Regulating the practice of speech-language pathologists, audiologists and teachers of the hearing impaired; creating the State Board of Examiners in Speech-Language and Hearing with certain powers and duties; and prescribing penalties.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Speech-Language and Hearing Licensure Act.

Section 2. Declaration of policy.

It is declared to be the policy of the Commonwealth that, in order to safeguard the public health, safety and welfare; to protect the public from being misled by incompetent, unscrupulous and unauthorized persons; to protect the public from unprofessional conduct on the part of qualified speech-language pathologists, audiologists and teachers of the hearing impaired; and to assure the availability of the highest possible quality of speech-language and hearing services to the communicatively handicapped people of this Commonwealth, it is necessary to regulate persons offering speech-language and hearing services to the public and persons functioning under the direction of these specialists.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Audiologist." Any person who is qualified by training and experience to engage in the practice of the evaluation, counseling, habilitation and rehabilitation of individuals whose communicative disorders center in whole or in part in the hearing function. For the purposes of this paragraph the words "habilitation" and "rehabilitation" include, but are not limited to, hearing aid evaluation, fitting, recommendation, speech reading, auditory training and similar activities. A person is deemed to be or to hold himself out as being an audiologist if he offers such services to the public under any title incorporating the words audiology, audiologist, audiological consultant, aural rehabilitationist, hearing audiologist or any similar title or description of service.

"Board." The State Board of Examiners in Speech-Language and Hearing.

"Person." Any individual, organization, association, partnership, company, trust or

natural individual person.

"Speech-language pathologist." Any person who is qualified by training and experience to engage in the practice of the evaluation, counseling, habilitation and rehabilitation of individuals whose communicative disorders involve the function of speech, voice or language. A person is deemed to be or to hold himself out as being a speech-language pathologist if he offers such services under any title incorporating the words speech language pathologist, speech consultant, speech therapist, speech correctionist, speech clinician, speech specialist, language pathologist, logopedist, communication therapist, voice therapist, aphasia therapist, aphasiologist, communicologist, or any similar title or description of service.

"Teacher of the hearing impaired." Any person who is qualified by training and experience to engage in the practice of providing evaluation and instruction in curriculum-based material and communication skills appropriate for individuals whose cognitive and educational development have been affected primarily by impaired hearing sensitivity. A person is deemed to be or to hold himself out as being a teacher of the hearing impaired if he offers such services under any title incorporating the words teacher of the hearing impaired, teacher of the acoustically handicapped, teacher of the deaf, teacher of the acoustically impaired, hearing teacher, teacher of the aurally handicapped, hearing tutor, tutor of the auditorily impaired, educator of the deaf or any similar title or description of service.

Section 4. Creation of board; appointment and term of members; officers.

(a) Board created. – There is hereby created a departmental administrative board to be known as the State Board of Examiners in Speech-Language and Hearing which shall be in the Bureau of Professional and Occupational Affairs of the Department of State. It shall consist of ten members, nine of whom shall be appointed by the Governor, by and with the advice and consent of a majority of the members elected to the Senate, who shall be residents of Pennsylvania for a three-year period immediately prior to appointment. The Commissioner of Professional and Occupational Affairs shall serve in his official capacity as the tenth member of the board. At the first meeting, the appointed members shall determine, by lot, three members to serve three-year terms, three members to serve two-year terms and three members to serve one-year terms, with the exception of the commissioner.

(b) Vacancies. – When the term of each appointed member of the board ends, the Governor shall appoint his successor for a term of three years, by and with the advice and consent of a majority of the members elected to the Senate. Any appointive vacancy occurring on the board shall be filled by the Governor by appointment for the unexpired term, by and with the advice and consent of a majority of the members elected to the Senate. Board members shall continue to serve until their successors are appointed and qualified but not longer than six months beyond the three-year period.

(c) Qualifications of board. – The board shall consist of the Commissioner of the Bureau of Professional and Occupational Affairs, one member who at the time of appointment is engaged in rendering professional services in speech-language pathology, one member who at the time of appointment is engaged in rendering professional services in audiology, one member who at the time of appointment is engaged in rendering professional services as a teacher of the hearing impaired, two members at large who are either speech-language pathologists, audiologists or teachers of the hearing impaired, however, each profession shall not be represented by more than two board members, two members who are physicians licensed to practice medicine in this Commonwealth, at least one of whom specializes in otolaryngology, and two members of the public appointed by the Governor from nominations submitted by the governing boards of groups advocating for the welfare of the speech language and hearing handicapped. Of the initial members, the speech-language pathologists, audiologists and teachers of the hearing impaired shall possess the necessary qualifications for licensure under this act. Thereafter, the members of the board who are speech-language pathologists, audiologists and teachers of the hearing impaired shall be licensed under this act. No public member appointed under the provisions of this section shall be affiliated in any manner with professions or occupations providing health or corrective communications services or products to communicatively impaired persons. The public members shall be qualified pursuant to law, including section 813 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. In addition, no

association or organization representing the professions or occupations under the jurisdiction of this board.

(d) Reappointment. – A member of the board shall be eligible for reappointment. A member shall not be appointed to serve more than two consecutive terms.

(e) Compensation; expenses. – The members of the board, other than the Commissioner of Professional and Occupational Affairs, shall receive reimbursement for reasonable travel, hotel and other necessary expenses and $60 perdiem when actually engaged in the performance of their official duties.

(f) Meetings of board. – The board shall hold a meeting within 150 days after the effective date of this act and annually thereafter in the month prescribed by the board and elect a chairman, vice chairman and secretary who shall be members of the board. The board shall meet at such other times as deemed necessary and advisable by the chairman or by a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board shall constitute a quorum at any meeting or hearing.

Section 5. Powers and duties of board.

The board shall have the power and its duties shall be:

(1) To approve the qualifications and fitness of applicants for licensure, and to adopt and revise rules and regulations requiring applicants to pass examinations relating to their qualifications as a prerequisite to the issuance of a license.

(2) To adopt and revise rules and regulations consistent with the laws as may be necessary to implement the provisions of this act. These rules and regulations shall include, but not be limited to, codes of ethics for speech-language pathologists, audiologists and teachers of the hearing impaired. The codes of ethics shall provide further that, whereas speech-language pathologists, audiologists and teachers of the hearing impaired provide nonmedical and nonsurgical services, medical diagnosis and medical treatment by these persons are specifically to be considered unethical and illegal.

(3) To examine for, deny, approve, issue, revoke, suspend or renew the licenses of speech-language pathologist, audiologist and teacher of the hearing impaired applicants.

(4) To conduct hearings upon complaints of violations of this act and the rules and regulations adopted pursuant to this act, and to prosecute and enjoin all such violations.

(5) To spend funds necessary for the proper performance of its assigned duties in accordance with the fiscal and other laws of this Commonwealth and upon approval by the Commissioner of Professional and Occupational Affairs.

(6) To waive examination and educational requirements and grant a license as provided in sections 6 and 7.

(7) To establish standards of eligibility for license renewal. These standards shall include, but not be limited to, the demonstration of satisfactory completion of 20 clock hours of continuing education related to the practice of speech-language pathology, audiology or teaching the hearing impaired in accordance with board regulations. No credit may be given for courses in office management or practice building. The board may waive all or part of the continuing education requirement to a licensee who shows to the satisfaction of the board that the licensee was unable to complete the requirement due to illness, emergency or hardship. The request for a waiver must be made in writing, with appropriate documentation, and must include a description of the circumstances sufficient to show why a licensee is unable to comply with the continuing education requirement. Waiver requests shall be evaluated by the board on a case-by-case basis. The board shall send the licensee written notification of its approval or denial of a waiver request. The requirement to demonstrate the satisfactory completion of continuing education shall begin with the biennial renewal period to be designated by regulation of the board and following written notice to licensees.

(8) To promulgate rules and regulations regarding persons functioning under the direction of audiologists, speech-language pathologists and teachers of the hearing impaired.

Section 6. License required; persons and practices not affected; exclusions.

(a) Licenses. – Except as provided in subsection (b), no person may practice or hold himself out as being able to practice as an audiologist, speech-language pathologist or teacher of the hearing impaired in this Commonwealth unless he holds a current, unsuspended, unrevoked license issued by the board. Licensure shall be granted separately in speech-language pathology, audiology and teaching of the hearing impaired.

(b) Exclusions. – Nothing in this act shall be construed as preventing or restricting:

(1) Any person licensed or registered in this Commonwealth from engaging in the profession or occupation for which he is licensed or registered, including:

(i) A physician or surgeon engaged in the practice of medicine.

(ii) A licensed physician or surgeon or a trained individual under the direction of a licensed physician doing hearing testing in the office or clinic of the physician.

(iii) A hearing aid fitter engaged in the business of selling and fitting hearing aids, and a hearing aid dealer engaged in the sale of hearing aids, as provided in the act of November 24, 1976 (P.L.1182, No.262), known as the Hearing Aid Sales Registration Law.

(2) A person who holds a valid credential issued by the Department of Education in the area of speech or hearing and who is employed in public or private elementary and secondary schools or institutions chartered by the Commonwealth, or a person who is employed by the Commonwealth or the Federal Government as a speech-language pathologist, audiologist or teacher of the hearing impaired from engaging in his profession or occupation, if the person performs his services solely within the scope of his employment, or a person performing hearing testing under section 1402 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(3) The activities of a student or trainee who is pursuing a program of study supervised by a person licensed under this act or otherwise exempt by this section which lead to a degree in audiology, teaching the hearing impaired or speech-language pathology at an accredited college or university, if such individual is designated by a title clearly indicating his student or training status.

(4) The practice of speech-language pathology, audiology or teaching the hearing impaired in this Commonwealth by any person not a resident of this Commonwealth who is not licensed under this act if the person meets the qualifications and requirements for licensure described in section 7, or who is licensed under the law of another state having licensure requirements determined by the board to be at least equivalent to those established by section 7, and if the services are performed for no more than five days in any calendar year in cooperation with a speech-language pathologist, audiologist or teacher of the hearing impaired licensed under this act.

(5) A corporation, partnership, trust, association, company or other similar form of organization from engaging in the practice of speech-language pathology, audiology or teaching the hearing impaired without a license if it employs licensed individuals in the direct practice of speech-language pathology, audiology or teaching the hearing impaired.

Section 7. Requirements for licensure.

(a) In general. – Except as provided in subsections (b) and (c), to be eligible for licensure by the board as a speech-language pathologist, audiologist or teacher of the hearing impaired, an applicant shall pay a fee as established by the board in accordance with section 8(a), be of good moral character to the satisfaction of the board, pass an examination and:

(1) For the license in speech-language pathology, possess a master's degree in speech-language pathology or its equivalent from an accredited academic institution. In addition, the applicant must have at least one year of supervised professional experience in the field of speech-language pathology.

(2) For the license in audiology, possess a master's degree in audiology or its equivalent from an accredited academic institution. In addition, the applicant must have at least one year of supervised professional experience in the field of audiology.

(3) For licensure as a teacher of the hearing impaired, possess a master's degree

institution. In addition, the applicant must have at least 01 year of supervised professional experience in the field of teaching the hearing impaired.

(b) Waivers. – The board may waive the examination and educational requirements for any of the following:

(1) Applicants who present proof of current certification or licensure in a state which has standards determined by the board to be at least equal to those for licensure in this Commonwealth.

(2) Applicants who hold a currently valid and appropriate Certificate of Clinical Competence from the Council of Professional Standards of the American Speech-Language and Hearing Association.

(3) Applicants who hold a currently valid professional certificate issued by the Council on Education of the Deaf in compliance with its standards for the certification of teachers of the hearing impaired and who have completed an additional ten graduate academic credits established by the board to be appropriate for licensure as a teacher of the hearing impaired.

(c) Requirements for current practitioners. – The board shall waive the examination and educational requirements for any applicant who, on the effective date of this act:

(1) has at least a bachelor's degree with a major in speech-language pathology, audiology or teaching the hearing impaired from an accredited college or university, and who has been employed as a speech-language pathologist, audiologist or teacher of the hearing impaired for at least nine consecutive months within three years prior to the effective date of this act; and

(2) files an application with the board providing bona fide proof of the degree and employment together with the application fee prescribed in section 8.

Section 8. Application and fees.

(a) Fee. – An application for examination and license shall be accompanied by a nonrefundable application and examination fee in an amount established by the board by regulation and shall be subject to review in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act. If the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of this act are not sufficient to match expenditures over a two-year period, the board shall increase those fees by regulation, subject to review in accordance with the Regulatory Review Act, such that the projected revenues will meet or exceed projected expenditures. If the Bureau of Professional and Occupational Affairs determines that fees established by the board are inadequate to meet the minimum enforcement efforts required, then the bureau, after consultation with the board, shall increase the fees by regulation, subject to review in accordance with the Regulatory Review Act, such that adequate revenues are raised to meet the required enforcement effort.

(b) Affidavit. – Each application shall be accompanied by an affidavit or affirmation of the applicant as to its verity. Any applicant who knowingly or willfully makes a false statement in his application shall be subject to prosecution for perjury.

(c) Examinations. – The board shall offer at least two examinations for licensure each year. Notice of examinations shall be given at least 60 days prior to their administration.

(d) Record of examination scores. – The board shall maintain a permanent record of all examination scores.

(e) Disposition and use of fees. – Fees shall be collected by the board through the Bureau of Professional and Occupational Affairs and shall be paid into the Professional Licensure Augmentation Account established pursuant to and for use in accordance with the act of July 1, 1978 (P.L.700, No.124), known as the Bureau of Professional and Occupational Affairs Fee Act.

Section 9. Examinations.

(a) Preparation of examinations. – All written examinations shall be prepared and administered by a qualified professional testing organization under contract with the Bureau of Professional and Occupational Affairs and approved by the board, except that national uniform examinations or grading services or both shall be used if available. No board member shall have a financial interest in a professional testing organization. This section shall not apply to any oral, practical or other nonwritten examination which may be required by the board.

established in accordance with section 8(a) is to insure that the applicant's fees cover the entire cost of the examination and administration. Cost is all contractual charges relating to the preparing, administering, grading and recording of the examination.

Section 10. Refusal to issue; revocation; etc.

The board may refuse to issue and may suspend or revoke a license of any person or applicant by a vote of at least a majority of the members of the board for any of the following reasons:

(1) The practice of any fraud, misrepresentation or concealment in obtaining or attempting to obtain a license or renewal thereof.

(2) A violation of this act or noncompliance with the rules and regulations promulgated by the board under this act.

(3) Aiding or abetting any person in the violation of this act or noncompliance with the rules and regulations promulgated by the board.

(4) Being convicted of a felony or misdemeanor of the first or second degree in any court of the United States or of any state within ten years prior to the date of application for licensure.

(5) Unprofessional conduct as defined by the rules and regulations adopted by the board.

(6) The practice of fraud or deceit in connection with services rendered as an audiologist, speech-language pathologist or teacher of the hearing impaired.

Section 11. Hearing; restoration to practice.

(a) Hearings. – Any person licensed by the board, or an applicant for licensure by the board, who is affected by action of the board for any of the reasons referred to in section 10 shall be cited by the board with a copy of the reasons and shall, upon request, have a hearing before the board or before a hearing officer appointed by the board.

(b) Procedure. – At any hearing, the licensed person or applicant shall have the right to appear personally with or by legal counsel, to cross-examine witnesses appearing against him and to produce witnesses and evidence in his own behalf. The board may subpoena witnesses and documentary evidence on its own behalf, and, if requested by the licensed person or applicant, shall subpoena witnesses and documents on his behalf. The board may administer oaths, examine witnesses and compel testimony. A record of the hearing shall be made by the board and a copy furnished to the licensed person or applicant upon payment of a reasonable charge.

(c) Decision. – The revocation or suspension, for any cause, of a license issued by the board may be removed when it shall appear to the board to be just and proper. Upon any removal of the revocation or suspension of license by the board, the name of the licensed person shall be restored and replaced upon the record in the office of the board.

Section 12. Requirement of a medical examination.

(a) Medical examination. – Before an audiologist initiates aural rehabilitation for an individual, there shall be a medical examination verifying that there are no diseases of the ear requiring medical or surgical treatment.

(b) Waiver. – This section does not apply if an individual signs a written waiver as set forth in this section. The waiver must be read and explained in such a manner that the individual will be thoroughly aware of the consequences of signing the waiver. The waiver form shall read as follows:

I have been advised by (audiologist's name) that the Commonwealth of Pennsylvania has determined that my best health interest would be served if I had a medical examination by a licensed physician before the initiation of aural rehabilitation. I do not wish a medical examination before the initiation of aural rehabilitation.

_____

Signature Date

Section 13. Renewal fees; records.

Renewal of licenses shall be on a biennial basis. The fee for renewal of a license shall be as determined by the board in accordance with section 8(a). A record of all speech-language pathologists, audiologists and teachers of the hearing impaired licensed to practice in this Commonwealth shall be maintained in the office of the board and published at the discretion of the board. The board shall suspend any license for nonpayment of fees until the license is renewed properly.

Any person who fails to renew his license within five years after the date of it expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but the person may apply for and obtain a new license if he meets the requirements of this act.

Section 15. Display of license.

A license issued under this act shall be posted conspicuously at all times in the office or place of business of the licensee.

Section 16. Certification to the board.

Every organization or corporation which engages in the practice of speech-language pathology, audiology or teaching of the hearing impaired by the employment of individuals licensed under the provisions of this act shall file with the board, on a form approved by the board, a certification that it submits itself to the rules and regulations of the board and the provisions of this act which the board shall consider applicable to it.

Section 17. Enforcement of certification to board.

No license or renewal of license shall be issued by the board to any individual engaging in the practice of speech-language pathology, audiology or teaching of the hearing impaired with a corporation, partnership, trust, association, company or other similar forms of organization which have failed to comply with section 16.

Section 17.1. Impaired professionals.

(a) Appointment of professional consultant.– The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board or such other professional as the board may determine with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. This consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups that are approved by the board and provide services to licensees under this act.

(b) Board action against impaired professionals.–

(1) The board may deter and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program.

(2) An approved program provider shall, upon request, disclose to the consultant any information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States.

(3) The disclosure of information by an approved program provider under this section shall apply in the case of an impaired professional who:

(i) Enters an agreement in accordance with this section.

(ii) Is the subject of a board investigation or disciplinary proceeding.

(iii) Voluntarily enters a treatment program other than under the provisions of this section, but who fails to complete the program successfully or to adhere to an aftercare plan developed by the program provider.

(4) The provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country.

(c) Board agreement with impaired professional.– An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked. Enforcement of that suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on this practice imposed by the board to protect the public. Failure to enter into an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d) Consultant disclosure to board.– If, in the opinion of the consultant after

treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in the consultant's possession regarding this professional, and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license should be vacated.

(e) Immunity to approved program provider. – An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for the disclosure or its consequences.

(f) Mandatory reporting to board. –

(1) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of that professional's license shall make or cause to be made a report to the board.

(2) Any person or facility who acts in a treatment capacity to an impaired speech-language pathologist, audiologist or as a teacher of the hearing impaired in an approved treatment program shall be exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports under this subsection in good faith and without malice shall be immune from any civil or criminal liability arising from the report.

(3) Failure to provide the report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed $1,000. The board shall impose the penalty only after affording the accused party the opportunity for a hearing as provided in 2 Pa.C.S. (relating to administrative law and procedure).

(17.1 added October 18, 2000, P.L.536, No.71)

Section 18. Penalties.

Whoever violates any provision of this act is guilty of a misdemeanor, shall be prosecuted by the board or its agents and, upon conviction, shall be sentenced to imprisonment for not more than six months or to pay a fine of not less than $100 nor more than $1,000, or both. Each violation shall be deemed a separate offense. Fines collected under the provisions of this act shall be paid into the State Treasury for the use of the Commonwealth.

Section 19. Injunction against unlawful practice.

After 12 months from the effective date of this act, it shall be unlawful for any person to practice or attempt to offer to practice audiology, speech-language pathology or teaching the hearing impaired without holding a valid unrevoked and unsuspended license issued under this act. The unlawful practice of audiology, speech-language pathology or teaching the hearing impaired may be enjoined by the courts on petition of the board or its agents. In any proceeding it shall not be necessary to show that any person is individually injured by the complained of actions. If the respondent is found guilty of the unlawful practice, the court shall enjoin him from practicing until he has been duly licensed. Procedure in these cases shall be the same as in any other injunction suit. The remedy by injunction is in addition to criminal prosecution and punishment.

Section 20. Appropriation.

The sum of $75,000, or as much thereof as may be necessary, is hereby appropriated from the Professional Licensure Augmentation Account within the General Fund to the Bureau of Professional and Occupational Affairs in the Department of State for the establishment and operation of the State Board of Examiners in Speech-Language and Hearing. The appropriation granted shall be repaid by the board within three years of the beginning of issuance of licenses by the board.

Section 21. Effective date.

This act shall take effect in 60 days.