



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Hearing Aid Dealers TITLE-SERIES: 8-05
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes
RULE NAME: 8-05 Consideration of Prior Criminal Convictions in Initial Licensure Determinations

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 30-26-3

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/29/2026

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/29/2026

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Email and Board Website

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Changed name of Rule, added Hearing Aid Dealer to Series 4 rule, changed dealer to dispenser.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Changed name of Rule, added Hearing Aid Dealer to Series 4 rule, changed dealer to dispenser.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Pamela Coughlin -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 8

LEGISLATIVE RULE

WV BOARD OF ~~HEARING AID DEALERS~~ EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

SERIES 5

CONSIDERATION OF PRIOR CRIMINAL CONVICTIONS
IN INITIAL LICENSURE DETERMINATIONS FOR HEARING AID DISPENSERS

§8-5-1. General.

1.1. Scope. -- This rule establishes procedures for consideration of prior criminal convictions in initial licensure determinations.

1.2. Authority. -- W. Va. Code §30-1-24 and W. Va. Code §30-26-3

1.3. Filing Date. -- ~~April 28, 2020.~~

1.4. Effective Date. -- ~~April 30, 2020.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2032 ~~April 30, 2030~~.

§8-5-2. Definitions.

2.1. "Board" means the West Virginia Board of ~~Hearing Aid Dealers~~ Examiners for Speech-Language Pathology and Audiology established pursuant to W. Va. Code §30-26-1 *et seq.*

2.2. "Initial licensure" means obtaining a license in West Virginia for the practice of hearing aid ~~dealing~~ dispensing and fitting for the first time.

2.3. "License" or "licensure" means the official authorization by the board to practice hearing-aid ~~dealing and fitting~~ dispensing.

2.4. "Unreversed", as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged.

§8-5-3. Rational nexus to the practice of hearing-aid ~~dealing and fitting~~. Dispensing.

3.1. The board may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the practice of hearing-aid ~~dealing and fitting~~ dispenser. In determining whether a criminal conviction bears a rational nexus to the practice of hearing-aid ~~dealing and fitting~~ dispensing, the board shall consider at a minimum:

3.1.1. The nature and seriousness of the crime for which the individual was convicted;

3.1.2. The passage of time since the commission of the crime;

3.1.3. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of a hearing-aid ~~dealer or fitter~~ dispenser; and

3.1.4. Any evidence of rehabilitation or treatment undertaken by the individual.

§8-5-4. Application after denial.

4.1. If an applicant has been denied licensure because of a prior criminal conviction, the board shall permit the applicant to apply for initial licensure if:

4.1.1. A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

4.1.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

4.1.3. The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the board on a case by case basis.

§8-5-5. Petition for licensure eligibility determination.

5.1. An individual with a criminal record who has not previously applied for licensure may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license.

5.2. The petition shall be submitted on an application form prescribed by the board and shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction and the specific nature of the conviction.

5.3. The applicant may submit with the petition for licensure eligibility evidence of rehabilitation, letters of reference, and any other information the applicant deems relevant to show fitness and the ability to practice hearing-aid ~~dealing and fitting~~ dispensing.

5.4. The board shall provide the determination within 60 days of receiving the petition and the applicable fee, as prescribed by the board, from the applicant.