
By: **Chairman, Environmental Matters Committee (Departmental - Health and Mental Hygiene)**

Introduced and read first time: February 1, 2001

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 28, 2001

CHAPTER 75

1 AN ACT concerning

2 **Board of Audiologists, Hearing Aid Dispensers, and Speech-Language**
3 **Pathologists - Disciplinary Actions**

4 FOR the purpose of authorizing the State Board of Audiologists, Hearing Aid
5 Dispensers, and Speech-Language Pathologists to require an examination,
6 under certain circumstances, of a licensed audiologist, hearing aid dispenser, or
7 speech-language pathologist during an investigation against the licensee;
8 clarifying privileges waived by a licensed audiologist, hearing aid dispenser, or
9 speech-language pathologist in the State; establishing that a licensee's refusal
10 to submit to an examination is prima facie evidence of certain findings under
11 certain circumstances; clarifying language for certain disciplinary actions
12 arising from unprofessional conduct; and generally relating to the State Board
13 of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists
14 and its licensure and examination provisions.

15 BY adding to
16 Article - Health Occupations
17 Section 2-205.1
18 Annotated Code of Maryland
19 (2000 Replacement Volume)

20 BY repealing and reenacting, with amendments,
21 Article - Health Occupations
22 Section 2-314
23 Annotated Code of Maryland
24 (2000 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Health Occupations**

4 2-205.1.

5 (A) WHILE INVESTIGATING AN ALLEGATION AGAINST A LICENSEE UNDER
6 THIS TITLE, THE BOARD MAY REQUIRE THE LICENSEE TO SUBMIT TO AN
7 APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE
8 BOARD IF THE BOARD HAS REASON TO BELIEVE THAT THE LICENSEE MAY CAUSE
9 HARM TO A PERSON AFFECTED BY THE LICENSEE'S PRACTICE OF AUDIOLOGY,
10 PROVISION OF HEARING AID SERVICES, OR PRACTICE OF SPEECH-LANGUAGE
11 PATHOLOGY.

12 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A LICENSEE TO PRACTICE
13 AUDIOLOGY, TO PROVIDE HEARING AID SERVICES, OR TO PRACTICE
14 SPEECH-LANGUAGE PATHOLOGY IN THE STATE, THE LICENSEE IS DEEMED TO HAVE:

15 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION,
16 IF REQUESTED BY THE BOARD IN WRITING; AND

17 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
18 REPORTS OF A HEALTH CARE PROVIDER WHO EXAMINES THE LICENSEE.

19 (C) THE FAILURE OR REFUSAL OF THE LICENSEE TO SUBMIT TO AN
20 EXAMINATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION IS PRIMA FACIE
21 EVIDENCE OF THE LICENSEE'S INABILITY TO PRACTICE AUDIOLOGY, TO PROVIDE
22 HEARING AID SERVICES, OR TO PRACTICE SPEECH-LANGUAGE PATHOLOGY
23 COMPETENTLY, UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS
24 BEYOND THE CONTROL OF THE LICENSEE.

25 (D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE UNDER
26 THIS SECTION.

27 2-314.

28 Subject to the hearing provisions of § 2-315 of this subtitle, the Board may deny
29 a license or limited license to any applicant, reprimand any licensee or holder of a
30 limited license, place any licensee or holder of a limited license on probation, or
31 suspend or revoke a license or limited license if the applicant, licensee, or holder:

32 (1) Fraudulently or deceptively obtains or attempts to obtain a license or
33 limited license for the applicant, licensee, or holder or for another;

34 (2) Fraudulently or deceptively uses a license or limited license;

35 (3) Commits fraud or deceit in the practice of audiology, the provision of
36 hearing aid services, or the practice of speech-language pathology;

- 1 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
2 crime involving moral turpitude, whether or not any appeal or other proceeding is
3 pending to have the conviction or plea set aside;
- 4 (5) Obtains a fee through fraud or misrepresentation;
- 5 (6) Directly or indirectly employs any unlicensed person or any person
6 whose license or limited license has been suspended;
- 7 (7) Uses or promotes or causes the use of any misleading, deceiving,
8 improbable, or untruthful advertising matter, promotional literature, testimonial,
9 guarantee, warranty, label, brand, insignia, or other representation;
- 10 (8) In the practice of audiology, the providing of hearing aid services, or
11 the practice of speech-language pathology:
- 12 (i) Falsely represents the use or availability of services or advice of
13 a physician; or
- 14 (ii) Misrepresents the applicant, licensee, or holder by using the
15 word "doctor" or any similar word, abbreviation, or symbol if the use is not accurate;
- 16 (9) Permits another person to use the license of the licensee or limited
17 license of the holder;
- 18 [(10) Commits any act of unprofessional conduct, as defined by the
19 regulations of the Board, or violates any code of ethics adopted by the Board;]
- 20 (10) **COMMITTS ANY ACT OF UNPROFESSIONAL CONDUCT IN THE
21 PRACTICE OF AUDIOLOGY, THE PROVISION OF HEARING AID SERVICES, OR THE
22 PRACTICE OF SPEECH-LANGUAGE PATHOLOGY;**
- 23 (11) Violates any lawful order given or regulation adopted by the Board;
- 24 (12) Violates any provision of this title;
- 25 (13) Provides professional services while:
- 26 (i) Under the influence of alcohol; or
- 27 (ii) Using any narcotic or controlled dangerous substance, as
28 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
29 amounts or without valid medical indication;
- 30 (14) Is disciplined by a licensing or disciplinary authority of any other
31 state or country or convicted or disciplined by a court of any state or country for an act
32 that would be grounds for disciplinary action under this section;
- 33 (15) Practices audiology, provides hearing aid services, or practices
34 speech-language pathology with an unauthorized person or supervises or aids an

1 unauthorized person in the practice of audiology, the provision of hearing aid services,
2 or the practice of speech-language pathology;

3 (16) Willfully makes or files a false report or record in the practice of
4 audiology, the provision of hearing aid services, or the practice of speech-language
5 pathology;

6 (17) Willfully fails to file or record any report as required by law, willfully
7 impedes or obstructs the filing or recording of the report, or induces another to fail to
8 file or record the report;

9 (18) Submits a false statement to collect a fee;

10 (19) Is professionally, physically, or mentally incompetent;

11 (20) Promotes the sale of devices, appliances, or goods to a patient so as to
12 exploit the patient for financial gain;

13 (21) Behaves immorally in the practice of audiology, the provision of
14 hearing aid services, or the practice of speech-language pathology;

15 (22) Refuses, withholds from, denies, or discriminates against an
16 individual with regard to the provision of professional services for which the licensee
17 is licensed and qualified to render because the individual is HIV positive; or

18 (23) Pays or agrees to pay any sum to any person for bringing or referring
19 a patient.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect July 1, 2001.