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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

— ● —

# ENROLLED

*Com. Sub. For*

HOUSE BILL No. *H416*

(By Delegates *Alshcraft and Spencer*)

— ● —

Passed *March 7,* 1992

In Effect *Ninety Days From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4416**  
(By DELEGATES ASHCRAFT AND SPENCER)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirty-two, relating to the licensure and regulation of audiologists and speech-language pathologists; stating legislative intent; providing definitions; providing requirements for speech-language pathology and audiology assistants; defining persons and practices affected; defining persons and practices not affected; providing exemption from civil liability; establishing the board of examiners for speech-language pathology and audiology; requiring meetings of the board; providing compensation; establishing powers and duties of the board; establishing special revenue account; establishing qualifications for licensure; providing for provisional license; providing for license renewal; providing for reinstatement of expired licenses; providing disciplinary actions; providing procedures for hearing; providing for judicial review; providing for action to enjoin violations; providing civil and criminal penalties; providing for termination of the board; and providing for severability.

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

That chapter thirty of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirty-two, to read as follows:

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

**§30-32-1. Purpose and legislative intent.**

1 It is hereby declared to be a policy of this state that  
2 the practice of speech-language pathology and audiology  
3 is a privilege granted to qualified persons and that, in  
4 order to safeguard the public health, safety and welfare,  
5 protect the public from being misled by incompetent,  
6 unscrupulous and unauthorized persons, and protect the  
7 public from unprofessional conduct by qualified speech-  
8 language pathologists and audiologists, it is necessary to  
9 provide regulatory authority over persons offering  
10 speech-language pathology and audiology services as  
11 designated in this article.

**§30-32-2. Definitions.**

1 For the purpose of this article, the terms defined shall  
2 not include persons employed or contracted by the West  
3 Virginia board of education, a county board of educa-  
4 tion, or a regional education service agency:

5 (a) "Audiologist" means any person who engages in  
6 the practice of audiology and who meets the qualifica-  
7 tions set forth in this article. A person represents  
8 himself or herself to be an audiologist when he or she  
9 holds out to the public by any means, or by any service  
10 or function he or she performs, directly or indirectly, or  
11 by using the terms "audiology," "audiologist," "audiome-  
12 try," "audiometrist," "audiological," "audiometrics,"  
13 "hearing therapy," "hearing therapist," "hearing clinic,"  
14 "hearing clinician," "hearing center," "hearing aid  
15 audiologist," or any variation, synonym, coinage or  
16 whatever expresses, employs, or implies these terms,  
17 names or functions.

18 (b) "Audiology" means the application of principles,  
19 methods, and procedures related to hearing and the  
20 disorders of hearing and to related language and speech  
21 disorders. Disorders means and includes any and all

22 conditions, whether of organic or nonorganic origin,  
23 peripheral or central, that impede the normal process  
24 of human communication including, but not limited to,  
25 disorders of auditory sensitivity, acuity, function or  
26 processing.

27 (c) "Audiology assistant," or any variation, synonym,  
28 or coinage of the term, means an individual who meets  
29 minimum qualifications established by the board, which  
30 are less than those established by this article as  
31 necessary for licensing as an audiologist; who does not  
32 act independently; and who works under the direction  
33 and supervision of an audiologist licensed under this  
34 article.

35 (d) "Board" means the West Virginia board of  
36 examiners for speech-language pathology and audiology.

37 (e) "Instruction" means: (1) Providing speech-lan-  
38 guage pathology or audiology services or teaching in  
39 infant/toddler, preschool, elementary or secondary  
40 school programs except for services provided by those  
41 persons employed or contracted by the West Virginia  
42 board of education, a county board of education or a  
43 regional education service agency; or (2) teaching  
44 students in institutions of higher education.

45 (f) "Person" means and includes any individual,  
46 partnership, trust, association, corporation or other like  
47 organization, or any combination thereof, except that  
48 only individuals can be licensed under this article.

49 (g) "Practice of audiology" means: (1) Facilitating the  
50 conservation of auditory system function, developing  
51 and implementing environmental and occupational  
52 hearing conservation programs; (2) screening, identify-  
53 ing, assessing and interpreting, preventing and rehabil-  
54 itating peripheral and central auditory system dysfunc-  
55 tions; (3) providing and interpreting behavioral and  
56 (electro) physiological measurements of auditory func-  
57 tions; (4) providing vestibular assessment and balance  
58 system rehabilitation; (5) providing neurophysiologic  
59 intraoperative monitoring; (6) selecting, fitting and  
60 dispensing of amplification, assistive listening and  
61 alerting devices and providing training in their use; (7)

62 evaluating candidacy, fitting and providing training in  
63 the use of implantable devices; and (8) providing aural  
64 rehabilitation and related counseling services to hearing  
65 impaired individuals and their families. In accordance  
66 with rules promulgated by the board, the practice of  
67 audiology may include screening of speech-language and  
68 other factors affecting communication function for the  
69 purposes of an audiologic evaluation and/or initial  
70 identification of individuals with other communication  
71 disorders.

72 (h) "Practice of speech-language pathology" means:  
73 (1) screening, identifying, assessing and interpreting,  
74 diagnosing, preventing, and rehabilitating disorders of  
75 speech (e.g., articulation, fluency, and language; (2)  
76 screening, identifying, assessing and interpreting,  
77 evaluating and rehabilitating disorders of oral-pharyn-  
78 geal function (e.g., dysphagia) voice and related dis-  
79 orders; (3) screening, identifying, assessing and inter-  
80 preting, diagnosing and rehabilitating cogni-  
81 tive/communication disorders; (4) assessing, selecting  
82 and developing augmentative and alternative commun-  
83 ication systems and providing training in their use; (5)  
84 providing aural rehabilitation and related counseling  
85 services to hearing impaired individuals and their  
86 families; and (6) enhancing speech-language proficiency  
87 and communication effectiveness (e.g., accent reduc-  
88 tion). In accordance with rules promulgated by the  
89 board, the practice of speech-language pathology may  
90 include screening of hearing and other factors affecting  
91 communication function for the purposes of a speech-  
92 language evaluation and/or initial identification of  
93 individuals with other communication disorders.

94 (i) "Research" means a systematic investigation  
95 designed to develop or contribute to generalizable  
96 knowledge about human communication, human com-  
97 munication disorders, and/or evaluation or treatment  
98 strategies. Activities meeting this definition constitute  
99 research: *Provided*, That as used above and for the  
100 purposes of this article, research does not include  
101 activities that take place under the auspices of a  
102 recognized institutional review board which reviews,

103 approves, and monitors proposals and activities involv-  
104 ing human subjects to ensure that the rights and welfare  
105 of such subjects are protected.

106 (j) "Speech-language pathologist" means any person  
107 who engages in the practice of speech-language pathol-  
108 ogy and who meets the qualifications set forth in this  
109 article. A person represents himself or herself to be a  
110 speech-language pathologist when he or she holds out to  
111 the public by any means, or by any service or function  
112 he or she performs, directly or indirectly, or by using  
113 the terms "speech therapy," "speech therapist," "speech  
114 correction," "speech correctionist," "speech clinic,"  
115 "speech clinician," "language pathology," "language  
116 pathologist," "voice therapy," "voice therapist," "voice  
117 pathology," "voice pathologist," "logopedics," "logope-  
118 dist," "communicology," "communicologist," "aphasiol-  
119 ogy," "aphasiologist," "phoniatriest," or any variation,  
120 synonym, coinage or whatever expresses, employs, or  
121 implies these terms, names or functions.

122 (k) "Speech-language pathology" means the applica-  
123 tion of principles, methods, and procedures related to  
124 the development and disorders of human communica-  
125 tion. Disorders are defined to include any and all  
126 conditions, whether of organic or nonorganic origin, that  
127 impede the normal process of human communication  
128 including, but not limited to, disorders and related  
129 disorders of speech, articulation, fluency, voice, verbal  
130 and written language, auditory comprehension, cogni-  
131 tion/communication, and oral, pharyngeal and/or  
132 laryngeal sensorimotor competencies.

133 (l) "Speech-language pathology assistant," or any  
134 variation, synonym, or coinage of the term means an  
135 individual who meets minimum qualifications estab-  
136 lished by the board, which are less than those estab-  
137 lished by this article as necessary for licensing as a  
138 speech-language pathologist; who does not act independ-  
139 ently; and who works under the direction and supervi-  
140 sion of a speech-language pathologist licensed under this  
141 article.

**§30-32-3. Speech-language pathology and audiology assistants.**

1 (a) Speech-language pathologists and audiologists  
2 supervising speech-language pathology and audiology  
3 assistants shall:

4 (1) Register with the board the name of each assistant  
5 working under their supervision;

6 (2) Be responsible for the performance of the assistant  
7 and for all services provided by the assistant, consistent  
8 with the board's designated standards and require-  
9 ments; and

10 (3) Ensure that persons receiving services from an  
11 assistant receive prior written notification that services  
12 are to be provided by an assistant.

13 (b) The board shall establish rules to define the role  
14 of the speech-language pathology or audiology assistant,  
15 including, but not limited to:

16 (1) The supervisory responsibilities of the licensee;

17 (2) The ratio of assistants to licensees;

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

20 (4) The frequency, duration and documentation of  
21 direct, on-site supervision;

22 (5) The quantity and content of preservice and  
23 inservice instruction; and

24 (6) The procedures for renewing the registration of  
25 assistants and terminating their duties.

**§30-32-4. Persons and practices affected.**

1 The board shall grant licensure in either speech-  
2 language pathology or audiology independently. A  
3 person may be licensed in both areas if he or she meets  
4 the respective qualifications. Except as otherwise  
5 provided in this article, effective the first day of  
6 October, one thousand nine hundred ninety-two, no  
7 person shall practice speech-language pathology or  
8 audiology or represent himself or herself as a speech-  
9 language pathologist or audiologist in this state, unless

10 such person is licensed in accordance with the laws of  
11 this state. A person licensed under this article as an  
12 audiologist shall not be required to obtain a license  
13 under the provisions of article twenty-six of this chapter.

**§30-32-5. Persons and practices not affected.**

1 Nothing in this article shall be construed as prevent-  
2 ing or restricting:

3 (a) A person licensed or registered by this state in  
4 another profession from practicing the profession for  
5 which he or she is licensed or registered, so long as they  
6 do not hold themselves out to the public as possessing  
7 a license issued pursuant to this article or use a title set  
8 forth in section (2) of this article;

9 (b) A physician or surgeon licensed by this state while  
10 engaging in the profession for which they are licensed;

11 (c) Hearing testing or balance system assessment by  
12 trained individuals under the direct supervision of a  
13 licensed physician or surgeon, so long as such individ-  
14 uals do not hold themselves out to the public as  
15 possessing a license issued pursuant to this article or use  
16 a title set forth in section (2) of this article;

17 (d) A person employed or contracted with the West  
18 Virginia Board of Education, a county board of educa-  
19 tion, or a Regional Education Service Agency;

20 (e) A person duly credentialed by this state as a  
21 teacher of the deaf;

22 (f) The activities and services of persons pursuing a  
23 course of study leading to a degree in speech-language  
24 pathology or audiology at a college or university; if:

25 (1) These activities and services constitute a part of  
26 a planned course of study at that institution;

27 (2) Such persons are designated by a title such as  
28 intern, trainee, student, or by other such title clearly  
29 indicating the status appropriate to their level of  
30 education; and

31 (3) Such persons work under the supervision of a  
32 person licensed by this state to practice speech-language



33 pathology or audiology.

34 (g) The activities of persons who are nonresidents of  
35 this state from engaging in the practice of speech-  
36 language pathology or audiology if the activities of such  
37 persons do not exceed five days in any calendar year and  
38 such persons:

39 (1) Meet the qualifications of this article;

40 (2) Register with the board in accordance with  
41 procedures specified in its rules and regulations; and

42 (3) Agree to abide by the standards of professional  
43 conduct contained in this article and rules promulgated  
44 by the board.

45 (h) The practices and procedures of qualified licensed  
46 hearing aid dealers engaged solely in the practice of  
47 dealing in or fitting of hearing aids under article  
48 twenty-six of this chapter; and

49 (i) Occupational hearing conservationists engaged in  
50 hearing testing as part of a hearing conservation  
51 program in compliance with regulations of the Occupa-  
52 tional Safety and Health Administration.

**§30-32-6. Exemption from civil liability.**

1 While serving on any peer review committee, any  
2 speech-language pathologist or audiologist shall not be  
3 liable for civil damages as a result of his or her  
4 decisions, findings or recommendations in connection  
5 with his or her duties on such committees, except for  
6 decisions, findings or recommendations which are  
7 arbitrary or capricious.

**§30-32-7. Board of examiners for speech-language pa-  
thology and audiology.**

1 (a) There is hereby created a state board to be known  
2 and designated as the "West Virginia Board of Examin-  
3 ers for Speech-Language Pathology and Audiology"  
4 which shall consist of five members appointed by the  
5 governor, with the advice and consent of the Senate. All  
6 members shall be residents of this state and have been  
7 residents of this state for at least two years prior to their

8 appointments. The board shall be representative of  
9 various geographical regions of the state and of various  
10 employment settings.

11 (b) Two of the members shall be speech-language  
12 pathologists who are currently practicing speech-  
13 language pathology or who have had three years  
14 experience practicing speech-language pathology, and  
15 who hold active and valid licensure for the practice of  
16 speech-language pathology in this state, except for the  
17 first speech-language pathologists appointed who shall  
18 meet the eligibility requirements for licensure as  
19 specified in this article. Two of the members shall be  
20 audiologists who are currently practicing audiology or  
21 who have had three years experience practicing audi-  
22 ology, and who hold active and valid licensure for the  
23 practice of audiology in this state, except for the first  
24 audiologists appointed who shall meet the eligibility  
25 requirements for licensure as specified in this article.  
26 The fifth member shall be a lay person who is not  
27 associated with or financially interested in the practice  
28 or business of speech-language pathology or audiology  
29 nor a member of an allied or related profession or  
30 occupation.

31 (c) Within thirty days from the effective date of this  
32 article, the governor shall appoint the professional  
33 members of the first board from a list of names of at  
34 least seven speech-language pathologists and seven  
35 audiologists submitted by the state speech-language  
36 hearing association or from recommendations submitted  
37 by interested organizations or persons in the state. Each  
38 subsequent appointment of professional members may  
39 be made from recommendations submitted by the state  
40 speech-language-hearing association which may submit  
41 at least three names for each available position or from  
42 recommendations submitted by other interested organ-  
43 izations or persons in the state. No member of the board  
44 shall at the same time serve in an elected, appointed,  
45 or employed position in any state-level organization  
46 representing speech-language pathologists and audiolo-  
47 gists, or both, which presents or may present a conflict  
48 of interest.

49 (d) Of the members first appointed, one of the  
50 audiologists and one of the speech-language pathologists  
51 shall serve for terms expiring the thirtieth day of June,  
52 one thousand nine hundred ninety-five, and the other of  
53 each of the professions shall serve for terms expiring the  
54 thirtieth day of June, one thousand nine hundred ninety-  
55 four, and the lay member shall serve for a term expiring  
56 the thirtieth day of June, one thousand nine hundred  
57 ninety-three. All subsequent appointments shall be for  
58 three years. Members shall serve until the expiration of  
59 the term for which they have been appointed or until  
60 their successors have been appointed and qualified. In  
61 the event of a vacancy in the office of a member of the  
62 board other than by expiration of a term, the governor  
63 shall appoint a qualified person to fill the vacancy for  
64 the unexpired term. No member may serve more than  
65 two consecutive three year terms.

**§30-32-8. Meetings of the board.**

1 The board shall meet during the first month of each  
2 calendar or fiscal year to select a chairperson and to  
3 conduct other appropriate business, and shall hold at  
4 least one additional meeting before the end of each  
5 calendar or fiscal year. Additional meetings may be held  
6 at the call of the chairperson. Three members of the  
7 board shall constitute a quorum to do business, includ-  
8 ing at least one speech-language pathologist and one  
9 audiologist.

**§30-32-9. Compensation.**

1 Members of the board shall receive a per diem of fifty  
2 dollars for each day actually engaged in the perfor-  
3 mance of the duties of the office, and shall also receive  
4 reimbursement for reasonable and necessary expenses  
5 actually incurred in the performance of their duties:  
6 *Provided*, That a majority of the board shall approve  
7 such compensation.

**§30-32-10. Powers and duties of the board.**

1 (a) The board shall:  
2 (1) Administer, coordinate and enforce the provisions  
3 of this article, establish licensure fees, evaluate the

4 qualifications of applicants, supervise the examination  
5 of applicants, register speech-language pathology and  
6 audiology assistants and issue and renew licenses;

7 (2) Investigate allegations of violations of this article  
8 and impose penalties if such violations of this article  
9 have occurred;

10 (3) Promulgate reasonable rules, in accordance with  
11 chapter twenty-nine-a of this code, including, but not  
12 limited to, rules that delineate qualifications for  
13 licensure; specify requirements for the renewal of  
14 licensure; set forth procedures for registering speech-  
15 language pathology and audiology assistants; and  
16 establish standards of professional conduct. Following  
17 their adoption, the rules shall govern and control the  
18 professional conduct of every person who holds a license  
19 to practice speech-language pathology or audiology or  
20 who is registered as a speech-language pathology and  
21 audiology assistant in this state;

22 (4) Have available the names of persons currently  
23 licensed and registered under the provision of this  
24 article;

25 (5) Employ such personnel as determined by its needs  
26 and budget;

27 (6) Request legal advice and assistance, as needed,  
28 from the attorney general;

29 (7) Enter into such contracts as necessary to carry out  
30 its responsibilities under this article;

31 (8) Hire legal counsel, if necessary;

32 (9) Establish a budget;

33 (10) Maintain reports of its operations and finances;

34 (11) Adopt an official seal (or seals) by which it shall  
35 authenticate its proceedings, copies of proceedings,  
36 records, acts of the board and licenses; and

37 (12) Communicate disciplinary actions to relevant  
38 state and federal authorities and to other state speech-  
39 language pathology and audiology licensing authorities.

40 (b) The conferral or enumeration of specific powers  
41 elsewhere in this article shall not be construed as a  
42 limitation of the general functions conferred by this  
43 section.

44 (c) No member of the board shall be liable to civil  
45 action for any act performed in good faith in the  
46 performance of his or her duties as prescribed by law.

**§30-32-11. Funds.**

1 All fees and other moneys received by the board,  
2 including civil penalties imposed and collected pursuant  
3 to the provisions of section seventeen of this article, shall  
4 be deposited in a separate account in the state treasury.  
5 Expenditures for the purposes set forth in the article are  
6 not authorized from collections but are to be made only  
7 in accordance with appropriation and in accordance  
8 with the provisions of article three, chapter twelve of  
9 this code and upon fulfillment of the provisions set forth  
10 in article two, chapter five-a of this code.

11 Amounts collected which are found from time to time  
12 to exceed the funds needed for the purposes set forth in  
13 this article may be transferred to other accounts or  
14 funds and redesignated for other purposes by appropri-  
15 ation of the Legislature.

**§30-32-12. Qualifications for license.**

1 To be eligible for licensure by the board as a speech-  
2 language pathologist or audiologist, the applicant shall:

3 (a) Make application to the board, upon such a form  
4 prescribed by the board;

5 (b) Pay to the board the appropriate application fee;

6 (c) Possess at least a master's degree or equivalent in  
7 speech-language pathology or audiology from an educa-  
8 tional institution approved by the board which consists  
9 of coursework approved by the board and delineated in  
10 the rules;

11 (d) Complete supervised clinical practicum experien-  
12 ces from an educational institution or its cooperating  
13 programs the content of which shall be approved by the

14 board and delineated in the rules;

15 (e) Complete a postgraduate professional experience  
16 as approved by the board and described in the rules; and

17 (f) Pass the national examination in speech-language  
18 pathology or audiology which is approved by the  
19 American speech-language-hearing association.

**§30-32-13. Waiver of requirements.**

1 (a) The board may waive the practicum and profes-  
2 sional experience requirements for applicants who:

3 (1) Provide proof of employment in the practice of  
4 speech-language pathology or audiology in this state for  
5 at least two out of the last five years immediately  
6 preceding the effective date of this article;

7 (2) Pass an examination, if requested by the board;

8 (3) Apply for a license in speech-language pathology  
9 or audiology within one year after the effective date of  
10 this article; and

11 (4) Possess at least a master's degree or equivalent in  
12 speech-language pathology or audiology from an educa-  
13 tional institution approved by the board which consists  
14 of coursework approved by the board and delineated in  
15 the rules.

16 (b) The board shall waive the examination require-  
17 ment for applicants who either:

18 (1) Present proof of current licensure in a state that  
19 has standards that are at least equivalent to those of this  
20 state; or

21 (2) Hold a certificate of clinical competence in speech-  
22 language pathology or audiology from the American  
23 speech-language-hearing association in the area for  
24 which they are applying for licensure.

25 (c) A person who holds current licensure from another  
26 state with equivalent standards or who holds the  
27 certificate of clinical competence from the American  
28 speech-language-hearing association may practice  
29 speech-language pathology or audiology in this state,

30 pending board disposition of their applications, if he or  
31 she:

32 (1) Is practicing in the area, speech-language pathol-  
33 ogy or audiology, in which the licensure or certificate  
34 of clinical competence was granted; and

35 (2) Has filed an application with the board and paid  
36 the appropriate application fee.

**§30-32-14. Provisional license.**

1 (a) The board shall issue a provisional license to an  
2 applicant who:

3 (1) Except for the postgraduate professional expe-  
4 rience, meets the academic, practicum, and examination  
5 requirements of this article;

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

9 (3) Pays to the board the appropriate application fee  
10 for a provisional license.

11 (b) The purpose of a provisional license is to permit  
12 an individual to practice speech-language pathology or  
13 audiology while completing the postgraduate profes-  
14 sional experience as required by this article. A person  
15 holding a provisional license is authorized to practice  
16 speech-language pathology or audiology only while  
17 working under the supervision of a person fully licensed  
18 by this state in accordance with this article.

19 (c) The term for provisional licenses and the condi-  
20 tions for their renewal are to be determined by the  
21 board and delineated in its rules and regulations.

**§30-32-15. License renewal.**

1 (a) Licenses first issued under this article shall expire  
2 on the first day of January, one thousand nine hundred  
3 ninety-five, and subsequent licenses shall expire every  
4 two years thereafter;

5 (b) Every person licensed under this bill shall:

6 (1) Pay an amount established by the board in order

7 for his or her license to be renewed;

8 (2) Submit an application for renewal on a form  
9 prescribed by the board;

10 (3) Meet any other requirements the board establishes  
11 as conditions for license renewal; and

12 (4) Engage in a minimum of ten hours of continuing  
13 education activities during the two-year licensing period  
14 whose content is directly related to the professional  
15 growth and development of speech-language patholo-  
16 gists and audiologists. The following are examples of  
17 ways in which these hours may be obtained:

18 (i) Short courses, mini-seminars and teleconferences  
19 of the American speech-language-hearing association;

20 (ii) Educational sessions of the West Virginia speech-  
21 language-hearing association;

22 (iii) Educational sessions provided within the licen-  
23 see's work setting; or

24 (iv) Any other activities approved by the board.

25 (c) Licensees are granted a grace period of thirty days  
26 after the expiration of their licenses in which to renew  
27 retroactively as long as they otherwise are entitled to  
28 have their licenses renewed and pay to the board the  
29 renewal fee and any late fee set by the board.

30 (d) A suspended license is subject to expiration and  
31 may be renewed as provided in this article, but such  
32 renewal shall not entitle the licensee, while the license  
33 remains suspended and until it is reinstated, to engage  
34 in the licensed activity, or in any other conduct or  
35 activity in violation of the order of judgment by which  
36 the license was suspended.

37 (e) A license revoked on disciplinary grounds is  
38 subject to expiration as provided in this article, but it  
39 may not be renewed. If such license is reinstated after  
40 its expiration, the licensee, as a condition of reinstate-  
41 ment, shall pay a reinstatement fee that shall equal the  
42 renewal fee in effect on the last regular renewal date  
43 immediately preceding the date of reinstatement, plus



44 any late fee set by the board.

**§30-32-16. Reinstatement of expired licenses.**

1 (a) A person who fails to renew his or her license by  
2 the end of the thirty-day grace period may have the  
3 license reinstated if he or she:

4 (1) Submits an application for reinstatement to the  
5 board within five years after the expiration date of the  
6 license;

7 (2) Meets requirements established by the board as  
8 conditions for license renewal; and

9 (3) Pays to the board a reinstatement fee equal to the  
10 renewal fee in effect on the last regular renewal date  
11 immediately preceding the date of reinstatement, and  
12 any late fee set by rules of the board.

13 (b) A person who fails to renew his or her license  
14 within five years after the expiration date may not have  
15 the license renewed, and the license may not be restored,  
16 reissued, or reinstated thereafter, although such person  
17 may apply for and obtain a new license if he or she  
18 meets the requirements of this article and pays to the  
19 board the appropriate fee or fees.

**§30-32-17. Disciplinary actions.**

1 (a) The board may impose any of the following  
2 disciplinary actions in those instances in which an  
3 applicant for a license or a licensee has been guilty of  
4 conduct which has endangered, or is likely to endanger  
5 the health, welfare or safety of the public:

6 (1) Refuse to issue or renew a license;

7 (2) Issue a letter of reprimand or concern;

8 (3) Require restitution of fees;

9 (4) Impose probationary conditions;

10 (5) Impose a civil penalty not to exceed five hundred  
11 dollars; or

12 (6) Suspend or revoke a license.

13 (b) The board may take disciplinary actions for

14 conduct that may result from but not necessarily be  
15 limited to:

16 (1) Fraudulently or deceptively obtaining or attempt-  
17 ing to obtain a license or a provisional license for the  
18 applicant, licensee, holder or for another;

19 (2) Fraudulently or deceptively using a license or  
20 provisional license;

21 (3) Altering a license or provisional license;

22 (4) Aiding or abetting unlicensed practice; and

23 (5) Committing fraud or deceit in the practice of  
24 speech-language pathology or audiology, including, but  
25 not limited to:

26 (i) Willfully making or filing a false report or record  
27 in the practice of speech-language pathology or  
28 audiology;

29 (ii) Submitting a false statement to collect a fee; or

30 (iii) Obtaining a fee through fraud or mis-  
31 representation.

32 (6) Using or promoting or causing the use of any  
33 misleading, deceiving, improbable or untruthful adver-  
34 tising matter, promotional literature, testimonial,  
35 guarantee, warranty, label, brand, insignia or any other  
36 representation;

37 (7) Falsely representing the use or availability of  
38 services or advice of a physician.

39 (8) Misrepresenting the applicant, licensee or holder  
40 by using the word "doctor" or any similar word,  
41 abbreviation or symbol if the use is not accurate or if  
42 the degree was not obtained from a regionally accre-  
43 dited institution;

44 (9) Committing any act of dishonorable, immoral or  
45 unprofessional conduct while engaging in the practice  
46 of speech-language pathology or audiology;

47 (10) Engaging in illegal, incompetent or habitually  
48 negligent practice;

- 49 (11) Providing professional services while;  
50 (i) Mentally incompetent;  
51 (ii) Under the influence of alcohol;  
52 (iii) Using any narcotic or controlled dangerous  
53 substance or other drug that is in excess of therapeutic  
54 amounts or without valid medical indication; or  
55 (iv) Having a serious contagious disease.  
56 (12) Providing services or promoting the sale of  
57 devices, appliances or products to a person who cannot  
58 reasonably be expected to benefit from such services,  
59 devices, appliances or products.  
60 (13) Violating any provision of this article, or any  
61 lawful order given, or rule adopted by the board;  
62 (14) Being convicted of or pleading guilty or nolo  
63 contendere to a felony or to a crime involving moral  
64 turpitude, whether or not any appeal or other proceed-  
65 ing is pending to have the conviction or plea set aside;  
66 or  
67 (15) Being disciplined by a licensing or disciplinary  
68 authority of any other state or country or convicted or  
69 disciplined by a court of any state or country for an act  
70 that would be grounds for disciplinary action under this  
71 section.

**§30-32-18. Procedures for hearing.**

- 1 (a) Whenever the board shall deny an application for  
2 any original or renewal license of any kind under this  
3 article or shall suspend or revoke any such license it  
4 shall make and enter an order to that effect and serve  
5 a copy thereof on the applicant or licensee, as the case  
6 may be, by certified mail, return receipt requested.  
7 Such order shall state the grounds for the action taken  
8 and shall require that any license suspended or revoked  
9 thereby shall be returned to the board by the holder  
10 within twenty days after receipt of the copy of the order.  
11 (b) Any person adversely affected by any such order  
12 shall be entitled to a hearing thereon as to all issues not  
13 excluded from the definition of "contested case" as set

14 forth in article one, chapter twenty-nine-a of this code  
15 if, within twenty days after receipt of a copy thereof, he  
16 or she filed with the board a written demand for such  
17 hearing. A demand for hearing shall operate automat-  
18 ically to stay or suspend the execution of any order  
19 suspending or revoking a license or denying an appli-  
20 cation for a renewal of license. The board may require  
21 the person demanding such hearing to give reasonable  
22 security for the costs thereof, and, if such person does  
23 not substantially prevail at such hearing, such costs  
24 shall be assessed against the person and may be  
25 collected by a civil action or other proper remedy.

26 (c) Upon receipt of a written demand for a hearing,  
27 the board shall set a time and place thereof not less than  
28 ten nor more than thirty days thereafter. The person  
29 demanding the hearing may be granted one continuance  
30 as a matter of right and further continuances for good  
31 cause shown.

32 (d) All of the pertinent provisions of article five,  
33 chapter twenty-nine-a of this code shall apply to and  
34 govern the hearing, and the administrative procedures  
35 in connection with and following such hearing, with like  
36 effect as if the provisions of the article were set forth  
37 in this subsection.

38 (e) Any such hearing shall be conducted by a quorum  
39 of the board. For the purpose of conducting any such  
40 hearing any member of the board may issue subpoenas  
41 and subpoenas duces tecum which shall be issued and  
42 served within the time and for the fees and shall be  
43 enforced, as specified in section one, article five, chapter  
44 twenty-nine-a of this code, and all of the provisions of  
45 such section dealing with subpoenas and subpoenas  
46 duces tecum shall apply to those issued for the purpose  
47 of a hearing hereunder.

48 (f) At any such hearing the person who demanded the  
49 same may represent himself or herself or be represented  
50 by an attorney admitted to practice law in this state.  
51 Upon request of the board, it shall be represented at any  
52 such hearing by the attorney general or his assistants  
53 without additional compensation.

54 (g) After any such hearing and consideration of all of  
55 the testimony, evidence and record in the case, the board  
56 shall render its decision in writing, accompanied by  
57 findings of fact and conclusions of law as specified in  
58 section three, article five, chapter twenty-nine-a of this  
59 code, and a copy of such decision and accompanying  
60 findings and conclusions shall be served by certified  
61 mail, return receipt requested, upon the person demand-  
62 ing such hearing, and the person's attorney of record,  
63 if any.

64 (h) The decision of the board shall be final unless  
65 reversed, vacated or modified upon judicial review  
66 thereof in accordance with this article.

**§30-32-19. Judicial review; appeal to supreme court of  
appeals; legal counsel.**

1 Any person adversely affected by a decision of the  
2 board rendered after a hearing held in accordance with  
3 the provisions of this article shall be entitled to judicial  
4 review thereof. All of the pertinent provisions of section  
5 four, article five, chapter twenty-nine-a of this code shall  
6 apply to and govern such judicial review with like effect  
7 as if they were set forth in this section.

8 The judgment of the circuit court shall be final unless  
9 reversed, vacated or modified on appeal to the supreme  
10 court of appeals in accordance with the provisions of  
11 article six, chapter twenty-nine-a of this code.

12 Legal counsel and services for the board in all appeal  
13 proceedings in any circuit court and the supreme court  
14 of appeals shall be provided by the attorney general or  
15 his assistants and in any circuit court by the prosecuting  
16 attorney of the county as well, all without additional  
17 compensation.

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

1 Whenever it appears to the board that any person has  
2 been or is violating or is about to violate any provision  
3 of this article, any reasonable rule or regulation  
4 promulgated hereunder or any final decision of the  
5 board, the board may apply in the name of the state to  
6 the circuit court of the county in which the violation or

7 violations or any part thereof has occurred, for an  
8 injunction against such person and any other persons  
9 who have been, are or are about to be, involved in any  
10 practices, acts or omissions, so in violation, enjoining  
11 such person or persons from any such violation or  
12 violations. Such application may be made and prose-  
13 cuted to conclusion whether or not any such violation or  
14 violations have resulted or shall result in prosecution or  
15 conviction under other provisions of this article.

16 Upon application by the board, the circuit courts of  
17 this state may by mandatory or prohibitory injunction  
18 compel compliance with the provisions of this article,  
19 the reasonable rules promulgated hereunder and all  
20 orders and final decisions of the board. The court may  
21 issue a temporary injunction in any case pending a  
22 decision on the merits of any application filed.

23 The judgment of the circuit court upon any applica-  
24 tion permitted by the provisions of this section shall be  
25 final unless reversed, vacated or modified on appeal to  
26 the supreme court of appeals. Any such appeal shall be  
27 sought in the manner and within the time provided by  
28 law for appeals from circuit courts in other civil actions.

29 The board shall be represented in all such proceedings  
30 by the attorney general or his assistants and in such  
31 proceedings in the circuit court by the prosecuting  
32 attorney of the several counties as well, all without  
33 additional compensation.

**§30-32-21. Penalties.**

1 Any person who violates this article shall be guilty of  
2 a misdemeanor, and, upon conviction thereof, shall be  
3 punished by a fine of not more than five hundred  
4 dollars, or by imprisonment for not more than six  
5 months, or both.

**§30-32-22. Termination of board.**

1 The West Virginia board of examiners for speech-  
2 language pathology and audiology shall be terminated  
3 pursuant to the provisions of article ten, chapter four of  
4 this code on the first day of July, one thousand nine  
5 hundred ninety-eight, unless sooner terminated or

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6 unless continued or reestablished pursuant to that  
7 article.

**§30-32-23. Severability.**

1 If any provision of this article or the application  
2 thereof to any person or circumstance shall be held  
3 invalid, the remainder of the article and the application  
4 of such provision to other persons or circumstances shall  
5 not be affected thereby.

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

*Homer Seck*

Chairman Senate Committee

*Ernest E. Moore*

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harrell E. Palmer*

Clerk of the Senate

*Donald L. Kopp*

Clerk of the House of Delegates

*Walter Buntline*

President of the Senate

*Robert Zell*

Speaker of the House of Delegates

The within is approved this the 27<sup>th</sup> day of March, 1992.

*Raymond E. Crutcher*

Governor



PRESENTED TO THE

GOVERNOR

Date 3/25/92

Time 11:40 am