

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 4012**

5
6 (By Delegates Morgan, Manypenny, Martin and
7 Swartzmiller)

8 [Passed March 10, 2012; in effect from passage.]
9

10 AN ACT to amend and reenact §16-1-7 of the Code of West Virginia,
11 1931, as amended; to amend and reenact §30-16-4 of said code;
12 to amend and reenact §30-23-5 of said code; and to amend and
13 reenact §30-26-3 and §30-26-4 of said code, all relating to
14 boards; changing the membership of boards; removing the
15 Commissioner of the Bureau for Public Health from certain
16 boards; removing the requirement that the commissioner provide
17 support to certain boards; allowing certain boards to receive
18 compensation not to exceed the amount paid to legislators; and
19 updating the name of certain boards.

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

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

26 **CHAPTER 16. PUBLIC HEALTH.**

1 **ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

2 **§16-1-7. Duties and powers of the commissioner; service on**
3 **advisory councils; boards and commissions; authority**
4 **to designate a representative to serve in his or her**
5 **place on certain boards and commissions.**

6 (a) Effective July 1, 2012, the commissioner serves on the
7 following licensing boards: (1) The West Virginia
8 Board of Medicine, provided in article three, chapter thirty; and
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10 (2) The State Board of Sanitarians, as provided in article
11 seventeen, chapter thirty. (b) Effective July 1, 2012, the

12 commissioner serves on the following advisory councils, boards and
13 commissions:

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

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16 (2) The Air Quality Board;

17 (3) The Appalachian States Low-level Radioactive Waste
18 Commission;

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21 (4) The Child Fatality Review Team;

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23 (5) The Childhood Immunization Advisory Committee;

24 (6) The Early Intervention Coordinating Council;

25 (7) The Interagency Council on Osteoporosis;

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(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 except for business, professional or occupational licensing boards.

(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

1 commissioner's will and pleasure. The provisions of this section
2 do not apply to the West Virginia Board of Medicine, the Air
3 Quality Board or other board, commission or body on which the
4 commissioner is designated by this code as chairman ex officio,
5 secretary ex officio or a board, commission or body on which the
6 commissioner is designated by this code as being that person whose
7 signature must appear on licenses, minutes or other documents
8 necessary to carry out the intents and purposes of the board,
9 commission or body.

10 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

11 **ARTICLE 16. CHIROPRACTORS.**

12 **§30-16-4. West Virginia Board of Chiropractic; establishment and**
13 **composition.**

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

23 (b) As existing board members' terms expire, newly appointed
24 board members are appointed by the Governor for a term of office of
25 three years. No member may serve more than two full consecutive

1 three-year terms. When a vacancy in the membership of the board
2 occurs for a cause other than the expiration of a term, the
3 Governor shall appoint a new member from a list of three names
4 recommended by West Virginia Chiropractic Society, Incorporated, to
5 fill the unexpired portion of the term of office.

6 (c) The Governor may remove any member of the board in case of
7 incompetency, neglect of duty, gross immorality or malfeasance in
8 office.

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

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

17 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

18 **ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.**

19 **§30-23-5. Medical Imaging and Radiation Therapy Technology Board**
20 **of Examiners.**

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

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

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

6 (2) Three licensed Radiologic Technologists, one of whom shall
7 be an active medical imaging educator;

8 (3) One licensed Nuclear Medicine Technologist;

9 (4) One licensed Magnetic Resonance Imaging; and

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

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

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

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

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

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

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

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

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

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

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

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

1 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

2 **ARTICLE 26. HEARING-AID DEALERS AND FITTERS.**

3 **§30-26-3. West Virginia board of hearing-aid dealers created;**
4 **members; qualifications; term; oath; salary and**
5 **expenses; powers and duties.**

6 (a) There is continued the West Virginia board of hearing-aid
7 dealers, which is composed of five members to be appointed by the
8 Governor, with the advice and consent of the Senate. The members
9 of the board shall be residents of this state. One member shall be
10 a person licensed to practice medicine in this state and one member
11 shall hold a degree in audiology from an accredited college or
12 university. The remaining three members shall be persons having no
13 less than five years' experience as hearing-aid dealers or fitters
14 and shall hold a valid license under the provisions of this
15 article.

16 (b) The terms of office of each member of the board shall be
17 four years, staggered in accordance with initial appointments under
18 prior enactments of this act. A board member shall serve until his
19 or her successor has been appointed and qualified and any vacancy
20 in the office of a member shall be filled by appointment for the
21 unexpired term of such member. Any member of the board shall be
22 eligible for reappointment.

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

25 (d) Each member of the board is entitled to receive for each

1 day actually engaged in the duties of his or her office, an amount
2 not to exceed the amount paid to legislators for their interim
3 duties, and is entitled to be reimbursed for all reasonable and
4 necessary expenses actually incurred in the performance of his or
5 her duties as a member of such board.

6 (e) All fees and other moneys collected by the board, pursuant
7 to the provisions of this article, shall be kept in a separate fund
8 and shall be expended solely for the purposes of this article. The
9 compensation for the members of the board and all expenses incurred
10 under this article shall be paid from this special fund and no such
11 compensation or expenses shall be paid from the General Revenue
12 Fund of this state. All disbursements of funds necessary to carry
13 out the provisions of this article shall be so disbursed only upon
14 the authority of the board.

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

20 (g) The board may purchase and maintain or rent audiometric
21 equipment and other facilities necessary to carry out the
22 examination of applicants as provided in this article and may
23 purchase such other equipment and supplies and employ such persons
24 as it deems appropriate to carry out the provisions of this
25 article.

26 (h) The board shall propose rules for legislative approval in

1 accordance with the provisions of article three, chapter twenty-
2 nine-a of this code:

3 (1) For the proper performance of its duties;

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

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

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

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

21 **§30-26-4. Administrative duties; examinations; register; use of**
22 **fees.**

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

1 at all reasonable times.

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

9 (c) Effective July 1, 2012, the board shall bear the costs of
10 carrying out the powers and duties granted to it by this article
11 from the fees collected by it for these purposes.