirements of this article and the rules and regula-
25 tions promulgated pursuant thereto. All of the fees
26 which such prospective licensee would be otherwise
27 required to pay shall be paid by such prospective
28 licensee in the same manner and to the same extent as
29 if such prospective licensee had not so engaged in such
30 practice in this state for such three-year period.

31 (c) The issuance of a license by the board must have
32 the concurrence of a majority of its members.

§30-26-9. Renewal of license.

1 (a) A person who is engaged in the practice of dealing
2 in or fitting of hearing aids shall renew his license
3 annually upon payment of the prescribed renewal fee.
4 A thirty-day period shall be allowed after expiration of
5 a license during which any such license may be renewed
6 upon payment of the renewal fee plus a penalty for late
7 filing. After the expiration of such thirty-day period, the

8 board may renew such license upon payment of twice
9 the prescribed renewal fee. No person who applies for
10 renewal, whose license was suspended for failure to
11 renew, may be required to submit to any examination
12 as a condition of renewal if application is made within
13 two years following the date such license was so
14 suspended.

15 (b) In each even numbered year beginning with the
16 year one thousand nine hundred eighty-eight, each
17 applicant for renewal of license shall present to the
18 board evidence of continuing study and education of not
19 less than twenty hours in a course of study approved by
20 the board. Such twenty hours of instruction must have
21 been gained during the immediately preceding two
22 years.

§30-26-12. Temporary trainee permits.

1 A person who meets all of the qualifications and
2 requirements set forth in subdivision (2), section five of
3 this article may obtain a temporary trainee permit upon
4 application to the board. All such applications for a
5 temporary trainee permit shall be made in the manner
6 and form prescribed in the rules and regulations of the
7 board.

8 Upon receiving an application for a temporary trainee
9 permit as prescribed in this section, accompanied by the
10 prescribed fee, the board shall issue such permit which
11 shall entitle the applicant trainee to engage in the
12 practice of dealing in or fitting of hearing aids for a
13 period of one year under the supervision and control of
14 a licensee, such licensee to be responsible for the
15 supervision, training and control of such trainee.

16 If a person holding a temporary trainee permit under
17 this section has not successfully passed the licensing
18 examination within one year from the date of issuance
19 of such permit, the permit may be renewed or reissued
20 under such conditions as the board may require in its
21 rules and regulations for an additional one-year period
22 upon payment of the prescribed fee. No such temporary
23 trainee permit shall be reissued, renewed or extended
24 more than once.

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

Frederick J. Kerley
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Parrell Estelme
Clerk of the Senate

Donald G. Kopp
Clerk of the House of Delegates

Kelly Sundtelle
President of the Senate

Bob Cole
Speaker of the House of Delegates

The within *is approved* this the *30th*
day of *March*, 1990.

Caston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/00

Time 12:01 PM

RECEIVED

2000 MAR 30 PM 5:04

OFFICE OF THE GOVERNOR
SECRETARY OF STATE