

A Bill for an Act to Provide for the Licensure of Speech Pathologists and Audiologists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
SPEECH PATHOLOGISTS AND AUDIOLOGISTS**

Sec. -1 Purpose. It is the policy and the purpose of this chapter to insure that the highest quality of speech pathology and audiology services are available to the people of this State. The public health and welfare requires that persons offering speech pathology and audiology services be in fact qualified in such fields; that a public authority competent to assess and prescribe the qualifications of speech pathologists and audiologists be established and continued; that only qualified persons be allowed to practice in the fields of speech pathology and audiology.

Sec. -2 Definitions. As used in this chapter:

- (1) ‘Board’ means the State Board of Speech Pathology and Audiology, established under section -6;
- (2) ‘Person’ means any individual, organization, or corporate body, except that only an individual may be licensed under this chapter;
- (3) ‘Speech pathologist’ means an individual who practices speech pathology.
- (4) ‘The practice of speech pathology’ means the application of principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction related to the development and disorders of speech and related language and hearing for the purpose of modifying speech and related language and hearing disorders.
- (5) ‘Audiologist’ means an individual who practices audiology.
- (6) ‘The practice of audiology’ means the application of principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction related to the development and disorders of hearing and related language and speech for the purpose of modifying hearing function and related language and speech disorders.
- (7) ‘ASHA’ means the American Speech and Hearing Association, the national administrative office of which is located in the District of Columbia, 9030 Old Georgetown Road (20014).

Sec. -3 Practice as speech pathologist or audiologist; title or description of services. (a) A person represents himself to be a speech pathologist when he holds himself out to the public by any title or description of services incorporating the words ‘speech pathologist,’ ‘speech pathology,’

'speech therapy,' 'speech correction,' 'speech correctionist,' 'speech therapist,' 'speech clinic,' 'speech clinician,' 'language pathologist,' 'language pathology,' 'logopedics,' 'logopedist,' 'communicology,' 'communicologist,' 'asphasiologist,' 'voice therapy,' 'voice therapist,' 'voice pathology,' or 'voice pathologist,' 'language therapist,' or 'phoniatriest,' or any similar titles; or when he purports to treat stuttering, stammering, or other disorders of speech.

(b) A person represents himself to be an audiologist when he holds himself out to the public by any title or description of services incorporating the terms 'audiology,' 'audiologist,' 'audiological,' 'hearing clinic,' 'hearing clinician,' 'hearing therapist,' or any similar titles.

Sec. -4 Persons and practices not affected. Nothing in this Act shall be construed as preventing or restricting:

- (1) A physician or surgeon from engaging in the practice of medicine in this State; or
- (2) A licensed hearing aid dealer from engaging in the practices of fitting and selling hearing aids in this State; or
- (3) Any person licensed in this State by any other law from engaging in the profession or occupation for which he is licensed; or
- (4) Any person employed by a local, state, or federal government agency whose speech pathologist and/or audiologist must qualify for employment under government certification or under civil service regulations but only at those times when that person is carrying out the functions of such governmental employment. However, such person may, without obtaining a license under this Act, consult with or disseminate his research findings and other scientific information to speech pathologists and audiologists outside the jurisdiction of the organization by which he is employed. Such person may additionally elect to be subject to this Act; or
- (5) The activities and services of persons pursuing a course of study leading to a degree in speech pathology at a college or university, if such activities and services constitute a part of a supervised course of study and such person is designated 'speech pathology intern,' 'speech pathology trainee,' or by other such titles clearly indicating the training status appropriate to his level of training; or
- (6) The activities and services of a person pursuing a course of study leading to a degree in audiology at a college or university, if such activities and services constitute a part of a supervised course of study and such person is designated 'audiology intern,' 'audiology trainee,' or by any other such titles clearly indicating the training status appropriate to his level of training; or
- (7) The activities and services of a person fulfilling the clinical experience requirements or the clinical fellowship year leading to the American Speech and Hearing Association certificate of clinical competence; or
- (8) The performance of speech pathology or audiology services in this State by any person not a resident of this State who is not licensed under this Act, if such services are performed for no more than five

days in any calendar year and in cooperation with a speech pathologist or audiologist licensed under this Act, and if such person meets the qualifications and requirements for application for licensure described in paragraphs (1)-(3) of section -5 of this Act. However, a person not a resident of this State who is not licensed under this Act, but who is licensed under the law of another state which has established licensure requirements at least equivalent to those established by section -5 of this Act, or who is the holder of the ASHA Certificate of Clinical Competence in Speech Pathology or Audiology or its equivalent, may offer speech pathology or audiology services in this State for no more than 30 days in any calendar year, if such services are performed in cooperation with a speech pathologist or audiologist licensed under this Act.

Sec. -5 Eligibility for licensure. To be eligible for licensure by the board as a speech pathologist or audiologist, a person shall:

- (1) Be of good moral character;
- (2) Be a citizen of the United States, or shall have declared under oath his intention to make application to become a citizen when he becomes eligible to make such application;
- (3) Posses at least a master's degree or its equivalent in the area of speech pathology or audiology, as the case may be, from an educational institution recognized by the board;
- (4) Submit to the board evidence of eligibility for meeting the requirements of the American Speech and Hearing Association for the certificate of clinical competence in speech pathology and/or audiology;
- (5) Pass a written examination approved by the Board.

Sec. -6 Board of Speech Pathology and Audiology. (a) There is hereby established within the department of regulatory agencies a state board of speech pathology and audiology consisting of seven members who shall be appointed by the governor in a manner prescribed in section 26-34.

(b) The membership of the board shall include two speech pathologists, two audiologists, and three public members, one of whom shall be licensed to practice medicine in the State and hold a certificate of qualification from the American Board of Otorhinolaryngology. For purposes of the initial appointments to the board, the original speech pathologists and audiologists appointed shall meet all requirements of section -5 except those relating to examination. Subsequent appointees shall be fully licensed speech pathologists or audiologists.

All members of the board shall be residents of the State.

(c) Members shall serve for a term of three years, provided, that of the initial appointees, two shall serve for terms of one year; two shall serve for terms of two years; and three shall serve for terms of three years. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year, except for the first appointed members, who shall serve through the last calendar day of the year in which they are appointed before commencing the terms for which they are appointed as prescribed by this section.

(d) The board shall meet during the first month of each calendar year to select a chairman and for other appropriate purposes. At least one additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chairman or the written request of any two board members. The board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of chapter 92.

(e) Members of the board shall not receive any compensation for performance of the duties imposed upon them by this chapter, but shall be entitled to necessary traveling expenses.

(f) The director of regulatory agencies shall employ clerks, proctors, examiners and other personnel under the provisions of chapters 76 and 77 to assist the board in the performance of its duties.

(g) Four members of the board shall constitute a quorum for all purposes, but in no instance shall a meeting of the two speech pathologist members and two audiologist members alone be considered a quorum.

Sec. -7 Functions and powers of the Board. (a) The board shall, in accordance with the provision of chapters 91 and 92 administer, coordinate, and enforce the provision of this chapter.

(b) The board shall, in accordance with the provisions of chapter 91, adopt rules and regulations relating to professional conduct to effectuate the policy of this chapter, including but not limited to regulations which establish ethical standards of practice, and for other purposes, and may amend or repeal the same.

Sec. -8 License. (a) On and after January 1, 1975, no person shall engage in the practice of speech pathology or audiology unless he is licensed in accordance with the provisions of this chapter or as otherwise provided in this chapter.

(b) A person certified by ASHA or licensed under the laws of another state or the District of Columbia as a speech pathologist or audiologist who has applied for a license in this state may perform speech pathology or audiology services in this state for a period not to exceed 90 days from the time of submitting his application.

Sec. -9 Application for examination. (a) A person eligible for licensure under section -5 of this chapter and desirous of licensure shall make application for examination to the board at least 30 days prior to the date of examination, upon a form and in such a manner as the board shall prescribe.

(b) Any application shall be accompanied by the fee prescribed by section -15 of this chapter, which fee shall in no case be refunded.

(c) A person who fails an examination may make application for re-examination if he again meets the requirements of subsections (a) and (b) of this section.

Sec. -10 Examination for license. (a) Each applicant for licensure under this chapter shall take a written examination in accordance with procedures prescribed by the board. Standards for acceptable performance shall be established by the board.

(b) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine.

(c) The board may examine in whatever theoretical or applied fields of speech pathology or audiology it considers appropriate and may examine with regard to a person's professional skills and judgment in the utilization of speech pathology or audiology techniques and methods.

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

Sec. -11 Waiver of examination or parts thereof. (a) The board shall waive the requirements of paragraphs (3) through (5) of section -5 for applicants for licensure who, on the effective date of this chapter, are actually engaged in this State in the practice of speech pathology or audiology, upon proof of bona fide practice presented to the board in a manner prescribed by regulations promulgated by the board.

(b) The board may waive the examination and grant licensure to any applicant who shall present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the board to be equivalent to those set forth in this Act.

Sec. -12 Issuance of license. The board shall issue a license to any person who meets the requirements of this chapter and who pays to the board the initial license fee prescribed in section -15 of this chapter.

Sec. -13 Suspension and revocation of license. (a) The board may refuse to issue or renew a license, or may suspend or revoke a license where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may result from:

- (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) Being guilty of unprofessional conduct as defined by the rules established by the board, or violating the Code of Ethics adopted and published by the board;
- (3) Being convicted of a felony in any part of the United States;
- (4) Violating any lawful order, rule, or regulation rendered or adopted by the board;
- (5) Violating any provision of the chapter.

(b) The board shall deny any application for, or suspend, revoke, or impose probationary conditions upon a license as ordered by the board in any decision made after hearing as provided in this chapter. One year from the date of revocation of a license under this section, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for such reinstatement.

(c) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, made to a charge of a felony or of any offense involving moral turpitude, is a conviction within the meaning of this section. At the direction

of the board and after due notice and hearing in accordance with the provisions of chapter 91, the license of the person so convicted shall be suspended or revoked or the board shall decline to issue a license when:

- (1) The time for appeal has elapsed;
- (2) The judgment of conviction has been affirmed on appeal; or
- (3) An order granting probation has been made suspending the imposition of sentence.

Sec. -14 Renewal of license. (a) Licenses issued under this chapter expire at midnight, December 31 of each year if not renewed.

(b) Every person licensed under this chapter shall, on or before December 31, 1975 and each year thereafter, pay a fee for renewal of his license to the board. The board may, in the event payment of the renewal fee is rendered after December 31 of any given year, renew a license upon payment of the renewal of license fee plus a late renewal payment penalty, which penalty shall equal the amount prescribed by the board according to the authority vested in it by section -15 of this chapter, multiplied by the number of full months which have elapsed since expiration of the license. No person who requests renewal of license, whose license has expired, shall be required to submit to examination as a condition to renewal, if such renewal application is made within two years from the date of such expiration.

(c) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

(d) A license revoked on disciplinary grounds is subject to expiration as provided in subsection (2) of this section, but it may not be renewed. If such license is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated plus the late renewal payment penalty defined in subsection (b) of this section.

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

Sec. -15 Fees. (a) The board shall prescribe, and publish in a manner it deems appropriate, fees in amounts determined by the board for the following purposes:

- (1) Application for examination;
- (2) Initial licensing;
- (3) Renewal of licensing;
- (4) Late renewal payment monthly penalty.

(b) Every person to whom a license is issued pursuant to this chapter shall, as a condition precedent to its issuance, and in addition to any application, examination, or other fee, pay the prescribed initial license fee. The

ACT 48

board may, by regulation, provide for the waiver of all or part of such fee where the license is issued less than 120 days before the date on which it will expire.

(c) All fees received by the board and monies collected under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

Sec. -16 Penalties. Any person who violates any provision of this chapter or any rule or regulation promulgated thereunder shall upon conviction be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisoned in the county jail for a period not exceeding six months, or both.

Sec. -17 Severability provision. If any part of this chapter is for any reason held unconstitutional, inoperative, or void, such holding of invalidity shall not affect the remaining portions of the Act; and it shall be construed to have been the legislative intent to pass this Act without such unconstitutional, invalid, or inoperative part therein; and the remainder of this chapter, after the exclusion of such part or parts, shall be valid as if such parts were not contained therein.”

SECTION 2. Effective date. This Act shall take effect sixty days after its approval.

(Approved May 24, 1974.)

*Edited accordingly.