



SPONSOR: Sen. Huxtable & Rep. Parker Selby
Sen. Wilson; Rep. Ramone

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 320

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF
SPEECH/LANGUAGE PATHOLOGISTS, AUDIOLOGISTS, AND HEARING AID DISPENSERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 37, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3701. Objectives.

4 The primary objective of the Board of Speech/Language Pathologists, ~~Audiologists~~ Audiologists, and Hearing Aid
5 Dispensers, to which all other objectives and purposes are secondary, is to protect the general public, specifically those
6 persons who are the direct recipients of services regulated by this chapter, from unsafe practices and from occupational
7 practices which tend to reduce competition or fix the price of services rendered.

8 The secondary objectives of the Board are to maintain minimum standards of practitioner competency and to
9 maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop
10 standards assuring professional competence; shall monitor complaints brought against practitioners regulated by the Board;
11 shall adjudicate at formal hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary
12 against licensed practitioners.

13 § 3702. Definitions.

14 ~~The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them~~
15 ~~under this section, except where the context clearly indicates a different meaning: For purposes of this chapter:~~

16 (1) "Audiologist" means a person who is licensed to practice audiology pursuant to this chapter and who offers
17 such services to the public under any title or description of services incorporating the words "audiologist," "hearing
18 clinician," "hearing therapist," "aural ~~rehabilitator~~"rehabilitator," or any other similar title or description of service.

19 (2) "Board" means the State Board of Speech/Language Pathologists, ~~Audiologists~~ Audiologists, and Hearing Aid
20 Dispensers established in this chapter.

21 (3) "Division" means the state Division of Professional Regulation.

22 (4) “Excessive use or abuse of drugs” means any use of narcotics, controlled substances, or illegal drugs without a
23 prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs an individual’s ability to
24 perform the work of a speech/language pathologist, speech/language pathology assistant, audiologist, or hearing aid
25 dispenser.

26 (5) “Hearing aid dispenser” means a person licensed to dispense prescription hearing aids pursuant to this chapter.

27 (6) “Over-the-counter hearing aid” means an air-conduction hearing aid that does not require implantation or other
28 surgical intervention, and is intended for use by a person age 18 or older to compensate for perceived mild to moderate
29 hearing impairment. The device, through tools, tests, or software, allows the user to control the hearing aid and customize it
30 to the user’s hearing needs. The device may use wireless technology or may include tests for self-assessment of hearing
31 loss. The device is available over-the-counter, without the supervision, prescription, or other order, involvement, or
32 intervention of a licensed person, to consumers through in-person transactions, by mail, or online, provided that the device
33 satisfies the requirements in this section.

34 (7) “Person” means a corporation, company, association, or partnership, as well as an individual. Licenses shall be
35 issued only to individuals under this chapter.

36 (8) “Practice of audiology” means the application of principles, methods and procedures of measurement, testing,
37 evaluation, prediction, consultation, counseling, instruction, habilitation, and rehabilitation related to hearing, disorders of
38 hearing, and balance for the purpose of evaluating, identifying, preventing, ameliorating, or modifying such disorders and
39 conditions in individuals and groups. For the purpose of this paragraph, the terms “habilitation” and “rehabilitation” shall
40 ~~include~~ includes hearing aid evaluation, recommendation, and fitting and selecting, adapting, and distributing or selling of
41 hearing aids. The practice of audiology includes the practice of dispensing prescription hearing aids.

42 (9) “Practice of hearing aid dispensing” means the selection, fitting, dispensing, adapting, selling, or renting of
43 prescription hearing aids to a prospective hearing aid user who is at least ~~eighteen~~ 18 years of age.

44 a. A hearing aid dispenser may:

45 1. Perform otoscopic observation of the ear canal solely for the purpose of fitting a prescription
46 hearing aid or making necessary referrals.

47 2. Perform nondiagnostic testing of hearing solely for the purpose of fitting a prescription
48 hearing aid or making necessary referrals.

49 3. Make ear impressions for manufacture or modification of ear molds and prescription hearing
50 aids.

51 4. Make adjustments and repairs to prescription hearing aids for impaired hearing only.

52 5. Provide instruction, orientation, and counseling on the use and operation of a prescription
53 hearing aid.

54 b. A hearing aid dispenser may not:

55 1. Provide cerumen management services.

56 2. Adapt or adjust prescription hearing aids to conduct sound therapy treatment for tinnitus
57 management.

58 3. Verbally or in writing make a statement or reference to a prospective prescription hearing aid
59 user regarding any audiologic or medical condition or diagnosis.

60 c. For ~~this~~ the purpose of ~~the~~ this paragraph, “audiologic diagnosis” means the diagnosis of a conductive
61 and sensorineural hearing loss. Before dispensing a prescription hearing aid, a hearing aid dispenser shall advise a
62 prospective hearing aid user to consult immediately with a licensed physician if the hearing aid dispenser
63 determines the presence of any of the following:

64 1. Visible congenital or traumatic deformity of the ear.

65 2. History of active drainage from the ear within the previous 90 days.

66 3. History of sudden or rapidly progressive hearing loss within the previous 90 days.

67 4. Acute or chronic dizziness.

68 5. Unilateral hearing loss within the previous 90 days or since the last evaluation.

69 6. Audiometric air bone gap equal to or greater than 15 dB at 500 Hertz, 100 Hertz, and 2000
70 Hertz.

71 7. Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.

72 8. Tinnitus as a primary symptom.

73 9. Pain or discomfort in the ear.

74 (10) “Practice of speech/language pathology” means the application of principles, methods, and procedures for
75 measurement, testing, evaluation, prediction, counseling, instruction, ~~habilitation~~ habilitation, or rehabilitation related to the
76 development and disorders of speech, language, voice, fluency, cognition, and swallowing for the purpose of evaluating,
77 preventing, ameliorating, or modifying such disorders in individuals and groups.

78 (11) “Prescription hearing aid” means a hearing aid that is not an over-the-counter hearing aid as defined in this
79 section.

80 (12) “Speech/language pathologist” means a person who is licensed to practice speech/language pathology
81 pursuant to this chapter and who offers such services to the public under any title or description of services incorporating

82 the words “speech/language pathologist,” “speech pathologist,” “language pathologist,” “speech and/or language therapist,”
83 “speech and/or language correctionist,” “speech and/or language clinician,” “voice therapist,” “communicologist,”
84 “aphasiologist” aphasiologist,” or any other similar title or description of service.

85 (13) “Speech/language pathology assistant” means a person licensed by the Board who performs tasks prescribed,
86 directed, and supervised by a licensed speech/language pathologist.

87 a. A speech/language pathology assistant may do all of the following under the supervision of a licensed
88 speech/language pathologist:

89 1. Conduct speech and language screenings without interpretation, using screening protocols
90 specified by the supervising speech/language pathologist.

91 2. Provide direct treatment assistance identified by the supervising speech/language pathologist
92 by following written treatment plans, individualized education programs, individual support plans, or
93 protocol developed by the supervising speech/language pathologist.

94 3. Document patient, client, or student progress toward meeting established objectives as stated
95 in the treatment plan, individual support plan, or individualized education program without interpreting
96 the findings and report this information to the supervising speech/language pathologist.

97 4. Assist the supervising speech/language pathologist in collecting and tallying data for
98 assessment purposes, without interpreting the data.

99 5. Assist with informal documentation during an intervention session by collecting and tallying
100 data as direct by the supervising speech/language pathologist, preparing materials, and assisting with
101 other clerical duties as specified by the supervising speech/language pathologist.

102 6. Schedule activities and prepare charts, records, graphs, or other displays of data.

103 7. Perform checks and maintenance of equipment.

104 8. Participate with the supervising speech/language pathologist in research projects, in-service
105 training, and public relations programs.

106 9. Sign and initial treatment notes for review and co-signature by the supervising
107 speech/language pathologist.

108 b. A speech/language pathology assistant may not do any of the following:

109 1. Conduct swallowing screening, assessment, and intervention protocols, including modified
110 barium swallow studies.

- 111 2. Administer standardized or non-standardized diagnostic tests or formal or informal
112 evaluations or interpret test results.
- 113 3. Participate in parent conferences, case conferences, or any interdisciplinary team meeting
114 without the presence of the supervising speech/language pathologist.
- 115 4. Write, develop, or modify a patient’s, client’s, or student’s treatment plan, individual support
116 plan, or individualized education program, whether or not prepared by the supervising speech/language
117 pathologist.
- 118 5. Provide intervention for patients, clients, or students without following the treatment plan,
119 individual support plan, or individualized education program prepared by the supervising
120 speech/language pathologist.
- 121 6. Sign any formal documents, including treatment plans, individualized education programs,
122 reimbursement forms, or reports.
- 123 7. Select patients, clients, or students for services.
- 124 8. Discharge patients, clients, or students from services.
- 125 9. Unless required by law, disclose clinical or confidential information orally or in writing to
126 anyone not designated by the supervising speech/language pathologist.
- 127 10. Make a referral for any additional service.
- 128 11. Communicate with the patient, client, or student or with the family or others regarding any
129 aspect of the patient, client, or student status without the specific consent of the supervising
130 speech/language pathologist.
- 131 12. Claim to be a speech/language pathologist.
- 132 13. Write a formal screening, diagnostic, progress, or discharge note.
- 133 14. Perform any task without the express knowledge and approval of the supervising
134 speech/language pathologist.

135 (14) “State” means the State of Delaware.

136 (15) “Substantially related” means the nature of the criminal conduct, for which the person was convicted, has a
137 direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the
138 practice of speech/language pathology, speech/language pathology assistant, audiology ~~audiology~~, and/or the dispensing of
139 hearing aids.

140 (16) “Supervising speech/language pathologist” means a licensed speech/language pathologist who meets the
141 requirements of the Board’s rules and regulations and who provides direction and evaluation of the tasks assigned to the
142 speech/language pathology assistant, including direct and indirect supervision as set forth in the Board’s rules and
143 regulations.

144 § 3703. Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers; appointments;
145 composition; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

146 (a) There is created a State Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers,
147 which shall administer and enforce this chapter.

148 (b) The Board ~~shall consist of 9 members, appointed by the Governor, who are residents of this State:~~ consists of 9
149 members appointed by the Governor who must be residents of this State and are as follows:

150 (1) ~~3 shall~~ Three must be speech/language pathologists licensed under this chapter;.

151 (2) ~~2 shall~~ Two must be audiologists licensed under this chapter;.

152 (3) ~~1 shall~~ One must be a hearing aid dispenser licensed under this chapter; ~~and.~~

153 (4) ~~3~~ Three public members. ~~Each professional member of the Board shall be a primary practitioner of~~
154 ~~that member’s specialty.~~ The public members must be accessible to inquiries, comments, and suggestions from the
155 general public and are subject to all of the following:

156 a. A public member shall may not be, nor ever have been, any of the following:

157 1. A speech/language pathologists, pathologist.

158 2. A speech/language pathology assistant.

159 3. audiologists An audiologist. or

160 4. A hearing aid dispensers; dispenser. nor

161 5. members A member of the immediate family of a speech/language pathologist,
162 speech/language pathology assistant, audiologist audiologist, or hearing aid dispenser; dispenser.
163 shall not have been

164 6. ~~employed~~ Employed by a speech/language pathologist, ~~audiologist audiologist,~~ or
165 hearing aid dispenser, or a company engaged in the practice of speech/language pathology,
166 audiology audiology, or dispensing hearing aids; aids.

167 b. The member may shall not have a material interest in the providing of goods and services to
168 speech/language pathologists, speech/language pathology assistants, audiologists audiologists, or hearing
169 aid dispensers; dispensers. nor

170 c. The member may not have been engaged in an activity directly related to speech/language
171 pathology, ~~audiology~~ audiology, or dispensing hearing aids. ~~The public members shall be accessible to~~
172 ~~inquiries, comments and suggestions from the general public.~~

173 (c) Each member ~~shall serve~~ serves for a period of 3 years and may be reappointed to serve 1 additional 3-year
174 term. Each term of office expires on the date specified in the appointment, except that a member may serve until a
175 successor is duly appointed.

176 (d) A person who has never served on the Board may be appointed to the Board for 2 consecutive terms; but no
177 such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the
178 Board or who has served on the Board for 6 years within any 9-year period ~~shall~~ may again be appointed to the Board until
179 an interim period of at least 1 term has expired since such person last served.

180 (e) Any act or vote by a person appointed in violation of this section shall be invalid. An amendment or revision of
181 this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d) of this
182 section unless such an amendment or revision amends this section to permit such an appointment.

183 (f) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance,
184 malfeasance, misconduct, ~~incompetency~~ incompetency, or neglect of duty. A member subject to disciplinary hearing ~~shall~~
185 ~~be~~ is disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded. A Board
186 member may appeal any suspension or removal to the Superior Court.

187 (g) No member of the Board, while serving on the Board, ~~shall~~ may hold elective office in any professional
188 association of speech/language pathologists, speech/language pathology assistants, ~~audiologists~~ audiologists, or hearing aid
189 dispensers; this includes a prohibition against serving as head of a professional association's Political Action Committee
190 (PAC).

191 (h) The provisions set forth in Chapter 58 of Title 29 ~~shall apply~~ applies to all members of the Board.

192 (i) Any member who is absent without adequate reason for 3 consecutive meetings or fails to attend at least half of
193 all regular business meetings during any calendar year ~~shall be~~ is guilty of neglect of duty.

194 (j) Each member of the Board shall be reimbursed for all expenses involved in each meeting, including travel; and
195 in addition shall receive compensation per meeting attended in an amount determined by the Division in accordance with
196 Del. Const. art. III, § 9.

197 § 3704. Organization; meetings; officers; quorum.

198 (a) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year and
199 at such times as the President deems necessary or at the request of a majority of the Board members.

200 (b) The Board annually shall elect a President and Secretary. Each officer ~~shall serve~~ serves for 1 year, and shall
201 may not succeed oneself for more than 2 consecutive terms.

202 (c) A majority of the members ~~shall constitute~~ constitutes a quorum for the purpose of transacting business, and no
203 disciplinary action ~~shall~~ may be taken without the affirmative vote of at least 5 members.

204 (d) The Division shall take and maintain minutes of all meetings.

205 § 3705. Records.

206 The Division shall keep a register of all approved applications for license as a speech/language pathologist,
207 speech/language pathology assistant, audiologist ~~audiologist~~, and hearing aid dispenser, and complete records relating to
208 meetings of the Board, examinations, rosters, changes and additions to the Board's rules and regulations, complaints,
209 ~~hearings~~ hearings, and such other matters as the Board shall determine. Such records ~~shall be~~ are prima facie evidence of
210 the proceedings of the Board.

211 § 3706. Powers and duties; immunity.

212 (a) The Board of Speech/Language Pathologists, ~~Audiologists~~ Audiologists, and Hearing Aid Dispensers shall
213 ~~have~~ has authority to:

214 (1) Formulate rules and regulations, with appropriate notice to those ~~affected~~; all affected. All rules and
215 regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act
216 [Chapter 101 of Title 29] of this State. Each rule or regulation shall implement or clarify a specific section of this
217 chapter.

218 (2) Designate the application form to be used by all applicants and to process all applications.

219 (3) Designate the national, written, standardized examinations in speech/language pathology, ~~audiology~~
220 audiology, and hearing aid dispensing, prepared by a national testing ~~service(s)~~ service, to be taken by all persons
221 applying for licensure as speech/language pathologists, ~~audiologists~~ audiologists, and/or or hearing aid dispensers.
222 ~~dispensers; applicants~~ Applicants who qualify for licensure by reciprocity shall must have achieved a passing score
223 on all parts of the designated written national examination in the applicant's specialty.

224 (4) Evaluate the credentials of all persons applying for a license to practice speech/language pathology,
225 ~~audiology~~ audiology, or to dispense prescription hearing aids in this State in order to determine whether such
226 persons meet the qualifications set forth in this chapter.

227 (5) Grant licenses ~~to~~; to and renew licenses of all persons who meet the qualifications for licensure,
228 including those persons who apply for temporary licensure.

229 (6) Establish by rule and regulation continuing education standards required for license renewal.

230 (7) Evaluate certified records to determine whether an applicant for licensure who previously has been
231 licensed, ~~certified~~ certified, or registered in another jurisdiction to practice speech/language pathology, ~~audiology~~
232 audiology, ~~and or~~ dispense hearing aids has engaged in any act or offense that would be grounds for disciplinary
233 action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against
234 such applicant for such acts or offenses.

235 (8) Refer all complaints from licensees and the public concerning persons licensed in this chapter or
236 concerning practices of the Board or of the profession, to the Division for investigation pursuant to § 8735 of Title
237 29 and assign a member of the Board to assist the Division in an advisory capacity with the investigation of the
238 technical aspects of the complaint.

239 (9) Conduct hearings and issue orders in accordance with procedures established pursuant to Chapter 101
240 of Title 29.

241 (10) Where it has been determined after a hearing that penalties or sanctions should be imposed, to
242 designate and impose the appropriate sanction or penalty.

243 (11) Establish by rule and regulation a code of ethics for each professional specialty.

244 (12) Establish by rule and regulation standards for electronic equipment used for the purpose of
245 measuring hearing, and require proof of calibration for such equipment annually.

246 (13) Establish requirements for licensed hearing aid dispenser and licensed audiologist to:

247 a. At the time of the initial examination for fitting and sale of a hearing aid, to notify the
248 prospective purchaser or client of the operation and benefits of telecoil, also known as “t” coil, or “t”
249 switch technology, in using a hearing aid with “hearing loop” ~~technology~~, and technology.

250 b. Provide written information explaining telecoil and its uses, including increased access to
251 telephones, and communication with businesses and in the community, and noninvasive access to
252 assistive listening systems.

253 (14) Establish by rule and regulation standards for the sale of prescription hearing aids.

254 (b) No member ~~shall~~ may participate in any action of the Board involving directly or indirectly any person related
255 in any way by blood or marriage to said member.

256 (c) The Board shall promulgate regulations specifically identifying those crimes which are substantially related to
257 the practice of speech/language pathology, ~~audiology~~ audiology, ~~and/or~~ or the dispensing of hearing aids.

258 Subchapter II. License

259 § 3707. License required.

260 (a) No person shall ~~may~~ engage in the practice of speech/language pathology, ~~audiology~~ audiology, or dispense
261 hearing aids or hold ~~himself or herself~~ oneself out to the public in this State as being qualified to ~~practice the same~~; act as a
262 speech/language pathologist, speech/language pathology assistant, audiologist, or hearing aid dispenser ~~or use in connection~~
263 ~~with that person's name~~, or otherwise assume or ~~use~~, use any title or description conveying or tending to convey the
264 impression that the person is qualified to practice speech/language pathology, ~~audiology~~ audiology, or dispense hearing
265 aids, unless such person has been duly licensed under this chapter.

266 (b) Whenever a license to practice as a speech/language pathologist, speech/language pathology assistant,
267 ~~audiologist~~ audiologist, or hearing aid dispenser in this State has expired or been suspended or revoked, it ~~shall be~~ is
268 unlawful for the person to practice speech/language pathology, speech/language pathology assistant, ~~audiology~~ audiology,
269 or dispense hearing aids in this State.

270 (c) The Board may issue separate licenses in speech/language pathology, speech/language pathology assistant,
271 ~~audiology~~ audiology, and for hearing aid dispensers. A person may be licensed in more than 1 specialty if such person
272 meets the requirements of each specialty for which the person has applied for licensure.

273 § 3708. Qualifications of applicant; report to Attorney General; judicial review.

274 (a) An applicant who is applying for licensure under this chapter shall submit evidence, verified by oath and
275 satisfactory to the Board, that such person:

276 (1) For licensure as a speech/language pathologist, has current certification of clinical competence issued
277 by the American Speech-Language-Hearing Association (ASHA) or its successors.

278 a.-d. [Repealed.]

279 (2) For licensure as an audiologist, has current certification of clinical competence issued by ASHA, or its
280 successors, has been issued board certification from the American Board of Audiology, or its successors, or has
281 met the following requirements:

282 a. Possession of a doctoral degree in audiology from an accredited college or university, except
283 that audiologists licensed in Delaware prior to July 10, 2009, who have maintained Delaware licensure,
284 ~~shall be~~ are exempted from this requirement.

285 b. Successful completion of a national examination in the area of the applicant's specialty
286 prepared by a national testing service approved by the Division.

287 c. [Repealed.]

288 (3) For licensure as a hearing aid dispenser, ~~shall submit evidence, verified by oath and satisfactory to the~~
289 ~~Board, that such person~~ has met the current standards promulgated by the International Hearing Society or its
290 successor. In addition, the applicant shall:

291 a. Provide verification of a high school diploma or its equivalent.

292 b. Provide proof of successful completion of a national examination prepared by a national
293 testing service and approved by the Division.

294 c. Complete 6 months of training prior to taking the examination. The Board in its rules and
295 regulations shall establish the content of the training and the frequency of direct supervision during the
296 training period.

297 d. Paragraphs (a)(3)a. and c. of this section herein do not apply to applicants who are licensed
298 audiologists.

299 (4) For licensure as a speech/language pathology assistant, has received a speech/language pathology
300 assistant's certification (C-SLPA) through ASHA, or its successor, or another organization acceptable to the
301 Board.

302 (b) All applicants ~~shall~~ must meet the following conditions:

303 (1) ~~Shall~~ May not have been the recipient of any administrative penalties regarding ~~their~~ the applicant's
304 practice of speech/language pathology, ~~audiology~~ audiology, or dispensing of hearing aids, including ~~but not~~
305 ~~limited to~~ fines, formal reprimands, license suspensions or revocation (except for license revocations for
306 nonpayment of license renewal fees), probationary limitations, ~~and/or~~ or has not entered into any "consent
307 agreements" which contain conditions placed by a Board on that applicant's professional conduct and practice,
308 including any voluntary surrender of a license. The Board may determine whether such administrative penalty is
309 grounds to deny licensure.

310 (2) ~~Shall~~ May not have excessively used or abused drugs or have a finding of mental incompetence by a
311 physician that would limit the applicant's ability to undertake that applicant's practice in a manner consistent with
312 the safety of the public.

313 (3) Does not have a criminal conviction record, nor pending criminal charge relating to an offense that is
314 substantially related to their licensed practice. Applicants who have criminal conviction records or pending
315 criminal charges shall request appropriate authorities to provide information about the conviction or charge
316 directly to the Board. However, if after consideration of the factors set forth under § 8735(x)(3) of Title 29 through
317 a hearing or review of documentation the Board determines that granting a waiver would not create an

318 unreasonable risk to public safety, the Board, by an affirmative vote of a majority of the quorum, shall waive this
319 paragraph (b)(3). A waiver may not be granted for conviction of a felony sexual offense.

320 a.-d. [Repealed.]

321 (4) Notwithstanding the time limitation set forth in § 8735(x)(4) of Title 29, has not been convicted of a
322 felony sexual offense.

323 (5) Shall submit, at the applicant's expense, fingerprints and other necessary information in order to
324 obtain the following:

325 a. A report of the applicant's entire criminal history record from the State Bureau of
326 Identification or a statement from the State Bureau of Identification that the State Central Repository
327 contains no such information relating to that person.

328 b. A report of the applicant's entire federal criminal history record pursuant to the Federal
329 Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State
330 Bureau of Identification ~~shall be~~ is the intermediary for purposes of this section and the Board of
331 Speech/Language Pathologists, ~~Audiologists~~ Audiologists, and Hearing Aid Dispensers ~~shall be~~ is the
332 screening point for the receipt of said federal criminal history records.

333 c. An applicant may not be licensed as a speech/language pathologist, speech/language
334 pathology assistant, ~~audiologist~~ audiologist, or hearing aid dispenser until the applicant's criminal history
335 reports have been produced. An applicant whose record shows a prior criminal conviction that is
336 substantially related to the applicant's professional practice ~~area~~, area may not be licensed by the Board
337 unless a waiver is granted pursuant to paragraph (b)(3) of this section.

338 (c) Where the Board has found to its satisfaction that an applicant has been intentionally fraudulent or that false
339 information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

340 (d) Where the application of a person has been refused or rejected and such applicant feels that the Board has acted
341 without justification, has imposed higher or different standards for that person than for other applicants or licensees, or has
342 in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior
343 Court.

344 (e) All individuals licensed to practice speech/language pathology, ~~audiology~~ audiology, or hearing aid dispensing
345 in this State ~~shall be~~ are required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the
346 purposes of performing subsequent criminal background checks.

347 § 3709. Examination.

348 (a) The examination described in § 3708(a)(2) and (a)(3)b. of this title shall be graded by the testing service
349 providing the examinations. The passing score for all examinations shall be established by the testing agency.

350 (b), (c) [Repealed.]

351 § 3710. Reciprocity.

352 (a) Upon payment of the appropriate fee and submission and acceptance of an application, the Board shall grant a
353 license to an applicant who presents proof of current licensure in good standing, as defined in § 3708(b) of this title, in
354 another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially
355 similar to those of this State. An individual with a license from a state with less stringent requirements than those of this
356 State may obtain a license through reciprocity if the individual can prove to the satisfaction of the Board that the individual
357 has worked in another jurisdiction or jurisdictions in the field for which the individual is seeking a license in Delaware for a
358 minimum of 5 years after licensure. All applicants shall submit evidence verified by oath that, in all states in which the
359 applicant is or was licensed, the applicant's license is in good standing.

360 (b) Audiologists licensed prior to July 10, 2009, and who have maintained licensure, ~~shall be~~ are exempted from
361 the educational requirement set forth in § 3708(a)(2) of this title.

362 (c) An applicant for licensure as a speech/language pathologist who has received a degree from a foreign school,
363 college, or university, shall have received a master's degree, or its equivalent, or a doctoral degree, or its equivalent, and
364 shall submit an evaluation of professional education and training, prepared by a Board approved credentialing agency, and
365 paid for by the applicant. The evaluation must provide evidence and documentation that the applicant's education is
366 substantially equivalent to the education of a speech/language pathologist who graduated from a program approved for the
367 educational preparation of speech/language pathologists by the appropriate accrediting agency recognized by the Board. An
368 applicant for licensure as an audiologist, who has received a degree from a foreign school, college, or university, shall have
369 received a doctoral degree or its equivalent, and shall submit an evaluation of professional education and training, prepared
370 by a Board-approved credentialing agency, and paid for by the applicant. The evaluation must provide evidence and
371 documentation that the applicant's education is substantially equivalent to the education of an audiologist who graduated
372 from a program approved for the educational preparation of audiologists by the appropriate accrediting agency recognized
373 by the Board.

374 (d) In the event that a disciplinary proceeding or unresolved complaint is pending at the time of application, the
375 applicant shall report the final disposition of the matter to the Board within 20 days.

376 § 3711. Fees.

377 The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all
378 costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division in its
379 service on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee ~~shall~~ may be
380 charged for a purpose not specified in this chapter. The application fee ~~shall~~ may not be combined with any other fee or
381 charge. At the beginning of each licensure biennium, the Division, or any other state agency acting in its behalf, shall
382 compute, for each separate service or activity, the appropriate Board fees for the licensure biennium.

383 § 3712. Issuance and renewal of licenses.

384 (a) The Board shall issue a license to each applicant who meets the requirements of this chapter for licensure as a
385 speech/language pathologist, speech/language pathology assistant, audiologist and/or audiologist, or hearing aid dispenser
386 and who pays the fee established under § 3711 of this title.

387 (b) Each license shall be renewed biennially, in such manner as is determined by the Division, and upon payment
388 of the appropriate fee and attestation, as set forth in the Board's rules and regulations, that the licensee has met the
389 continuing education requirements established by the Board. In addition, audiologists and hearing aid dispensers shall attest
390 to calibration of electronic equipment used to assess hearing, as set forth in the Board's rules and regulations.

391 (c) The Board, in its rules and regulations, shall determine the period of time within which a licensee may still
392 renew the licensee's license, notwithstanding the fact that such licensee has failed to renew on or before the renewal date,
393 provided, however, that such period ~~shall~~ may not exceed 1 year.

394 (d) A licensee may be placed in an inactive status for no more than 5 years. Such person, who desires to reactivate
395 that person's license, shall submit a request for reactivation and a fee set by the Division, and submit proof of fulfillment of
396 continuing education requirements in accordance with the rules and regulations of the Board.

397 (e) Audiologists licensed in Delaware prior to July 10, 2009, and who meet the renewal requirements set forth in
398 this section and maintain Delaware licensure, ~~shall be~~ are exempted from the educational requirement set forth in §
399 3708(a)(2)a.

400 (f) An applicant or licensee must notify the Division of a change in address or in any other information on the
401 application, registration, or renewal within 30 days of the change.

402 § 3713. Temporary license.

403 (a) The Board may issue a temporary license to practice speech/language pathology in this State to an applicant
404 who completes the application and pays the temporary license fee; and who, in addition, has completed all academic and
405 clinical practicum requirements in that applicant's specialty but who has not completed a clinical fellowship (cf). The

406 application shall be accompanied by a copy of the Cf plan signed by a sponsor holding a valid state license as a
407 speech/language pathologist.

408 (b) The temporary license issued to a speech/language pathologist shall expire at the end of 1 year from issuance.
409 The temporary license may be renewed 3 times for a maximum of 48 months. The licensee must apply on a yearly basis for
410 renewal of the temporary license. The request for renewal must be received prior to expiration of the temporary license.

411 (c) The Board may issue a temporary license to dispense prescription hearing aids to an applicant waiting to take
412 the examination for licensure who completes the application and pays the application fee. The application ~~shall~~ must be
413 accompanied by a statement from a Delaware-licensed audiologist or hearing aid dispenser who affirms that the licensed
414 audiologist or hearing aid dispenser ~~shall~~ will provide direct supervision and training of the applicant during the period of
415 temporary licensure.

416 § 3714. Complaints.

417 (a) All complaints shall be received and investigated by the Division in accordance with § 8735, Title 29, and the
418 Division shall be responsible for issuing a final written report at the conclusion of its investigation.

419 (b) When it is determined that an individual is engaging or has engaged in the practice of speech/language
420 pathology, ~~audiology~~ audiology, or dispensing of hearing aids, or is using the title “speech/language pathologist,”
421 “audiologist,” or “hearing aid dispenser” and is not licensed under the laws of this State, the Board shall apply to the Office
422 of the Attorney General to issue a cease and desist order.

423 § 3715. Grounds for discipline.

424 (a) A practitioner licensed under this chapter ~~shall be~~ is subject to disciplinary actions set forth in § 3716 of this
425 title if after a hearing, the Board finds that the speech/language pathologist, speech/language pathology assistant,
426 audiologist, or hearing aid dispenser has done any of the following:

427 (1) Has employed or knowingly cooperated in fraud or material deception in order to acquire a license as
428 a speech/language pathologist, speech/language pathology assistant, ~~audiologist~~ audiologist, or hearing aid
429 dispenser; has impersonated another person holding a license, or has allowed another person to use that
430 practitioner’s license, or has aided or abetted a person not licensed as a speech/language pathologist,
431 speech/language pathology assistant, ~~audiologist~~ audiologist, or hearing aid ~~dispenser~~; dispenser to be represented
432 as a speech/language pathologist, speech/language pathology assistant, ~~audiologist~~ audiologist, or hearing aid
433 dispenser.

434 (2) Has illegally, ~~incompetently~~ incompetently, or negligently practiced speech/language pathology,
435 ~~audiology~~ audiology, or hearing aid dispensing.

436 (3) Has been convicted of a crime that is substantially related to the practice of speech/language
437 pathology, ~~audiology and/or audiologist~~, or the dispensing of hearing aids. (4) A copy of the record of conviction
438 certified by the clerk of the court entering the conviction ~~shall be~~ is conclusive evidence therefor.

439 (5) Has excessively used or abused drugs.

440 (6) Has engaged in an act of consumer fraud or deception; engaged in the restraint of competition; or
441 participated in price-fixing activities.

442 (7) Has violated a lawful provision of this chapter, or any lawful regulation established thereunder.

443 (8) Has had the practitioner's license as a speech/language pathologist, speech/language pathology
444 assistant, audiologist audiologist, or hearing aid dispenser suspended or revoked, or other disciplinary action taken
445 by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for
446 such action in another jurisdiction have been presented to the Board by certified record and the Board has
447 determined that the facts found by the appropriate authority in the other jurisdiction constitute 1 or more of the acts
448 defined in this chapter. Every person licensed as a speech/language pathologist, speech/language pathology
449 assistant, audiologist audiologist, or hearing aid dispenser in this State shall be deemed to have given consent to
450 the release of this information by the Board of Speech/Language Pathologists, ~~Audiologists Audiologists,~~ and
451 Hearing Aid Dispensers or other comparable agencies in another jurisdiction and to waive all objections to the
452 admissibility of previously adjudicated evidence of such acts or offenses.

453 (9) Has failed to notify the Board that the practitioner's license as a speech/language pathologist,
454 speech/language pathology assistant, audiologist audiologist, or hearing aid dispenser in another jurisdiction has
455 been subject to discipline, or has been surrendered, ~~suspended~~ suspended, or revoked. A certified copy of the
456 record of disciplinary action, surrender, ~~suspension~~ suspension, or revocation ~~shall be~~ is conclusive evidence
457 ~~thereof; or, thereof.~~

458 (10) Has a physical condition such that the performance of speech/language pathology, ~~audiology~~
459 audiology, or dispensing of hearing aids is or may be injurious or prejudicial to the public.

460 (b) Subject to the provisions of this chapter and subchapter IV of Chapter 101 of Title 29, no license ~~shall~~ may be
461 restricted, ~~suspended~~ suspended, or revoked by the Board, and no practitioner's right to practice speech/language
462 pathology, ~~audiology audiologist,~~ or dispense hearing aids ~~shall~~ may be limited by the Board until such practitioner has been
463 given notice, and an opportunity to be heard, in accordance with the Administrative Procedures Act [Chapter 101 of Title
464 29].

465 § 3716. Disciplinary sanctions.

466 (a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the
467 conditions or violations set forth in § 3715 of this title applies to a practitioner regulated by this chapter:

468 (1) Issue a letter of reprimand.

469 (2) [Repealed.]

470 (3) Place a practitioner on probationary status, and require the practitioner to:

471 a. Report regularly to the Board upon the matters that are the basis of the probation.

472 b. Limit all practice and professional activities to those areas prescribed by the Board.

473 (4) Suspend any practitioner's license.

474 (5) Revoke any practitioner's license.

475 (6) Impose a monetary penalty not to exceed \$1,000 for each violation.

476 (7) The Board shall permanently revoke the license to practice speech/language pathology, ~~audiology~~
477 audiology, or hearing aid dispensing of a person who is convicted of a felony sexual offense.

478 (b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies that required
479 such action have been remedied.

480 (c) Where a license has been suspended due to a disability of the licensee, the Board may reinstate such license if,
481 after a hearing, the Board is satisfied that the licensee is able to practice with reasonable skill and safety.

482 (d) As a condition to reinstatement of a suspended license, or removal from probationary status, the Board may
483 impose such disciplinary or corrective measures as are authorized under this chapter.

484 (e) In the event of a formal or informal complaint concerning the activity of a licensee that presents a clear and
485 immediate danger to the public health, ~~safety~~ safety, or welfare, the Board may temporarily suspend the person's license,
486 pending a hearing, upon the written order of the Secretary of State or the Secretary's designee, with the concurrence of the
487 Board chair or the Board chair's designee. An order temporarily suspending a license may not be issued unless the person
488 or the person's attorney received at least 24 hours' written or oral notice before the temporary suspension so that the person
489 or the person's attorney may file a written response to the proposed suspension. The decision as to whether to issue the
490 temporary order of suspension will be decided on the written submissions. An order of temporary suspension pending a
491 hearing may remain in effect for no longer than 60 days from the date of the issuance of the order unless the temporarily
492 suspended person requests a continuance of the hearing date. If the temporarily suspended person requests a continuance,
493 the order of temporary suspension remains in effect until the hearing is convened and a decision is rendered by the Board.
494 A person whose license has been temporarily suspended pursuant to this section may request an expedited hearing. The

495 Board shall schedule the hearing on an expedited basis, provided that the Board receives the request within 5 calendar days
496 from the date on which the person received notification of the decision to temporarily suspend the person's license.

497 § 3717. Hearing procedures.

498 (a) If a complaint is filed with the Board pursuant to § 8735 of Title 29 alleging violation of § 3715 of this title,
499 the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the
500 hearing shall be conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

501 (b) [Repealed.]

502 (c) Where the practitioner is in disagreement with the action of the Board, the practitioner may appeal the Board's
503 decision to the Superior Court within 30 days of the day that notice of the decision was mailed. Upon such appeal the Court
504 shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29.

505 § 3718. Reinstatement of a suspended license; removal from probationary status.

506 (a) As a condition to reinstatement of a suspended license, or removal from probationary status, the Board may
507 reinstate such license if, after a hearing, the Board is satisfied that the licensee has taken the prescribed corrective actions
508 and otherwise satisfied all of the conditions of the suspension ~~and/or~~ or the probation.

509 (b) Where a license or registration has been suspended due to the licensee's inability to practice pursuant to this
510 chapter, the Board may reinstate such license if after a hearing, the Board is satisfied that the licensee is again able to
511 perform the essential functions of a speech/language pathologist, speech/language pathology assistant, ~~audiologist~~
512 audiologist, or hearing aid dispenser, with or without reasonable accommodations, and there is no longer a significant risk
513 of substantial harm to the health and safety of the individual or others.

514 (c) Applicants for reinstatement must pay the appropriate fees and submit documentation required by the Board as
515 evidence that all the conditions of a suspension ~~and/or~~ or probation have been met. Proof that the applicant has met the
516 continuing education requirements of this chapter may also be required, as appropriate.

517 (d) [Repealed.]

518 Subchapter III. Other provisions

519 § 3719. Exemptions.

520 Nothing in this chapter shall be construed to prevent:

521 (1) Any person from performing industrial hearing screenings under the supervision of a physician licensed in this
522 State.

523 (2) Any person who is not licensed under this chapter from engaging in the practice of speech/language pathology
524 or audiology in this State, provided that such services are practiced in cooperation with a person licensed under this chapter

525 and shall be practiced for no more than 30 days in any calendar year. The speech/language pathologist or audiologist shall
526 must meet the qualifications and requirements for application for licensure described in this chapter, or ~~shall~~ must hold a
527 valid license from another state which has requirements equivalent to this chapter, or ~~shall~~ must hold a certificate of clinical
528 competence in speech/language pathology or audiology issued by the American Speech, Language and Audiology
529 Association.

530 (3) Any person who is licensed to practice as a speech/language ~~pathology pathologist~~, speech/language pathology
531 assistant, ~~audiology audiologist~~, or ~~dispense hearing aids aid dispenser~~ in any other state, ~~district district~~, or foreign country
532 who, as a practicing speech/language pathologist, speech/language pathology assistant, ~~audiologist audiologist~~, or hearing
533 aid dispenser, from entering this State to consult with a licensed speech/language pathologist, speech/language pathology
534 assistant, ~~audiologist audiologist~~, or hearing aid dispenser of this State. Such consultation ~~shall be~~ is limited to examination,
535 ~~recommendation~~ recommendation, and testimony in litigation.

536 (4) Any student of an accredited school or college of speech/language pathology or audiology from receiving
537 practical training under the personal supervision of a licensed speech/language pathologist or audiologist in this State.

538 § 3720. ~~Penalty~~ Practicing without a license; penalties.

539 (a) It is unlawful for a person who is ~~A person~~ not currently licensed as a speech/language pathologist,
540 speech/language pathology assistant, ~~audiologist audiologist~~, or dispenser of hearing aids under this chapter, ~~when~~
541 engaging to do any of the following:

542 (1) Engage in the practice of speech/language pathology, ~~audiology and/or audiology~~, or dispensing of
543 hearing aids, aids.

544 (2) ~~or using~~ Use in connection with that person's name, or otherwise ~~assuming~~ assume or ~~using~~ use any
545 title or description conveying, or tending to ~~convey~~ convey, the impression that the person is qualified to practice
546 speech/language pathology, audiology, or dispense hearing aids, aids.

547 (b) Anyone who violates subsection (a) of this section shall be is guilty of a misdemeanor.

548 (1) ~~Upon the~~ For a first offense, ~~the person shall be fined~~ the court may impose a fine of not less than
549 \$500 dollars nor more than \$1,000 dollars for each offense.

550 (2) For a second or subsequent ~~conviction~~ offense, ~~the fine shall be~~ the court may impose a fine of not less
551 than \$1,000 nor more than \$2,000 for each offense.

552 (c) The Justice of the Peace Court ~~shall have~~ has jurisdiction over all violations of this chapter.

553 Section 2.

554 This Act is effective immediately and is to be implemented the earlier of the following:

555 (1) Six months after the date of the Act's enactment.

556 (2) Notice by the Director of the Division of Professional Regulation published in the Register of Regulations that
557 final regulations to implement this Act have been promulgated.

SYNOPSIS

This Act creates a new license category of speech/language pathology assistant that is licensed and regulated by the Board of Speech/Language Pathologists, Audiologists, and Hearing Aid Dispensers. This addition is needed to address the shortage of speech/language pathology services in the State, particularly in public schools. The speech/language pathology assistant must practice under the supervision of a licensed speech/language pathologist. The parameters of that supervision will be specified in rules and regulations. A speech/language pathology assistant will be able to support and supplement the services provided by the supervising speech/language pathologist subject to the limits of the permissible scope of practice. This Act specifies that to qualify for licensure, the speech/language pathology assistant must hold certification issued by the American Speech-Language-Hearing Association (ASHA). The requirements for that certification include education, clinical experience, and successful completion of an examination. The applicant must also meet this State's requirements as set forth in this Act.

Author: Senator Huxtable