

COMMITTEE SUBSTITUTE

FOR

**H. B. 2524**

(By Delegate Morgan, Stephens, Givens, Hartman,  
Hatfield, Martin, Staggers and Swartzmiller)

(Originating in the Committee on the Judiciary)

[February 25, 2011]

A BILL to repeal §30-32-23 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-32-1, §30-32-2, §30-32-3, §30-32-4, §30-32-5, §30-32-6, §30-32-7, §30-32-8, §30-32-9, §30-32-10, §30-32-11, §30-32-12, §30-32-13, §30-32-14, §30-32-15, §30-32-16, §30-32-17, §30-32-18, §30-32-19, §30-32-20 and §30-32-21 of said code, all relating to the practice of speech-language pathology and audiology; prohibiting practice without a license; providing exemptions; specifying applicability of other law; providing definitions; continuing the Board of Examiners for Speech-Language Pathology and Audiology; specifying qualifications of board members; providing terms and conditions of board members' service; providing for election of board officers; providing for compensation and expense reimbursement of board members; setting forth powers and duties of the board; providing

1 rulemaking authority; continuing the Board of Examiners for  
2 Speech-Language Pathology and Audiology Fund; providing  
3 qualifications for practicing speech-language pathology or  
4 audiology; providing for provisional licenses to practice  
5 while attaining required postgraduate professional experience;  
6 providing for waiver of requirements for persons who hold a  
7 license from another state with substantially equivalent  
8 standards; providing for practice pending disposition of  
9 application; requiring a license to practice in public  
10 schools; providing requirements for attaining a license to  
11 practice in public schools; providing scopes of practice for  
12 speech-language pathology and audiology; requiring speech-  
13 language pathology assistants and audiology assistants to  
14 register with the board; providing registration and  
15 supervision requirements for speech-language pathology  
16 assistants and audiology assistants; requiring a license to  
17 telepractice; providing conditions and requirements for  
18 telepractice; providing for renewal of licenses and  
19 registrations; providing for renewal of lapsed licenses and  
20 registrations; providing for the suspension, revocation and  
21 refusal to renew licenses and registrations; providing for the  
22 reinstatement of revoked licenses and registrations;  
23 authorizing actions to enjoin violations; providing for the  
24 investigation of complaints; setting forth complaint  
25 procedures and hearing procedures; establishing grounds for  
26 disciplinary actions; providing for rights of appeal and

1 judicial review; providing that a single act is sufficient to  
2 justify disciplinary action; providing for criminal  
3 proceedings; and providing for criminal penalties.

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

5 That §30-32-22 and §30-32-23 of the Code of West Virginia,  
6 1931, as amended, be repealed; and that §30-32-1, §30-32-2, §30-32-  
7 3, §30-32-4, §30-32-5, §30-32-6, §30-32-7, §30-32-8, §30-32-9, §30-  
8 32-10, §30-32-11, §30-32-12, §30-32-13, §30-32-14, §30-32-15, §30-  
9 32-16, §30-32-17, §30-32-18, §30-32-19, §30-32-20 and §30-32-21 of  
10 said code be amended and reenacted, all to read as follows:

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

12 **§30-32-1. Unlawful acts; persons and practices not affected.**

13 (a) It is unlawful for any person to practice or offer to  
14 practice speech-language pathology or audiology in this state  
15 without a license issued under the provisions of this article, or  
16 advertise or use any title or description tending to convey the  
17 impression that the person is a speech-language pathologist or  
18 audiologist unless the person has been licensed under the  
19 provisions of this article, and the license has not expired, been  
20 suspended or revoked.

21 (b) No business entity, except through a licensee, may render  
22 any service or engage in any activity which if rendered or engaged  
23 in by an individual, would constitute the practices licensed under  
24 the provisions of this article.

25 (c) As of July 1, 2012, speech-language pathologists and  
26 audiologists employed or contracted by the West Virginia Board of

1 Education, a county board of education or a Regional Education  
2 Service Agency are required to be licensed under the provisions of  
3 this article.

4 (d) As of July 1, 2012, speech-language pathology assistants  
5 and audiology assistants employed or contracted by the West  
6 Virginia Board of Education, a county board of education or a  
7 Regional Education Service Agency are required to be registered  
8 with the board under the provisions of this article.

9 (e) Nothing in this article shall be construed as preventing  
10 or restricting:

11 (1) Any person licensed or registered under any other law of  
12 this state from practicing the profession and performing services  
13 for which he or she is licensed or registered;

14 (2) A physician or surgeon licensed by this state while  
15 engaging in the profession for which he or she is licensed;

16 (3) A trained individual providing hearing testing or balance  
17 system assessment under the direct supervision of a licensed  
18 physician or surgeon;

19 (4) A person credentialed by this state as a teacher of the  
20 deaf;

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

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

26 (B) They are designated by a title such as intern, trainee,

1 student or by other title clearly indicating the status appropriate  
2 to their level of education; and

3 (C) They work under the supervision of a person licensed by  
4 this state to practice speech-language pathology or audiology;

5 (6) The activities of persons who are nonresidents of this  
6 state from engaging in the practice of speech-language pathology or  
7 audiology if the activities of such persons do not exceed five days  
8 in any calendar year and they:

9 (A) Meet the qualifications of this article;

10 (B) Register with the board in accordance with procedures  
11 specified in its rules; and

12 (C) Abide by the standards of professional conduct contained  
13 in this article and rules promulgated by the board;

14 (7) The practices and procedures of qualified licensed hearing  
15 aid dealers engaged solely in the practice of dealing in or fitting  
16 of hearing aids under article twenty-six of this chapter; or

17 (8) The activity of occupational hearing conservationists  
18 engaged in hearing testing as part of a hearing conservation  
19 program in compliance with regulations of the Occupational Safety  
20 and Health Administration.

21 (f) A person licensed under this article as an audiologist is  
22 not required to obtain a license under the provisions of article  
23 twenty-six of this chapter.

24 **§30-32-2. General provisions.**

25 The practices licensed under the provisions of this article  
26 and the West Virginia Board of Examiners for Speech-Language

1 Pathology and Audiology are subject to the provisions of article  
2 one of this chapter, the provisions of this article, and any rules  
3 promulgated hereunder.

4 **§30-32-3. Definitions.**

5 The following terms have the following meanings:

6 (a) "Applicant" means a person applying for a license required  
7 by this article.

8 (b) "Assistant" means a speech-language pathology assistant or  
9 an audiology assistant as further defined in this section and who  
10 is registered with the board in accordance with the provisions of  
11 this article and legislative rule.

12 (c) "Audiologist" means a person who engages in the practice  
13 of audiology and who is licensed pursuant to the provisions of this  
14 article.

15 (d) "Audiology" means the application of principles, methods,  
16 and procedures related to hearing and the disorders of hearing and  
17 to related language and speech disorders.

18 (e) "Audiology disorders" means any and all conditions,  
19 whether of organic or nonorganic origin, peripheral or central,  
20 that impede the normal process of human communication including,  
21 but not limited to, disorders of auditory sensitivity, acuity,  
22 function or processing.

23 (f) "Audiology assistant" means a person who practices under  
24 the direction and supervision of an audiologist licensed under this  
25 article and who is registered with the board in accordance with  
26 this article and legislative rule.

1 (g) "Board" means the West Virginia Board of Speech-Language  
2 Pathology and Audiology.

3 (h) "Business entity" means any firm, partnership,  
4 association, company, corporation, limited partnership, limited  
5 liability company or other entity doing business in the State of  
6 West Virginia.

7 (i) "Direct supervision" means the actual physical presence of  
8 a supervising licensed speech-language pathologist or supervising  
9 licensed audiologist in the room where treatment is provided by an  
10 assistant.

11 (j) "General supervision" means initial direction and periodic  
12 inspection of the activities of an assistant by the supervising  
13 licensed speech-language pathologist or supervising licensed  
14 audiologist, who is physically present in the building where  
15 treatment is provided and is quickly and easily available.

16 (k) "Initial supervision training" means training required of  
17 supervising licensed speech-language pathologists and supervising  
18 licensed audiologists before providing supervision of assistants,  
19 as further defined by legislative rule.

20 (l) "Instruction" means:

21 (1) Providing speech-language pathology or audiology services  
22 in infant/toddler, preschool, elementary or secondary school  
23 programs; or

24 (2) Teaching students in institutions of higher education.

25 (m) "Level I license" means a licensed to practice exclusively  
26 in public schools issued pursuant to the provisions of section

1 eleven of this article.

2 (n) "License" means a license issued pursuant to the  
3 provisions of this article.

4 (o) "Licensee" means a person who is licensed pursuant to the  
5 provisions of this article.

6 (p) "Provisional license" means a license issued pursuant to  
7 the provisions of section nine of this article.

8 (q) "Registrant" means an assistant who is registered pursuant  
9 to the provisions of this article.

10 (r) "Registration" means a registration issued pursuant to the  
11 provisions of this article.

12 (s) "Speech-language pathologist" means any person who engages  
13 in the practice of speech-language pathology and who is licensed  
14 pursuant to the provisions of this article.

15 (t) "Speech-language pathology" means the application of  
16 principles, methods and procedures related to the development,  
17 disorders and effectiveness of human communication and related  
18 functions.

19 (u) "Speech-language pathology assistant" means a person who  
20 practices under the direction and supervision of a speech-language  
21 pathologist licensed under this article and who is registered with  
22 the board in accordance with this article and legislative rule.

23 (v) "Speech-language pathology disorders" means conditions,  
24 whether of organic or nonorganic origin, that impede the normal  
25 process of human communication including, but not limited to,  
26 disorders and related disorders of speech, articulation, fluency,



1 voice, verbal and written language, auditory comprehension,  
2 cognition/communication, and oral, pharyngeal and/or laryngeal  
3 sensorimotor competencies.

4 (w) "Telepractice" means the application of telecommunication  
5 technology to deliver speech-language pathology or audiology  
6 services through real time interaction from one site to another for  
7 assessment, intervention or consultation in a manner sufficient to  
8 ensure patient confidentiality.

9 **§30-32-4. Board of Examiners for Speech-language Pathology and**  
10 **Audiology.**

11 (a) The West Virginia Board of Examiners for Speech-Language  
12 Pathology and Audiology is continued. The members of the board in  
13 office on July 1, 2011 may, unless sooner removed, continue to  
14 serve until their respective terms expire or until their successors  
15 have been appointed and qualified.

16 (b) The Governor shall appoint, by and with the advice and  
17 consent of the Senate:

18 (1) Two persons who are Speech-language Pathologists;

19 (2) Two persons who are Audiologists; and

20 (3) One citizen member who is not licensed under this article.

21 (c) The terms shall be for three years. No member may serve  
22 for more than two consecutive terms.

23 (d) Each licensed member of the board, at the time of his or  
24 her appointment, must have held a license in this state for at  
25 least three years;

26 (e) Each member of the board must be a resident of this state

1 during the appointment term.

2 (f) No board member may serve as an officer of the West  
3 Virginia Speech Language and Hearing Association concurrently with  
4 his or her service on the board.

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

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

10 (i) A licensed member of the board immediately and  
11 automatically forfeits membership to the board if his or her  
12 license or registration to practice is suspended or revoked.

13 (j) A member of the board immediately and automatically  
14 forfeits membership to the board if he or she is convicted of a  
15 felony under the laws of any jurisdiction or becomes a nonresident  
16 of this state.

17 (k) The board shall elect annually one of its members as  
18 chairperson and one of its members as secretary-treasurer who shall  
19 serve at the will and pleasure of the board.

20 (l) Each member of the board is entitled to receive  
21 compensation and expense reimbursement in accordance with article  
22 one of this chapter.

23 (m) A majority of the members of the board constitutes a  
24 quorum.

25 (n) The board shall hold at least one annual meeting. Other  
26 meetings shall be held at the call of the chairperson or upon the

1 written request of four members, at the time and place as  
2 designated in the call or request.

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

6 (p) Board members are immune from civil liability for the  
7 performance of their official duties so long as they act in good  
8 faith.

9 **§30-32-5. Powers and duties of the board.**

10 (a) The board has all the powers and duties set forth in this  
11 article, by legislative rule, in article one of this chapter and  
12 elsewhere in law.

13 (b) The board shall:

14 (1) Hold meetings and conduct hearings;

15 (2) Establish requirements for licenses and registrations;

16 (3) Establish procedures for submitting, approving and  
17 rejecting applications for licenses and registrations;

18 (4) Determine the qualifications of any applicant for a  
19 license or registration;

20 (5) Propose rules for legislative approval relating to  
21 professional conduct and ethical standards of practice;

22 (6) Communicate disciplinary actions to relevant state and  
23 federal authorities, the American Speech-Language-Hearing  
24 Association, the West Virginia Speech-Language and Hearing  
25 Association and other applicable authorities when public safety is  
26 at risk;

1       (7) Maintain an office and hire, discharge, establish the job  
2 requirements and fix the compensation of employees and contracted  
3 employees necessary to enforce the provisions of this article;

4       (8) Investigate alleged violations of the provisions of this  
5 article, legislative rules, orders and final decisions of the  
6 board;

7       (9) Conduct disciplinary hearings of persons regulated by the  
8 board;

9       (10) Determine disciplinary action and issue orders;

10       (11) Institute appropriate legal action for the enforcement of  
11 the provisions of this article;

12       (12) Maintain an accurate registry of names and addresses of  
13 all persons regulated by the board;

14       (13) Keep accurate and complete records of its proceedings,  
15 and certify the same as may be necessary and appropriate;

16       (14) Establish by legislative rule the continuing education  
17 and competency requirements for licensees and registrants;

18       (15) Issue, renew, combine, deny, suspend, revoke or reinstate  
19 licenses and registrations pursuant to the provisions of this  
20 article;

21       (16) Establish a fee schedule;

22       (17) Take all other actions necessary and proper to effectuate  
23 the purposes of this article; and

24       (18) Propose rules in accordance with the provisions of  
25 article three, chapter twenty-nine-a of this code to implement the  
26 provisions of this article.

- 1        (c) The board may:
- 2        (1) Approve and contract with third parties to administer the  
3 examinations required under the provisions of this article;
- 4        (2) Sue and be sued in its official name as an agency of this  
5 state; and
- 6        (3) Confer with the Attorney General or his or her assistants  
7 in connection with legal matters and questions.
- 8        (4) Perform random audits of continuing education and  
9 supervision records and documentation of licensure and registration  
10 requirements to determine compliance with this article and  
11 legislative rule.

12 **§30-32-6. Rulemaking.**

- 13        (a) The board shall propose rules for legislative approval, in  
14 accordance with the provisions of article three, chapter twenty-  
15 nine-a of this code, to implement the provisions of this article,  
16 including:
- 17        (1) Standards and requirements for licenses and registrations;
- 18        (2) Requirements, qualifications and designation of third  
19 parties to establish educational requirements and to prepare and/or  
20 administer examinations and reexaminations;
- 21        (3) Procedures for the issuance and renewal of a license,  
22 registration and limited license to practice in public schools;
- 23        (4) A fee schedule;
- 24        (5) Continuing education and competency requirements for  
25 licensees and registrants;
- 26        (6) Establishment of competency standards;

1       (7) The procedures for denying, suspending, revoking,  
2 reinstating or limiting the practice of a licensee or registrant;

3       (8) Requirements for reinstatement of revoked licenses and  
4 registrations;

5       (9) Guidelines for telepractice;

6       (10) Rules to define the role of the speech-language pathology  
7 assistant or audiology assistant, including, but not limited to:

8       (A) The supervisory responsibilities of licensees;

9       (B) The ratio of assistants to licensees;

10       (C) The scope of duties and restrictions of responsibilities  
11 of assistants;

12       (D) The frequency, duration and documentation of supervision  
13 required under the provisions of this article;

14       (E) The quantity and content of pre-service and in-service  
15 instruction; and

16       (F) The procedures for renewing, suspending or revoking the  
17 registration of assistants; and

18       (11) Any other rules necessary to effectuate the provisions of  
19 this article.

20       (b) The board may promulgate emergency rules in accordance  
21 with section fifteen, article three, chapter twenty-nine-a of this  
22 code to establish:

23       (1) Requirements and procedures for the issuance of a Level I  
24 license to practice exclusively in public schools in accordance  
25 with section eleven of this article; and

26       (2) Requirements and procedures for telepractice in accordance

1 with the provisions of section fourteen of this article, including  
2 the scope of duties and restrictions of responsibilities of  
3 assistants in telepractice.

4 (c) All rules in effect on the effective date of this article  
5 remain in effect until they are amended or repealed, and references  
6 to provisions of former enactments of this article are interpreted  
7 to mean provisions of this article.

8 **§30-32-7. Funds.**

9 (a) All fees and other moneys, except administrative fines,  
10 received by the board shall be deposited in a separate special  
11 revenue fund in the State Treasury designated the "Board of  
12 Examiners for Speech-Language Pathology and Audiology Fund", which  
13 is continued. The fund is used by the board for the administration  
14 of this article. Except as may be provided in article one of this  
15 chapter, the board retains the amount in the special revenue  
16 account from year to year. No compensation or expense incurred  
17 under this article is a charge against the General Revenue Fund.

18 (b) Any amount received as fines, imposed pursuant to this  
19 article, shall be deposited into the General Revenue Fund of the  
20 State Treasury.

21 **§30-32-8. Qualifications for licensure as a speech-language**  
22 **pathologist or audiologist.**

23 (a) To be eligible for licensure by the board as a speech-  
24 language pathologist, the applicant shall:

25 (1) Make application to the board, upon a form prescribed by

1 the board;

2 (2) Pay to the board an application fee as established by the  
3 board;

4 (3) Possess at least a master's degree or equivalent in  
5 speech-language pathology from an educational institution approved  
6 by the board which consists of coursework approved by the board and  
7 delineated in legislative rule;

8 (4) Complete supervised clinical practicum experiences from an  
9 educational institution or its cooperating programs, the content of  
10 which shall be approved by the board and delineated in the rules;

11 (5) Complete a postgraduate professional experience as  
12 approved by the board and described in legislative rule; and

13 (6) Pass the national examination in speech-language  
14 pathology.

15 (b) To be eligible for licensure by the board as aa  
16 audiologist, the applicant shall:

17 (1) Make application to the board, upon a form prescribed by  
18 the board;

19 (2) Pay to the board an application fee as established by the  
20 board;

21 (3) As of July 1, 2012, possess at least a doctorate degree or  
22 equivalent in audiology from an educational institution approved by  
23 the board which consists of coursework approved by the board and  
24 delineated in legislative rule;

25 (4) Complete supervised clinical practicum experiences from an  
26 educational institution or its cooperating programs, the content of



1 which shall be approved by the board and delineated in the rules;

2 (5) Complete a postgraduate professional experience as  
3 approved by the board and described in legislative rule; and

4 (6) Pass the national examination in audiology.

5 (c) Subject to the renewal requirements set forth in section  
6 fifteen of this article, a license issued by the board under prior  
7 enactments of this article shall for all purposes be considered a  
8 license issued under this article.

9 **§30-32-9. Provisional licenses.**

10 (a) The board shall issue a provisional license to an  
11 applicant who, except for the postgraduate professional experience  
12 set forth in subdivision (5), subsection (a) of section eight of  
13 this article, or subdivision (5), subsection (b) of section eight  
14 of this article:

15 (1) Meets the academic, practicum, and examination  
16 requirements of this article;

17 (2) Submits an application to the board, upon a form  
18 prescribed by the board, including a plan for the content of the  
19 postgraduate professional experience; and

20 (3) Pays to the board the appropriate application fee for a  
21 provisional license.

22 (b) A person holding a provisional license may practice  
23 speech-language pathology or audiology only under the general  
24 supervision of a person licensed to practice in the professional  
25 field for which the provisional license was issued.

26 (c) The term for provisional licenses and the conditions for

1 their renewal are to be determined by the board and delineated in  
2 legislative rule.

3 **§30-32-10. Waiver of requirements; practice pending disposition**  
4 **of application.**

5 (a) The board shall waive the examination requirement for an  
6 applicant who either:

7 (1) Presents proof of current licensure in a state that has  
8 standards that are substantially equivalent to those of this state;  
9 or

10 (2) Holds a certificate of clinical competence in speech-  
11 language pathology or audiology from the American Speech-Language-  
12 Hearing Association in the professional field for which they seek  
13 licensure.

14 (b) An applicant who holds current licensure from another  
15 state with substantially equivalent standards or who holds the  
16 certificate of clinical competence from the American Speech-  
17 Language-Hearing Association may practice speech-language pathology  
18 or audiology in this state, pending the board's disposition of the  
19 application, if the applicant:

20 (1) Is practicing in the professional field in which the  
21 licensure or certificate of clinical competence was granted; and

22 (2) Has filed an application with the board and paid the  
23 appropriate application fee.

24 **§30-32-11. Level I license to practice exclusively in public**  
25 **schools.**

1 (a) As of July 1, 2011, the board shall issue a Level I  
2 License to practice speech-language pathology exclusively in public  
3 schools to applicants who:

4 (1) Apply for a Level I License to practice speech-language  
5 pathology exclusively in public schools on or before July 1, 2012;

6 (2) Provide proof of being employed or contracted by the West  
7 Virginia Board of Education, a county board of education or a  
8 Regional Education Service Agency on or before July 1, 2011 in the  
9 field of speech-language pathology; and

10 (3) Possess at least a bachelor's degree or equivalent in  
11 speech-language pathology from an educational institution approved  
12 by the board which consists of coursework approved by the board and  
13 delineated in legislative rule.

14 (b) As of July 1, 2011, the board shall issue a Level I  
15 License to practice audiology exclusively in public schools to  
16 applicants who:

17 (1) Apply for a Level I License to practice audiology  
18 exclusively in public schools on or before July 1, 2012;

19 (2) Provide proof of being employed or contracted by the West  
20 Virginia Board of Education, a county board of education or a  
21 Regional Education Service Agency on or before July 1, 2011 in the  
22 field of audiology; and

23 (3) Possess at least a master's degree or equivalent in  
24 audiology from an educational institution approved by the board  
25 which consists of coursework approved by the board and delineated  
26 in legislative rule.

1 §30-32-12. Scope of practice for speech-language pathology and  
2 audiology.

3 (a) The practice of speech-language pathology includes:

4 (1) Prevention, screening, consultation, assessment and  
5 diagnosis, treatment, intervention, management, counseling and  
6 follow-up services for disorders of speech (i.e., articulation,  
7 fluency, resonance and voice), language (i.e., phonology,  
8 morphology, syntax, preliteracy and language-based skills),  
9 swallowing or other upper aerodigestive functions;

10 (2) Cognitive aspects of communication (i.e., attention,  
11 memory, problem solving);

12 (3) Establishing augmentative and alternative communication  
13 techniques and strategies, including developing, selecting and  
14 prescribing of systems and devices (e.g., speech generating  
15 devices) and providing training in their use;

16 (4) Providing services to individuals with hearing loss and  
17 their families (e.g., auditory training, speech reading, speech and  
18 language intervention secondary to hearing loss;

19 (5) Screening hearing of individuals who can participate in  
20 conventional pure-tone air conduction methods and screening middle  
21 ear pathology through screening tympanometry for the purpose of  
22 referral for further evaluation: *Provided*, That judgments and  
23 descriptive statements about the results of the screenings are  
24 limited to pass/fail determinations.

25 (6) Using instrumentation (e.g., videofluoroscopy) to observe,  
26 collect data and measure parameters of communication and swallowing

1 as directed by a licensed physician; and

2 (7) Selecting, fitting and establishing effective use of  
3 prosthetic/adaptive devices for communication, swallowing or other  
4 upper aerodigestive functions.

5 (b) The practice of audiology includes:

6 (1) Facilitating the conservation of auditory system function,  
7 developing and implementing environmental and occupational hearing  
8 conservation programs;

9 (2) Screening, identifying, assessing and interpreting,  
10 preventing and rehabilitating peripheral and central auditory  
11 system disorders;

12 (3) Providing and interpreting behavioral and electro-  
13 physiological measurements of auditory and vestibular functions;

14 (4) Selecting, fitting, programming and dispensing of  
15 amplification, assistive listening and alerting devices and  
16 programming and other systems (e.g., implantative devices) and  
17 providing training in their use;

18 (5) Providing audiologic and aural rehabilitation and related  
19 counseling services to individuals with hearing impairments and  
20 their families;

21 (6) Providing vestibular rehabilitation;

22 (7) Cerumen removal; and

23 (8) Screening of speech-language and other factors affecting  
24 communication disorders: *Provided*, That judgments and descriptive  
25 statements about the results of the screenings are limited to  
26 pass/fail determinations.

1 §30-32-13. Speech-language pathology and audiology assistants;  
2 supervision requirements.

3 (a) On or before July 1, 2012, speech-language pathology  
4 assistants and audiology assistants shall register with the board  
5 in accordance with the provisions of this article and legislative  
6 rule, and shall:

7 (1) Possess a minimum of an associate's degree from an  
8 institution or technical training program with a program of study  
9 designed to prepare the student to be a speech language pathology  
10 or audiology assistant;

11 (2) Meet all requirements set forth in legislative rule; and

12 (3) Work only under the supervision of a licensee licensed in  
13 the professional field in which the assistant is working.

14 (b) Licensees who supervise assistants shall:

15 (1) Report to the board the name of each assistant working  
16 under the licensee's supervision;

17 (2) Complete initial supervision training prior to accepting  
18 an assistant for supervision and upgrade supervision training on a  
19 regular basis;

20 (3) Document preservice training and credentials of the  
21 assistant;

22 (4) Provide direct supervision of the first three hours of  
23 treatment by the assistant for each patient or client, followed by  
24 a minimum of one direct observation for each subsequent two week  
25 period and document the direct observation;

26 (5) Provide general supervision and be responsible for the

1 extent, kind and quality of service provided by the assistant and  
2 for all services provided by the assistant, consistent with this  
3 article and the board's legislative rule;

4 (6) Ensure that persons receiving services from an assistant  
5 receive prior written notification that services are to be  
6 provided, in whole or in part, by an assistant; and

7 (7) Meet all requirements set forth in legislative rule.

8 **§30-32-14. Telepractice.**

9 (a) Speech-language pathologists and audiologists may provide  
10 services in this state by telepractice only if licensed under the  
11 provisions of this article.

12 (b) Speech-language pathologists and audiologists providing  
13 services by telepractice shall deliver services consistent with the  
14 quality of services delivered in person, and shall:

15 (1) Secure informed consent of the student, patient or client  
16 before the services are provided;

17 (2) Maintain the confidentiality of the student, patient or  
18 client as required by law;

19 (3) Provide documentation of the delivery of services;

20 (4) Train assistants before allowing them to assist in the  
21 delivery of service by telepractice, and document the training and  
22 delivery of service by the assistants; and

23 (5) Meet any other requirements which may be set forth in  
24 legislative rule.

25 **§30-32-15. Renewal of license or registration; renewal of lapsed**  
26 **license or registration; suspension, revocation and**

1                    **refusal to renew; reinstatement of revoked license**  
2                    **or registration.**

3            (a) Licenses and registrations may be renewed biennially, upon  
4 documentation of required continuing education and payment of a  
5 renewal fee.

6            (b) A license or registration which has lapsed may be renewed  
7 within one year of its expiration date in the manner set by the  
8 board.

9            (c) A license or registration which has lapsed for more than  
10 one year but fewer than five years may be reinstated, upon  
11 documentation of continuing education credits earned during the  
12 lapsed period equal to the credits required for renewal and payment  
13 of a reinstatement fee.

14           (d) A license or registration which has lapsed for more than  
15 five years may not be reinstated. A new license or registration  
16 may be issued to an applicant who complies with the requirements  
17 relating to the issuance of an original license or registration in  
18 effect at the time of the application.

19           (e) The board may suspend, revoke or refuse to renew a license  
20 or registration for any reason which would justify the denial of an  
21 original application for licensure or registration.

22           (f) The board may consider the reinstatement of a license or  
23 registration which has been revoked upon a showing that the  
24 applicant can resume practicing with reasonable skill and safety.

25 **§30-32-16. Actions to enjoin violations.**



1 (a) If the board obtains information that any person has  
2 engaged in, is engaging in or is about to engage in any act which  
3 constitutes or will constitute a violation of the provisions of  
4 this article, the rules promulgated pursuant to this article, or a  
5 final order or decision of the board, it may issue a notice to the  
6 person to cease and desist in engaging in the act and/or apply to  
7 the circuit court in the county of the alleged violation for an  
8 order enjoining the act.

9 (b) The circuit courts of this state may issue a temporary  
10 injunction pending a decision on the merits, and may issue a  
11 permanent injunction based on its findings in the case.

12 (c) The judgment of the circuit court on an application  
13 permitted by the provisions of this section is final unless  
14 reversed, vacated or modified on appeal to the West Virginia  
15 Supreme Court of Appeals.

16 **§30-32-17. Complaints; investigations; due process procedure;**  
17 **grounds for disciplinary action.**

18 (a) The board may upon its own motion based on credible  
19 information, and shall, upon the written complaint of any person,  
20 cause an investigation to be made to determine whether grounds  
21 exist for disciplinary action under this article or the legislative  
22 rules of the board.

23 (b) Upon initiation or receipt of the complaint, the board  
24 shall provide a copy of the complaint to the licensee or  
25 registrant.

26 (c) After reviewing any information obtained through an

1 investigation, the board shall determine if probable cause exists  
2 that the licensee or registrant has violated any provision of  
3 subsection (g) of this section or rules promulgated pursuant to  
4 this article.

5 (d) Upon a finding that probable cause exists that the  
6 licensee or registrant has violated any provision of this  
7 subsection (g) of this section or rules promulgated pursuant to  
8 this article, the board may enter into a consent decree or hold a  
9 hearing for the suspension or revocation of the license or  
10 registration or the imposition of sanctions against the licensee or  
11 registrant.

12 (e) Any member of the board may issue subpoenas and subpoenas  
13 duces tecum to obtain testimony and documents to aid in the  
14 investigation of allegations against any person regulated by the  
15 article.

16 (f) Any member of the board may sign a consent decree or other  
17 legal document on behalf of the board.

18 (g) The board may, after notice and opportunity for hearing,  
19 deny or refuse to renew, suspend or revoke the license or  
20 registration of, impose probationary conditions upon or take  
21 disciplinary action against, any licensee or registrant for any of  
22 the following reasons once a violation has been proven by a  
23 preponderance of the evidence:

24 (1) Obtaining a license or registration by fraud,  
25 misrepresentation or concealment of material facts;

26 (2) Being convicted of a felony or other crime related to the

1 practice of the professions regulated by this article;

2 (3) Being guilty of unprofessional conduct as defined by  
3 legislative rule of the board;

4 (4) Violating provisions of this article or a lawful order or  
5 legislative rule of the board;

6 (5) Providing substandard care as an speech-language  
7 pathologist, audiologist or assistant due to a deliberate or  
8 negligent act or failure to act regardless of whether actual injury  
9 to a patient or client is established;

10 (6) Providing substandard care as a speech-language pathology  
11 or audiology assistant, including exceeding the authority to  
12 perform components of service selected and delegated by the  
13 supervising speech-language pathologist or audiologist regardless  
14 of whether actual injury to a patient is established;

15 (7) Knowingly delegating responsibilities to an individual who  
16 does not have the knowledge, skills or abilities to perform those  
17 responsibilities;

18 (8) Failing to provide appropriate supervision to a speech-  
19 language pathology assistant or audiology assistant in accordance  
20 with this article and legislative rules of the board;

21 (9) Practicing as an speech-language pathologist, audiologist  
22 or assistant when competent services to recipients may not be  
23 provided due to the speech-language pathologist's, audiologist's or  
24 assistant's own physical or mental impairment;

25 (10) Having had a speech-language pathologist, audiologist or  
26 assistant license or registration revoked or suspended, other

1 disciplinary action taken, or an application for licensure or  
2 registration refused, revoked or suspended by the proper  
3 authorities of another jurisdiction;

4 (11) Engaging in sexual misconduct. For the purposes of this  
5 subdivision, sexual misconduct includes:

6 (A) Engaging in or soliciting sexual relationships, whether  
7 consensual or nonconsensual, while a relationship exists between  
8 that person as a patient or client and the speech-language  
9 pathologist, audiologist or assistant; or

10 (B) Making sexual advances, requesting sexual favors or  
11 engaging in physical contact of a sexual nature with patients or  
12 clients;

13 (12) Aiding or abetting a person who is not licensed as a  
14 speech-language pathologist, audiologist or assistant in this state  
15 and who directly or indirectly performs activities requiring a  
16 license or registration;

17 (13) Abandoning or neglecting a patient or client under and in  
18 need of immediate professional care without making reasonable  
19 arrangements for the continuation of care; or

20 (14) Engaging in any act which has endangered or is likely to  
21 endanger the health, welfare or safety of the public.

22 (h) For the purposes of subsection (g) of this section,  
23 effective July 1, 2011, disciplinary action may include:

24 (1) Reprimand;

25 (2) Probation;

26 (3) Administrative fine, not to exceed \$1,000 per day per

1 violation;

2 (4) Mandatory attendance at continuing education seminars or  
3 other training;

4 (5) Practicing under supervision or other restriction;

5 (6) Requiring the licensee or registrant to report to the  
6 board for periodic interviews for a specified period of time;

7 (7) Denial, suspension, revocation or nonrenewal of license or  
8 registration; or

9 (8) Other disciplinary action considered by the board to be  
10 necessary to protect the public, including advising other parties  
11 whose legitimate interests may be at risk.

12 **§30-32-18. Procedures for hearing; right of appeal.**

13 (a) Hearings shall be governed by the provisions of section  
14 eight, article one of this chapter.

15 (b) The board may conduct the hearing or elect to have an  
16 administrative law judge conduct the hearing.

17 (c) If the hearing is conducted by an administrative law  
18 judge, the administrative law judge shall prepare a proposed  
19 written order at the conclusion of a hearing containing findings of  
20 fact and conclusions of law. The proposed order may contain  
21 proposed disciplinary actions if the board so directs. The board  
22 may accept, reject or modify the decision of the administrative law  
23 judge.

24 (d) Any member of the board has the authority to administer  
25 oaths, examine any person under oath and issue subpoenas and  
26 subpoenas duces tecum.

1 (e) If, after a hearing, the board determines the licensee or  
2 registrant has violated any provision of this article or the  
3 board's rules, a formal written decision shall be prepared which  
4 contains findings of fact, conclusions of law and a specific  
5 description of the disciplinary actions imposed.

6 **§30-32-19. Judicial review.**

7 Any licensee or registrant adversely affected by a decision of  
8 the board entered after a hearing may obtain judicial review of the  
9 decision in accordance with section four, article five, chapter  
10 twenty-nine-a of this code, and may appeal any ruling resulting  
11 from judicial review in accordance with article six, chapter  
12 twenty-nine-a of this code.

13 **§30-32-20. Single act evidence of practice.**

14 In any action brought or in any proceeding initiated under  
15 this article, evidence of the commission of a single act prohibited  
16 by this article is sufficient to justify a penalty, injunction,  
17 restraining order or conviction without evidence of a general  
18 course of conduct.

19 **§30-32-21. Criminal proceedings; penalties.**

20 (a) When, as a result of an investigation under this article  
21 or otherwise, the board has reason to believe that a licensee or  
22 registrant has committed a criminal offense, the board may bring  
23 the information to the attention of an appropriate law-enforcement  
24 official.

25 (b) Effective July 1, 2011, a person violating a provision of

1 this article is guilty of a misdemeanor and, upon conviction, shall  
2 be fined not less than \$500 nor more than \$1,000 or confined in a  
3 correctional facility not more than six months, or both fined and  
4 confined.