WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

HOUSE BILL No. 4659

(By Mr. Speaker, Mr. Charles)

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Passed March 10, 1990

In Effect 90 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 hearing-aid dealers, which shall be composed of five members to be appointed by the governor, by and with the advice and consent of the Senate. The members of the board shall be residents of this state. One member shall be a person licensed to practice medicine in this state and one member shall hold a degree in audiology from an accredited college or university. The remaining three members shall be persons having no less than five years’ experience as hearing-aid dealers or fitters and
shall hold a valid license under the provisions of this article, except that the hearing-aid dealers or fitters to be first appointed to the board shall obtain a license under the provisions of this article within six months following their appointment to the board.

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

The board shall annually at its meeting first succeeding the first day of May elect from its own members a chairman and vice chairman.

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

The board is hereby empowered, with the assistance of the department to generally supervise, regulate and control the practice of dealing in or fitting of hearing aids in this state, and in so doing, shall administer qualifying examinations in accordance with the provisions of this article to test the knowledge and proficiency
of all prospective licensees or trainees.

The board may purchase and maintain or rent audiometric equipment and other facilities necessary to carry out the examination of applicants as provided in this article and may purchase such other equipment and supplies and employ such persons as it deems appropriate to carry out the provisions of this article.

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

(a) For the proper performance of its duties;

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

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

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

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

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

Each person desiring to obtain a license from the board to engage in the practice of dealing in or fitting of hearing aids shall make application to the board. The application shall be made in such manner and form as prescribed by the board and shall be accompanied by the prescribed fee. The application shall state under
(1) Intends to maintain a permanent office or place of business in this state or that the applicant has at the time of application a permanent office or place of business in another state within a reasonable commuting distance from this state. The board shall determine and prescribe by regulation the term "reasonable distance" as used herein;

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

(3) Is eighteen years of age or older;

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

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

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

The board, after first determining that the applicant is qualified and eligible in every respect to take the examination, shall notify the applicant that he has fulfilled all of the qualifications and eligibility requirements as required by this section and shall advise him of the date, time and place for him to appear to be examined as required by the provisions of this article and the regulations promulgated by the board pursuant to this article.

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

§30-26-7. Results of examination disclosed to applicant; issuance of license; fees.
(a) Any person who has taken the examination shall be notified by the board within thirty days following such examination as to whether he has satisfactorily passed the examination. If such person has failed to pass the examination, he shall be notified of the reasons for such failure and the particular portions of the examination which he failed to pass. Such person shall also be advised of his right to take the examination in the future.

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

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

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

§30-26-9. Renewal of license.

(a) A person who is engaged in the practice of dealing in or fitting of hearing aids shall renew his license annually upon payment of the prescribed renewal fee. A thirty-day period shall be allowed after expiration of a license during which any such license may be renewed upon payment of the renewal fee plus a penalty for late filing. After the expiration of such thirty-day period, the
board may renew such license upon payment of twice
the prescribed renewal fee. No person who applies for
renewal, whose license was suspended for failure to
renew, may be required to submit to any examination
as a condition of renewal if application is made within
two years following the date such license was so
suspended.

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

§30-26-12. Temporary trainee permits.

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

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

If a person holding a temporary trainee permit under
this section has not successfully passed the licensing
examination within one year from the date of issuance
of such permit, the permit may be renewed or reissued
under such conditions as the board may require in its
rules and regulations for an additional one-year period
upon payment of the prescribed fee. No such temporary
trainee permit shall be reissued, renewed or extended
more than once.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 30th day of [Month], 1990.

[Signature]
Governor