WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4012

(By Delegate Morgan, Manypenny, Martin and Swartzmiller)

Passed March 10, 2012

To Take Effect From Passage
AN ACT to amend and reenact §16-1-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-16-4 of said code; to amend and reenact §30-23-5 of said code; and to amend and reenact §30-26-3 and §30-26-4 of said code, all relating to boards; changing the membership of boards; removing the Commissioner of the Bureau for Public Health from certain boards; removing the requirement that the commissioner provide support to certain boards; allowing certain boards to receive compensation not to exceed the amount paid to legislators; and updating the name of certain boards.

Be it enacted by the Legislature of West Virginia:

That §16-1-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §30-16-4 of said code be amended and reenacted; that §30-23-5 of said code be amended and reenacted; and that §30-26-3 and §30-26-4 of said code be amended and reenacted, all to read as follows:
CHAPTER 16. PUBLIC HEALTH.

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-7. Duties and powers of the commissioner; service on advisory councils; boards and commissions; authority to designate a representative to serve in his or her place on certain boards and commissions.

(a) Effective July 1, 2012, the commissioner serves on the following licensing boards:

1. The West Virginia Board of Medicine, provided in article three, chapter thirty; and

2. The State Board of Sanitarians, as provided in article seventeen, chapter thirty.

(b) Effective July 1, 2012, the commissioner serves on the following advisory councils, boards and commissions:

1. The Advisory Committee on Cancer (Cancer Registry);

2. The Air Quality Board;

3. The Appalachian States Low-level Radioactive Waste Commission;

4. The Child Fatality Review Team;

5. The Childhood Immunization Advisory Committee;

6. The Early Intervention Coordinating Council;
(7) The Interagency Council on Osteoporosis;

(8) The Sewage Advisory Board;

(9) The State Emergency Response Commission;

(10) The State Groundwater Coordinating Committee;

(11) The Water Development Authority;

(12) The West Virginia Commission for the Deaf and Hard of Hearing;

(13) The West Virginia Infrastructure and Jobs Development Council;

and

(14) Any other advisory council, board or commission as assigned by the secretary.

(c) Notwithstanding any other provision of this code to the contrary, the commissioner may, at his or her discretion, designate, in writing, a representative to serve in his or her stead at the meetings and in the duties of all boards and commissions on which the commissioner is designated as an ex officio member. The appropriately designated representative or proxy acts with the full power and authority of the commissioner in voting, acting upon matters concerning the public health and welfare and other business that is properly the duty of any board or commission. The representative serves as proxy at the commissioner’s will and pleasure. The provisions of this section do not apply to the West Virginia Board of Medicine, the Air Quality Board or other board, commission or body on which the commissioner
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is designated by this code as chairman ex officio, secretary ex officio or a board, commission or body on which the commissioner is designated by this code as being that person whose signature must appear on licenses, minutes or other documents necessary to carry out the intents and purposes of the board, commission or body.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 16. CHIROPRACTORS.

§30-16-4. West Virginia Board of Chiropractic; establishment and composition.

(a) The "West Virginia Board of Chiropractic" is continued. Effective July 1, 2012, the board is composed of four licensed chiropractors and one person to represent the interest of the public. All are appointed by the Governor, with the advice and consent of the Senate, from a list of three names recommended by the West Virginia Chiropractic Society, Incorporated. Each chiropractic member of the board shall have been a resident of and engaged in the active practice of chiropractic in the state for a period of at least five years preceding his or her appointment.

(b) As existing board members' terms expire, newly appointed board members are appointed by the Governor for a term of office of three years. No member may serve more than two full consecutive three-year terms. When a vacancy in the membership of the board occurs for a cause other than the expiration of a term, the Governor shall appoint a new member from a list of three names recommended by West Virginia Chiropractic Society, Incorporated, to fill the unexpired portion of the term of office.
(c) The Governor may remove any member of the board in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

(d) The board shall conduct an annual training program to familiarize new board members with their duties.

(e) Each member of the board is entitled to receive compensation in the amount paid to members of the Legislature for interim duties for each day or substantial portion that he or she is engaged in the work of the board or of its committees. Members are entitled to be reimbursed for actual and necessary expenses incurred in carrying out his or her duties.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-5. Medical Imaging and Radiation Therapy Technology Board of Examiners.

(a) The West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners is continued. The members of the board in office, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(b) The board shall consist of the following nine members, appointed by the Governor by and with the advice and consent of the Senate:

(1) Three licensed practitioners, two of whom shall be Radiologists;

(2) Three licensed Radiologic Technologists, one of whom shall be an active medical imaging educator;
(3) One licensed Nuclear Medicine Technologist;

(4) One licensed Magnetic Resonance Imaging; and

(5) One citizen member, who is not licensed under the provisions of this article and does not perform any services related to the practice licensed under the provisions of this article.

(c) Each member shall be appointed for a term of three years and may not serve more than two consecutive full terms. A member having served two consecutive full terms may not be appointed for one year after completion of his or her second full term. A member continues to serve until a successor has been appointed and has qualified. The terms shall be staggered in accordance with the initial appointments under prior enactments of this article.

(d) Each member of the board shall be a resident of West Virginia during the appointment term.

(e) The Radiologic Technologists, Nuclear Medicine Technologists and the Magnetic Resonance Imaging Technologists serving on the board shall maintain an active license with the board.

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

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

(h) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license to practice has been suspended or revoked. A
member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any state or the United States, or becomes a nonresident of this state.

(i) The board shall designate one of its members as chairperson and one member as secretary who shall serve at the will of the board.

(j) Each member of the board shall receive compensation and expense reimbursement in accordance with article one of this chapter.

(k) A majority of the members serving on the board shall constitute a quorum.

(l) The board shall hold at least two annual meetings. Other meetings shall be held at the call of the chairperson or upon the written request of two members, at such time and place as designated in the call or request.

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

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.

(a) There is continued the West Virginia board of hearing-aid dealers, which is composed of five members to be
appointed by the Governor, 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.

(b) The terms of office of each member of the board shall be four years, staggered in accordance with initial appointments under prior enactments of this act. A board member shall serve until his or her successor has been 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.

(c) The board shall annually at its meeting first succeeding May 1 elect from its own members a chairman and vice chairman.

(d) Each member of the board is entitled to receive for each day actually engaged in the duties of his or her office, an amount not to exceed the amount paid to legislators for their interim duties, and is entitled to be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his or her duties as a member of such board.

(e) 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.

(f) The board shall regulate and control the practice of dealing in or fitting of hearing aids in this state, and shall administer qualifying examinations in accordance with the provisions of this article to test the knowledge and proficiency of all prospective licensees or trainees.

(g) 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.

(h) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code:

(1) For the proper performance of its duties;

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

(3) 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 the form in which applications for such examinations shall be filed;
(4) 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; and

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

§30-26-4. Administrative duties; examinations; register; use of fees.

(a) Effective July 1, 2012, the administrative work of the board shall be performed by the board. The board shall keep full and complete records of all of their proceedings and accounts, which said records and accounts shall be open to public inspection at all reasonable times.

(b) The board is authorized to conduct, supervise, and administer the qualifying examinations authorized and required by this article, to maintain for a register or record of persons who apply for a license or a temporary trainee permit as well as a register or record of the name and last-known business address of all persons to whom a license or trainee permit is issued pursuant to this article.

(c) Effective July 1, 2012, the board shall bear the costs of carrying out the powers and duties granted to it by this article from the fees collected by it for these purposes.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 30th day of __________, 2012.

Governor
PRESENTED TO THE GOVERNOR

MARCH 9, 2012

Time: 11:10 a.m.