

1 **H. B. 2531**

2
3 (By Delegates Morgan, Stephens, Paxton, Hartman, Ferns,
4 Howell, Folk, Smith, R., Faircloth, Arvon and Nelson, J.)

5
6 [Introduced February 19, 2013; referred to the
7 Committee on Government Organization then the Judiciary.]

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

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

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

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

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

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

13 **§30-32-1. Unlawful acts; persons and practices not affected.**

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

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

1 the provisions of this article.

2 (c) As of July 1, 2014, speech-language pathologists and
3 audiologists employed or contracted by the West Virginia Board of
4 Education, a county board of education or a regional education
5 service agency are required to be licensed under the provisions of
6 this article.

7 (d) As of July 1, 2014, speech-language pathology assistants
8 and audiology assistants employed or contracted by the West
9 Virginia Board of Education, a county board of education or a
10 regional education service agency are required to be registered
11 with the board under the provisions of this article.

12 (e) Nothing in this article prevents or restricts:

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

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

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

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

23 (5) The activities and services of persons pursuing a course
24 of study leading to a degree in speech-language pathology or

1 audiology at a college or university, if:

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

4 (B) They are designated by a title such as intern, trainee,
5 student or by other title clearly indicating the status appropriate
6 to their level of education; and

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

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

13 (A) Meet the qualifications of this article;

14 (B) Register with the board in accordance with procedures
15 specified in its rules; and

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

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

21 (8) The activity of occupational hearing conservationists
22 engaged in hearing testing as part of a hearing conservation
23 program in compliance with regulations of the Occupational Safety
24 and Health Administration.

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

4 **§30-32-2. General provisions.**

5 The practices licensed under the provisions of this article
6 and the West Virginia Board of Examiners for Speech-Language
7 Pathology and Audiology are subject to the provisions of article
8 one of this chapter, the provisions of this article and any rules
9 promulgated hereunder.

10 **§30-32-3. Definitions.**

11 The following terms have the following meanings:

12 (1) "Applicant" means a person applying for a license required
13 by this article.

14 (2) "Assistant" means a speech-language pathology assistant or
15 an audiology assistant as further defined in this section and who
16 is registered with the board in accordance with the provisions of
17 this article and legislative rule.

18 (3) "Audiologist" means a person who engages in the practice
19 of audiology and who is licensed pursuant to the provisions of this
20 article.

21 (4) "Audiology" means the application of principles, methods,
22 and procedures related to hearing and the disorders of hearing and
23 to related language and speech disorders.

24 (5) "Audiology disorders" means any and all conditions,

1 whether of organic or nonorganic origin, peripheral or central,
2 that impede the normal process of human communication including,
3 but not limited to, disorders of auditory sensitivity, acuity,
4 function or processing.

5 (6) "Audiology assistant" means a person who practices under
6 the direction and supervision of an audiologist licensed under this
7 article and who is registered with the board in accordance with
8 this article and legislative rule.

9 (7) "Board" means the West Virginia Board of Speech-Language
10 Pathology and Audiology.

11 (8) "Business entity" means any firm, partnership,
12 association, company, corporation, limited partnership, limited
13 liability company or other entity doing business in the State of
14 West Virginia.

15 (9) "Direct supervision" means the actual physical presence of
16 a supervising licensed speech-language pathologist or supervising
17 licensed audiologist in the room where treatment is provided by an
18 assistant.

19 (10) "General supervision" means initial direction and
20 periodic inspection of the activities of an assistant by the
21 supervising licensed speech-language pathologist or supervising
22 licensed audiologist, who is physically present in the building
23 where treatment is provided and is quickly and easily available.

24 (11) "Initial supervision training" means training required of

1 supervising licensed speech-language pathologists and supervising
2 licensed audiologists before providing supervision of assistants,
3 as further defined by legislative rule.

4 (12) "Instruction" means:

5 (A) Providing speech-language pathology or audiology services
6 in infant/toddler, preschool, elementary or secondary school
7 programs; or

8 (B) Teaching students in institutions of higher education.

9 (13) "Level I license" means a license to practice exclusively
10 in public schools issued pursuant to the provisions of section
11 eleven of this article.

12 (14) "License" means a license issued pursuant to the
13 provisions of this article.

14 (15) "Licensee" means a person who is licensed pursuant to the
15 provisions of this article.

16 (16) "Provisional license" means a license issued pursuant to
17 the provisions of section nine of this article.

18 (17) "Registrant" means an assistant who is registered
19 pursuant to the provisions of this article.

20 (18) "Registration" means a registration issued pursuant to
21 the provisions of this article.

22 (19) "Speech-language pathologist" means any person who
23 engages in the practice of speech-language pathology and who is
24 licensed pursuant to the provisions of this article.

1 (20) "Speech-language pathology" means the application of
2 principles, methods and procedures related to the development,
3 disorders and effectiveness of human communication and related
4 functions.

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

9 (22) "Speech-language pathology disorders" means conditions,
10 whether of organic or nonorganic origin, that impede the normal
11 process of human communication including, but not limited to,
12 disorders and related disorders of speech, articulation, fluency,
13 voice, verbal and written language, Auditory comprehension,
14 cognition/communication, and oral, pharyngeal and/or laryngeal
15 sensorimotor competencies.

16 (23) "Telepractice" means the application of telecommunication
17 technology to deliver speech-language pathology or audiology
18 services through real time interaction from one site to another for
19 assessment, intervention or consultation in a manner sufficient to
20 ensure patient confidentiality.

21 **§30-32-4. Board of Examiners for Speech-language Pathology and**
22 **Audiology.**

23 (a) The West Virginia Board of Examiners for Speech-Language
24 Pathology and Audiology is continued. The members of the board in

1 office on July 1, 2013 may, unless sooner removed, continue to
2 serve until their respective terms expire or until their successors
3 have been appointed and qualified.

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

6 (1) Two persons who are speech-language pathologists;

7 (2) Two persons who are audiologists; and

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

9 (c) The terms are for three years. No member may serve for
10 more than two consecutive terms.

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

14 (e) Each member of the board must be a resident of this state
15 during the appointment term.

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

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

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

24 (i) A licensed member of the board immediately and

1 automatically forfeits membership to the board if his or her
2 license or registration to practice is suspended or revoked.

3 (j) A member of the board immediately and automatically
4 forfeits membership to the board if he or she is convicted of a
5 felony under the laws of any jurisdiction or becomes a nonresident
6 of this state.

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

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

13 (m) A majority of the members of the board constitutes a
14 quorum.

15 (n) The board shall hold at least one annual meeting. Other
16 meetings shall be held at the call of the chairperson or upon the
17 written request of four members, at the time and place as
18 designated in the call or request.

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

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

1 **§30-32-5. Powers and duties of the board.**

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

5 (b) The board shall:

6 (1) Hold meetings and conduct hearings;

7 (2) Establish requirements for licenses and registrations;

8 (3) Establish procedures for submitting, approving and
9 rejecting applications for licenses and registrations;

10 (4) Determine the qualifications of any applicant for a
11 license or registration;

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

14 (6) Communicate disciplinary actions to relevant state and
15 federal authorities, the American Speech-Language-Hearing
16 Association, the West Virginia Speech-Language and Hearing
17 Association and other applicable authorities when public safety is
18 at risk;

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

22 (8) Investigate alleged violations of the provisions of this
23 article, legislative rules, orders and final decisions of the
24 board;

1 (9) Conduct disciplinary hearings of persons regulated by the
2 board;

3 (10) Determine disciplinary action and issue orders;

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

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

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

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

12 (15) Issue, renew, combine, deny, suspend, revoke or reinstate
13 licenses and registrations pursuant to the provisions of this
14 article;

15 (16) Establish a fee schedule;

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

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

21 (c) The board may:

22 (1) Approve and contract with third parties to administer the
23 examinations required under the provisions of this article;

24 (2) Sue and be sued in its official name as an agency of this

1 state;

2 (3) Confer with the Attorney General or his or her assistants
3 in connection with legal matters and questions; and

4 (4) Perform random audits of continuing education and
5 supervision records and documentation of licensure and registration
6 requirements to determine compliance with this article and
7 legislative rule.

8 **§30-32-6. Rulemaking.**

9 (a) The board shall propose rules for legislative approval, in
10 accordance with the provisions of article three, chapter twenty-
11 nine-a of this code, to implement the provisions of this article,
12 including:

13 (1) Standards and requirements for licenses and registrations;

14 (2) Requirements, qualifications and designation of third
15 parties to establish educational requirements and to prepare and/or
16 administer examinations and reexaminations;

17 (3) Procedures for the issuance and renewal of a license,
18 registration and limited license to practice in public schools;

19 (4) A fee schedule;

20 (5) Continuing education and competency requirements for
21 licensees and registrants;

22 (6) Establishment of competency standards;

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

1 (8) Requirements for reinstatement of revoked licenses and
2 registrations;

3 (9) Guidelines for telepractice;

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

6 (A) The supervisory responsibilities of licensees;

7 (B) The ratio of assistants to licensees;

8 (C) The scope of duties and restrictions of responsibilities
9 of assistants;

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

12 (E) The quantity and content of preservice and in-service
13 instruction; and

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

16 (11) Any other rules necessary to effectuate the provisions of
17 this article.

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

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

24 (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 the 2013
5 revision of this article remain in effect until they are amended or
6 repealed, and references to provisions of former enactments of this
7 article are interpreted 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:

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

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

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

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

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

14 (6) Pass the national examination in speech-language
15 pathology; and

16 (7) Pass a jurisprudence examination developed by the board.

17 (b) To be eligible for licensure by the board as an
18 audiologist, the applicant shall:

19 (1) Make application to the board, upon a form prescribed by
20 the board;

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

23 (3) As of July 1, 2014, possess at least a doctorate degree or
24 equivalent in audiology from an educational institution approved by

1 the board which consists of coursework approved by the board and
2 delineated in legislative rule;

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

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

8 (6) Pass the national examination in audiology; and

9 (7) Pass a jurisprudence examination developed by the board.

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

14 **§30-32-9. Provisional licenses.**

15 (a) The board shall issue a provisional license to an
16 applicant who, except for the postgraduate professional experience
17 set forth in subdivision (5), subsection (a) of section eight of
18 this article, or subdivision (5), subsection (b) of section eight
19 of this article:

20 (1) Meets the academic, practicum, and examination
21 requirements of this article;

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

1 (3) Pays to the board the appropriate application fee for a
2 provisional license.

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

7 (c) The term for provisional licenses and the conditions for
8 their renewal are to be determined by the board and delineated in
9 legislative rule.

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

12 (a) The board shall waive the national examination
13 requirements in speech-language pathology and/or audiology for an
14 applicant who either:

15 (1) Presents proof of current licensure in a state that has
16 standards that are substantially equivalent to those of this state;
17 or

18 (2) Holds a certificate of clinical competence in speech-
19 language pathology or audiology from the American Speech-Language-
20 Hearing Association in the professional field for which they seek
21 licensure.

22 (b) An applicant who holds current licensure from another
23 state with substantially equivalent standards or who holds the
24 certificate of clinical competence from the American Speech-

1 Language-Hearing Association may practice speech-language pathology
2 or audiology in this state, pending the board's disposition of the
3 application, if the applicant:

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

6 (2) Has filed an application with the board and paid the
7 appropriate application fee.

8 **§30-32-11. Level I license to practice exclusively in public**
9 **schools.**

10 (a) As of July 1, 2014, the board shall issue a Level I
11 license to practice speech-language pathology exclusively in public
12 schools to applicants who:

13 (1) Apply for a Level I license to practice speech-language
14 pathology exclusively in public schools on or before July 1, 2014;

15 (2) Provide proof of being employed or contracted by the West
16 Virginia Board of Education, a county board of education or a
17 regional education service agency on or before July 1, 2013, in the
18 field of speech-language pathology; and

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

23 (b) As of July 1, 2014, the board shall issue a Level I
24 license to practice audiology exclusively in public schools to

1 applicants who:

2 (1) Apply for a Level I license to practice audiology
3 exclusively in public schools on or before July 1, 2014;

4 (2) Provide proof of being employed or contracted by the West
5 Virginia Board of Education, a county board of education or a
6 regional education service agency on or before July 1, 2013, in the
7 field of audiology; and

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

12 **§30-32-12. Scope of practice for speech-language pathology and**
13 **audiology.**

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

15 (1) Prevention, screening, consultation, assessment and
16 diagnosis, treatment, intervention, management, counseling and
17 follow-up services for disorders of speech (i.e., articulation,
18 fluency, resonance and voice), language (i.e., phonology,
19 morphology, syntax, preliteracy and language-based skills),
20 swallowing or other upper aerodigestive functions;

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

23 (3) Establishing augmentative and alternative communication
24 techniques and strategies, including developing, selecting and

1 prescribing of systems and devices (e.g., speech generating
2 devices) and providing training in their use;

3 (4) Providing services to individuals with hearing loss and
4 their families (e.g., Auditory training, speech reading, speech and
5 language intervention secondary to hearing loss;

6 (5) Screening hearing of individuals who can participate in
7 conventional puretone air conduction methods and screening middle
8 ear pathology through screening tympanometry for the purpose of
9 referral for further evaluation: *Provided*, That judgments and
10 descriptive statements about the results of the screenings are
11 limited to pass/fail determinations;

12 (6) Using instrumentation (e.g., videofluoroscopy) to observe,
13 collect data and measure parameters of communication and swallowing
14 as directed by a licensed physician; and

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

18 (b) The practice of audiology includes:

19 (1) Facilitating the conservation of Auditory system function,
20 developing and implementing environmental and occupational hearing
21 conservation programs;

22 (2) Screening, identifying, assessing and interpreting,
23 preventing and rehabilitating peripheral and central Auditory
24 system disorders;

1 (3) Providing and interpreting behavioral and electro-
2 physiological measurements of Auditory and vestibular functions;

3 (4) Selecting, fitting, programming and dispensing of
4 amplification, assistive listening and alerting devices and
5 programming and other systems (e.g., implantative devices) and
6 providing training in their use;

7 (5) Providing audiologic and aural rehabilitation and related
8 counseling services to individuals with hearing impairments and
9 their families;

10 (6) Providing vestibular rehabilitation;

11 (7) Cerumen removal; and

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

16 **§30-32-13. Speech-language pathology and audiology assistants;**
17 **supervision requirements.**

18 (a) On or before July 1, 2014, speech-language pathology
19 assistants and audiology assistants shall register with the board
20 in accordance with the provisions of this article and legislative
21 rule, and shall:

22 (1) Possess a minimum of an associate's degree from an
23 institution or technical training program with a program of study
24 designed to prepare the student to be a speech language pathology

1 or audiology assistant;

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

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

5 (b) Licensees who supervise assistants shall:

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

8 (2) Complete initial supervision training prior to accepting
9 an assistant for supervision and upgrade supervision training on a
10 regular basis;

11 (3) Document preservice training and credentials of the
12 assistant;

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

17 (5) Provide general supervision and be responsible for the
18 extent, kind and quality of service provided by the assistant and
19 for all services provided by the assistant, consistent with this
20 article and the board's legislative rule;

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

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

1 **§30-32-14. Telepractice.**

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

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

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

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

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

13 (4) Train assistants before allowing them to assist in the
14 delivery of service by telepractice, and document the training and
15 delivery of service by the assistants; and

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

18 **§30-32-15. Renewal of license or registration; renewal of lapsed**
19 **license or registration; suspension, revocation and**
20 **refusal to renew; reinstatement of revoked license**
21 **or registration.**

22 (a) Licenses and registrations may be renewed biennially, upon
23 documentation of required continuing education and payment of a

1 renewal fee.

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

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

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

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

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

21 **§30-32-16. Actions to enjoin violations.**

22 (a) If the board obtains information that any person has
23 engaged in, is engaging in or is about to engage in any act which
24 constitutes or will constitute a violation of the provisions of

1 this article, the rules promulgated pursuant to this article, or a
2 final order or decision of the board, it may issue a notice to the
3 person to cease and desist in engaging in the act and/or apply to
4 the circuit court in the county of the alleged violation for an
5 order enjoining the act.

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

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

13 **§30-32-17. Complaints; investigations; due process procedure;**
14 **grounds for disciplinary action.**

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

20 (b) Upon initiation or receipt of the complaint, the board
21 shall provide a copy of the complaint to the licensee or
22 registrant.

23 (c) After reviewing any information obtained through an
24 investigation, the board shall determine if probable cause exists

1 that the licensee or registrant has violated any provision of
2 subsection (g) of this section or rules promulgated pursuant to
3 this article.

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

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

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

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

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

1 (2) Being convicted of a felony or other crime related to the
2 practice of the professions regulated by this article;

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

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

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

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

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

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

22 (9) Practicing as a speech-language pathologist, audiologist
23 or assistant when competent services to recipients may not be
24 provided due to the speech-language pathologist's, audiologist's or

1 assistant's own physical or mental impairment;

2 (10) Having had a speech-language pathologist, audiologist or
3 assistant license or registration revoked or suspended, other
4 disciplinary action taken, or an application for licensure or
5 registration refused, revoked or suspended by the proper
6 authorities of another jurisdiction;

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

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

13 (B) Making sexual advances, requesting sexual favors or
14 engaging in physical contact of a sexual nature with patients or
15 clients;

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

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

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

1 (h) For the purposes of subsection (g) of this section,
2 effective July 1, 2013, disciplinary action may include:

3 (1) Reprimand;

4 (2) Probation;

5 (3) Administrative fine, not to exceed \$1,000 per day per
6 violation;

7 (4) Mandatory attendance at continuing education seminars or
8 other training;

9 (5) Practicing under supervision or other restriction;

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

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

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

17 **§30-32-18. Procedures for hearing; right of appeal.**

18 (a) Hearings are governed by the provisions of section eight,
19 article one of this chapter.

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

22 (c) If the hearing is conducted by an administrative law
23 judge, the administrative law judge shall prepare a proposed
24 written order at the conclusion of a hearing containing findings of

1 fact and conclusions of law. The proposed order may contain
2 proposed disciplinary actions if the board so directs. The board
3 may accept, reject or modify the decision of the administrative law
4 judge.

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

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

13 **§30-32-19. Judicial review.**

14 Any licensee or registrant adversely affected by a decision of
15 the board entered after a hearing may obtain judicial review of the
16 decision in accordance with section four, article five, chapter
17 twenty-nine-a of this code, and may appeal any ruling resulting
18 from judicial review in accordance with article six, chapter
19 twenty-nine-a of this code.

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

21 In any action brought or in any proceeding initiated under
22 this article, evidence of the commission of a single act prohibited
23 by this article is sufficient to justify a penalty, injunction,
24 restraining order or conviction without evidence of a general

1 course of conduct.

2 **§30-32-21. Criminal proceedings; penalties.**

3 (a) When, as a result of an investigation under this article
4 or otherwise, the board has reason to believe that a licensee or
5 registrant has committed a criminal offense, the board may bring
6 the information to the attention of an appropriate law-enforcement
7 official.

8 (b) Effective July 1, 2013, a person violating a provision of
9 this article is guilty of a misdemeanor and, upon conviction, shall
10 be fined not less than \$500 nor more than \$1,000 or confined in
11 jail not more than six months, or both fined and confined.

NOTE: The purpose of this bill is to rewrite the article governing the practice of speech-language pathology and audiology to update standards and conform to current drafting conventions; and to require, after July 1, 2014, speech-language pathologists and audiologists who work in public schools to be licensed, and speech-language pathology assistants and audiology assistants who work in public schools to register, with the board of Speech-Language Pathology and Audiology.

This article has been completely rewritten; therefore, it has been completely underscored.