

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 3244

By: Staggs

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 1605 and 1607, as amended by Sections 1 and 2, Chapter 197, O.S.L. 1994, 1609, 1610, 1616, 1617 and 1619 (59 O.S. Supp. 1997, Sections 1605 and 1607), which relate to the Speech Pathology and Audiology Licensing Act; modifying the requirements for licensure under the act; modifying certain appointments to the Board of Examiners for Speech Pathology and Audiology; modifying certain meeting of the Board; requiring certain secretary to be elected from the membership; providing for an executive secretary; modifying appointment requirement of certain secretary; modifying powers and duties of the Board; authorizing certain fees, and procedures and requirements related thereto; modifying requirements related to the certificate and the serial number; modifying expiration of licenses for independent practitioners; modifying certain fees; authorizing the Board to establish requirements by rule for continuing education; requiring certain rules be promulgated prior to implementation of continuing education programs; modifying time for Board to publish certain list; authorizing the Board to impose certain disciplinary actions; modifying the list of prohibited acts for which disciplinary actions may be imposed; modifying list of acts for which no disciplinary action may be imposed; modifying certain procedures related to disciplinary actions; modifying certain appeal procedures; modifying certain actions for which a license may be restored; repealing 59 O.S. 1991, Section 1615, which relates to certain licenses; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1605, as amended by Section 1, Chapter 197, O.S.L. 1994 (59 O.S. Supp. 1997, Section 1605), is amended to read as follows:

Section 1605. A. To be eligible for licensure by the Board as a speech pathologist or audiologist, the applicant must:

1. Hold not less than a master's degree, or the equivalent, with a major emphasis in speech pathology or audiology from an accredited academic institution offering a graduate program in speech pathology or audiology;

~~2. Submit evidence of the completion of sixty (60) semester hours of academic credit from one or more accredited colleges or universities, constituting a well-integrated program that includes eighteen (18) semester hours in courses that provide fundamental information applicable to the normal development and use of speech, hearing and language, and forty-two (42) semester hours in courses that provide information about and training in the management of speech, hearing and language disorders, or that provide information supplementary to these fields;~~

~~a. of these forty-two (42) semester hours, no fewer than six (6) must be in audiology for the speech pathologist or in speech pathology for the audiologist,~~

~~b. no more than six (6) of these forty-two (42) semester hours may be in courses that provide academic credit for clinical practice,~~

~~c. of these forty-two (42) semester hours, at least twenty-four (24), not including credit for thesis or dissertation, must be in courses in the field in which the license is requested, and~~

~~d. thirty (30) of these forty-two (42) semester hours must be in courses acceptable toward a graduate degree by the college or university in which these courses are taken;~~

~~3. Submit evidence of the completion of two hundred seventy-five (275) clock hours of directly supervised clinical practicum with cases representative of a wide spectrum of ages and communication disorders; the experience must be obtained within the accredited academic from an educational institution or in one of its cooperating programs, the content of which shall be approved by the Board and delineated in the rules;~~

~~4. 3. Submit evidence of no less than nine (9) months of full-time paid clinical completion of supervised postgraduate professional experience in the area for which a license is requested, obtained under the supervision of one or more licensed speech pathologists or audiologists or one or more persons whose education and experience is the substantial equivalent of a licensed speech pathologist or audiologist. Supervision must be provided by individuals licensed or qualified in the appropriate area. This experience must follow completion of the requirements listed in paragraphs 1, 2 and 3 of this section. "Full time" is defined as at least thirty (30) hours per week; the nine (9) months of full-time paid experience must be obtained within a period of twenty-four (24) consecutive months. This requirement may also be fulfilled by eighteen (18) months of half-time paid experience of at least fifteen (15) hours per week which must be completed within a period of thirty-six (36) consecutive months as approved by the Board and described in the rules;~~

~~5. 4. Pass examinations approved by the Board, whether or not administered by the Board; application for examination for a license or for a license without examination shall be upon forms prescribed by the Board; the Board may require that the application be verified; the license fee, which shall include an examination fee of not to exceed Twenty-five Dollars (\$25.00), shall accompany the application; the cost of examinations administered by the Board shall be included in the examination fee; the Board shall determine the subject and scope of the examinations, and shall provide for examinations to qualified applicants at least twice a year; an applicant who fails ~~his~~ the examination may be reexamined at a subsequent examination upon payment of another examination fee. Only the Board has the power to determine whether an applicant's examination has been passed or failed;~~

5. Have not committed any acts described in Section 1619 of this title for which disciplinary action may be justified; and

6. Be of good moral character.

B. To be eligible for licensure by the Board as an intern, the applicant must be in the process of fulfilling the supervised clinical experience required in paragraph 4 2 of subsection A of this section, or be a student, intern or resident in speech pathology or audiology, pursuing a course of study at an accredited university or college, or working in a training center recognized by ~~his~~ the applicant's accredited university or college, if these activities and services constitute a part of ~~his~~ the applicant's supervised course of study, and if such person is designated by such title as "speech pathology intern", "speech pathology trainee", "audiology intern", "audiology trainee" or other such title clearly indicating the training status appropriate to ~~his~~ the applicant's level of training.

C. To be eligible for licensure by the Board as a speech pathology or audiology assistant, the applicant must be assisting in the practice of speech pathology or audiology while in the employ of and under the supervision of a licensed speech pathologist or audiologist, subject to the rules of the Board. The licensed speech pathologist or audiologist is legally and ethically responsible for the professional activities of such employees.

D. To be eligible for licensure by the Board as a speech pathology or audiology temporary license holder, the applicant must meet all the requirements specified in subsection A of this section. A temporary license will be issued following a credentials review, such temporary license being valid until the next regularly held Board meeting.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1607, as amended by Section 2, Chapter 197, O.S.L. 1994 (59 O.S. Supp. 1997, Section 1607), is amended to read as follows:

Section 1607. A. There is hereby re-created, to continue until July 1, 2000, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, the Board of Examiners for Speech Pathology and Audiology whose duty it is to administer the provisions of the Speech Pathology and Audiology Licensing Act, ~~Section 1601 et seq.~~

~~of this title.~~ The members of the Board shall be residents of this state and shall be appointed by the Governor with the advice and consent of the Senate. The Board shall be composed of five (5) members consisting of three licensed speech pathologists or audiologists, provided that at least one of the three shall be a licensed speech pathologist and at least one a licensed audiologist; one otolaryngologist who is certified by the American Board of Otolaryngology and one lay member.

B. The members of the original Board shall serve the following terms: one member for one (1) year, two members for two (2) years, and two members for three (3) years. Thereafter, at the expiration of the term, or termination of the member's service for any reason, the Governor shall appoint each successor for a term of three (3) years, or for the remainder of an unexpired term. The successor for any of the three speech pathologists or audiologists ~~will~~ may be selected from a list of five eligible speech pathologists or audiologists, furnished by the Oklahoma Speech and Hearing Association. The re-creation of the Board shall not affect the staggered terms of office for Board members established with the original Board.

C. Before entering upon the duties of ~~his~~ the member's office, each member of the Board shall take the Constitutional oath of office and file it with the Secretary of State.

D. A member of the Board may not be reappointed to succeed ~~himself~~ the member's self, but ~~he~~ may be reappointed three (3) years or more following the termination of a previous appointment to the Board.

E. Board members shall be reimbursed for travel expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1609, is amended to read as follows:

Section 1609. A. The Board shall hold a regular annual meeting at its last meeting of the fiscal year at which it shall elect from its membership a chairman ~~and~~, a vice-chairman, and a

secretary. Other regular meetings shall be held at such times as the rules of the Board may provide. Special meetings may be held at such times as may be deemed necessary or advisable by a majority of the Board members. At least one (1) week's notice of all meetings shall be given in a manner prescribed by the rules of the Board.

B. All meetings of the Board shall be open and public except that the Board may hold a closed executive session:

1. To prepare, approve, grade or administer examinations; and
2. Upon request of an applicant who fails an examination to prepare a response indicating the cause of ~~his~~ the applicant's failure.

C. Three members of the Board shall constitute a quorum.

D. ~~A secretary of the Board~~ An executive secretary shall be appointed by the Board, and shall hold office at the pleasure of the Board. ~~The secretary may or may not be a member of the Board.~~ The Board may employ such other persons and may rent or purchase such space and equipment as it deems necessary or desirable to carry out the provisions of this act.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1610, is amended to read as follows:

Section 1610. A. The Board ~~shall administer, coordinate and enforce the provisions of this act, evaluate the qualifications of applicants, supervise the examination of applicants and may issue subpoenas, examine witnesses and administer oaths. The Board shall investigate persons engaging in practices that violate the provisions of this act. The secretary or chairman of the Board shall determine the completeness of each application for licensure, and, within thirty (30) days after the receipt of each application, shall acknowledge by mail such receipt and notify the applicant of the acceptability of his application or of its incompleteness. The Board shall conduct such hearings and keep such records and minutes as shall be necessary to an orderly dispatch of business, in addition to the other powers and duties prescribed by the Speech Pathology and Audiology Licensing Act, shall have the power and duty to:~~

1. Regulate the practice of speech pathology and audiology in this state;

2. Examine the applicants and issue the appropriate licenses pursuant to the provisions of the Speech Pathology and Audiology Licensing Act to applicants qualified in the practice of speech pathology and audiology;

3. Continue in effect, suspend, revoke, modify, or deny, pursuant to the provisions of the Speech Pathology and Audiology Licensing Act and such conditions as the Board may prescribe, licenses for the practice of speech pathology and audiology in this state;

4. Investigate complaints, and hold hearings pursuant to the provisions of the Speech Pathology and Audiology Licensing Act and the Administrative Procedures Act;

5. Initiate prosecutions against licensees in violation of the provisions of the Speech Pathology and Audiology Licensing Act;

6. Reprimand or place on probation, or both, any holder of a license pursuant to the provisions of the Speech Pathology and Audiology Licensing Act;

7. Adopt and promulgate standards of conduct for speech pathologists and audiologists;

8. Develop and promulgate rules necessary to effectuate the provisions of the Speech Pathology and Audiology Licensing Act;

9. Enforce rules promulgated pursuant to the provisions of the Speech Pathology and Audiology Licensing Act;

10. Communicate disciplinary actions to relevant state and federal authorities, to other state speech pathology and audiology licensing authorities requesting such information, and to other state and national professional associations requesting such information; and

11. Exercise all incidental powers and duties which are necessary and proper to effectuate the provisions of the Speech Pathology and Audiology Licensing Act.

B. The conferral or enumeration of specific powers elsewhere in the Speech Pathology and Audiology Licensing Act shall not be

construed as a limitation of the general functions conferred by this section.

C. No member of the Board shall be liable for civil action for any act performed in good faith in the performance of the member's duties as prescribed by law.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1615.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

All licensing fees, renewal fees, and replacement fees shall be amounts fixed by the Board of Examiners for Speech Pathology and Audiology. The Board shall fix the amount of the fees so that the total fees collected will be sufficient to meet the expenses of administering the provisions of the Speech Pathology and Audiology Licensing Act, and so there are no unnecessary surpluses in the Speech Pathology and Audiology Licensing Fund. The Board shall not fix a license fee at an amount in excess of One Hundred Dollars (\$100.00), a renewal fee at an amount in excess of One Hundred Dollars (\$100.00), or a fee for the issuance of a license to replace a license which was lost, destroyed, mutilated, or revoked at an amount in excess of Twenty-five Dollars (\$25.00). The fees shall accompany the respective application.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1616, is amended to read as follows:

Section 1616. A. The Board of Examiners for Speech Pathology and Audiology shall issue a license certificate to each person whom it registers as a speech pathologist and/or audiologist. Licensure shall be granted in either speech pathology or audiology independently. Qualified applicants may be independently licensed in both. The certificate shall show the full legal name of the licensee and shall bear a serial number. The serial number is exclusive and not transferable. The certificate shall be signed by the chairman and secretary of the Board under the seal of the Board.

B. Licenses for independent practitioners expire on the 31st day of December following their issuance or renewal, and are invalid thereafter unless renewed. The Board shall notify every

person licensed ~~under this act~~ pursuant to the Speech Pathology and Audiology Licensing Act of the date of expiration and the amount of the renewal fee. This notice shall be mailed at least one (1) month before the expiration of the license. Renewal may be made at any time during the months of November or December upon application therefor, and by payment of the renewal fee. Failure on the part of any licensed person to pay ~~his~~ such person's renewal fee before the first day in January does not deprive ~~him~~ the person of ~~his~~ the person's right to renew ~~his~~ the person's license, but the fee to be paid for renewal after December shall be increased by ten percent (10%) for each month or fraction thereof that the payment is delayed, up to a maximum of twice the current renewal fee.

C. A licensed speech pathologist or audiologist may place ~~his~~ such person's license on inactive status if, prior to expiration of ~~his~~ the person's license, ~~he~~ the person makes written application to the Board for such status and pays a fee of ~~Ten Dollars (\$10.00)~~ Twenty-five Dollars (\$25.00). Thereafter, ~~he~~ the person may renew ~~his~~ such person's license upon payment of a renewal fee equal to one and one-half (1 1/2) times the then current license fee. During the period of time ~~his~~ the person's license is in an inactive status, ~~he~~ the person shall not engage in the practice of speech pathology or audiology in the State of Oklahoma.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1616.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board of Examiners for Speech Pathology and Audiology is hereby authorized to establish requirements of continuing education as a condition for the renewal of licensure of speech pathologists and audiologists. The Board may assess a reasonable fee to be paid by entities sponsoring continuing education programs. Rules concerning accreditation of continuing education programs and other educational experience, and the assignment of credit for participation therein must be promulgated by the Board

at least one (1) year prior to implementation of continuing education.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 1617, is amended to read as follows:

Section 1617. During ~~the month of April of each~~ every odd-numbered year, the Board of Examiners for Speech Pathology and Audiology shall publish a list of all licensed speech pathologists and licensed audiologists, including the name and address of each licensed person, the area in which ~~he~~ the person is licensed, and such other information as the Board deems desirable. The Board shall mail one copy to each licensee, shall place a copy on file with the Secretary of State, and shall furnish copies to the public upon request.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 1619, is amended to read as follows:

Section 1619. A. The ~~license of~~ Board of Examiners for Speech Pathology and Audiology may impose separately, or in combination, any of the following disciplinary actions on a licensee under this act may be suspended or revoked or a reprimand may be issued after formal or informal disciplinary action as provided in the Speech Pathology and Audiology Licensing Act: suspend or revoke a license, issue a letter of reprimand, impose probationary conditions, impose practice and/or supervision requirements, impose an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00), assess reasonable costs, and/or require completion of continuing education hours specified by the Board as to content and hours. Disciplinary actions may by taken by the Board upon proof that the licensee:

1. Has been guilty of fraud or deceit in connection with ~~his~~ the person's services rendered as a speech pathologist and/or audiologist;

2. Has aided or abetted a person who is not a licensed speech pathologist and/or audiologist and who is not an employee of and under the supervision of a licensed speech pathologist or audiologist and subject to the ~~regulations~~ rules of the Board, in

illegally engaging in the practice of speech pathology or audiology within this state;

3. Has been guilty of unprofessional conduct as defined by the rules established by the Board or has violated the code of ethics made and published by the Board;

4. Has used fraud or deception in applying for a license or in passing an examination provided for in this act;

5. Has been grossly negligent in the practice of ~~his~~ the person's profession; ~~or~~

6. Has willfully violated any of the provisions of this act or any ~~regulations adopted hereunder~~ rules promulgated pursuant thereto;

7. Has been convicted of fraud in filing Medicare or Medicaid claims or in filing claims to any third-party payor. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of conviction;

8. Has been disciplined by a licensing or disciplinary authority of any other state, country, or nationally recognized professional organization or convicted or disciplined by a court of any state or country for any act that would be grounds for disciplinary action pursuant to the Speech Pathology and Audiology Licensing Act. A certified copy of the adverse action shall be conclusive evidence thereof;

9. Has violated federal, state or local laws relating to the profession. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of conviction; or

10. Has been convicted or has pled guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence of conviction.

B. No ~~license disciplinary action~~ shall be ~~suspended or revoked or reprimand issued~~ imposed until after a hearing before

the Board. A notice of at least ten (10) days shall be served, either personally or by ~~registered or~~ certified mail, to the licensee charged, stating the time and place of the hearing, and setting forth the ground or grounds constituting the charges against the licensee. The licensee shall be entitled to be heard in ~~his~~ such person's defense either in person or by counsel, and may produce testimony and may testify in ~~his~~ the person's own behalf. A record of such hearing shall be taken and preserved. The hearing may be adjourned from time to time. If, after due receipt of notice of a hearing, the licensee shall be unable to appear for good cause shown, then a continuance shall be granted by the Board. The time allowed shall be at the discretion of the Board, but in no instance shall it be less than two (2) weeks from the originally scheduled date of the hearing. If a licensee pleads guilty, or if upon hearing the charges, a majority of the Board finds them to be true, the Board shall ~~enter an order suspending or revoking the license or reprimanding~~ impose its disciplinary action against the licensee, ~~as the case may be~~. The Board shall record its findings and order in writing.

C. The Board, through its chairman or vice-chairman, may administer oaths and may compel the attendance of witnesses and the production of physical evidence before it from witnesses upon whom process is served anywhere within the state, as in civil cases in the district court, by subpoena issued over the signature of the chairman or vice-chairman and the seal of the Board. Upon request by an accused speech pathologist and/or audiologist, and statement under oath that the testimony or evidence is reasonably necessary to ~~his~~ the person's defense, the Board shall use this subpoena power in behalf of the accused speech pathologist and/or audiologist. Said subpoenas shall be served, and a return of service thereof made, in the same manner as a subpoena is served out of the district courts in this state, and as a return in such case is made. If a person fails and refuses to attend in obedience to such subpoena, or refuses to be sworn or examined or answer any legally proper question propounded by any member of said Board or any attorney or licensee upon permission from said

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Board, such person shall be guilty of a misdemeanor, and, upon conviction, may be punished by a fine not to exceed Two Hundred Fifty Dollars (\$250.00) or by confinement in the county jail not to exceed ninety (90) days, or both.

D. Any person who feels aggrieved by reason of the ~~denial, suspension or revocation of his license or of the Board's reprimand or of the Board's rejection of his application~~ imposition of disciplinary action may appeal to the Board for a review of the case; ~~if the Board does not reverse itself at such a hearing, then the aggrieved person may file suit within thirty (30) days after receiving notice of the Board's action, or of the Board's order, in the district court of Oklahoma County, or in the district court of the county of his residence, to annul or vacate the action or the order of the Board or may seek judicial review pursuant to the Administrative Procedures Act.~~ The suit shall be filed against the Board as defendant, and service of process shall be upon either the chairman or executive secretary of the Board. ~~The suit shall be tried by the court without a jury and shall be a trial de novo, but the burden of proof is upon the plaintiff assailing the order of the Board.~~ The judgment of the district court may be appealed to the Supreme Court of Oklahoma in the same manner as other civil cases.

E. Upon a vote of three of its members, the Board may restore a license which has been revoked, or reduce the period of suspension, ~~or withdraw a reprimand.~~

SECTION 10. REPEALER 59 O.S. 1991, Section 1615, is hereby repealed.

SECTION 11. This act shall become effective July 1, 1998.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-9867 KSM