

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 340

(Senator Conway, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

Maryland Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Act - Revision

This bill makes various changes to the Maryland Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Act including renaming it the Maryland Audiology, Hearing Aid Dispensing, and Speech-Language Pathology Act. Among other things, the bill requires the licensure of speech-language pathology assistants, increases the maximum fine the board may impose, and increases misdemeanor penalties.

Fiscal Summary

State Effect: Potential increase in general fund revenues and expenditures due to the bill's criminal and civil penalty provisions. Potential increase in special fund revenues depending on the number of new individuals licensed by the board, the number of reinstated licenses, or any change in the term of licensure. No effect on special fund expenditures.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provision.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Licensure of Speech-language Pathology Assistants

A person may not assist, attempt to assist, or offer to assist in the practice of speech-language pathology unless licensed by the board. A license to practice speech-language pathology as an assistant authorizes the licensee to practice within board-established limitations while the license is effective. The board must adopt regulations establishing the scope of practice for a speech-language pathology assistant and the related supervision requirements.

To qualify for a license to practice as a speech-language pathology assistant, the applicant must be of good moral character and must:

- hold a baccalaureate degree in speech-language pathology or communication sciences and disorders from an accredited institution or other degree;
- have successfully completed the board-required clinical observation and supervised clinical assisting experience hours;
- have successfully completed a competency checklist after a period of supervised practice by a licensed speech-language pathologist; and
- demonstrate oral competency.

The board may waive any speech-language pathology assistant license requirements.

Existing statutory requirements regarding the procedures for surrendering a license and reinstating an expired, suspended, or revoked license apply to a speech-language pathology assistant.

Unless authorized for such practice, a person may not represent to the public that the person is authorized to assist in the practice of speech-language pathology in Maryland. Unless authorized to do so, a person may not use any word or term connoting professional proficiency in assisting in the practice of speech-language pathology.

Licensure Exemptions

The bill clarifies that the requirement for licensure by the board does not apply to a federal employee performing the duties of that federal employment. The bill repeals the licensure exemption for an individual who is fitting hearing aids under an academic curriculum of an accredited institution of higher education or a program conducted by a public, charitable, or nonprofit institution or organization primarily supported by voluntary contributions. It authorizes the board to allow an audiologist, hearing aid dispenser, speech-language pathologist, or speech-language pathology assistant licensed in another state to practice in Maryland without a license if that individual has a completed application for licensure pending before the board. Such an individual does not have to also have recently become a resident of Maryland.

Beginning October 1, 2007, an individual hired by a Maryland local public school system, State-approved nonpublic school for handicapped children, or chartered educational institution of the State to practice speech-language pathology or assist in the practice of speech-language pathology must be licensed by the board. However, the current exemption from licensure is maintained for individuals who have continuously practiced speech-language pathology at specified educational facilities.

Audiology Requirements

An applicant for licensure to practice audiology must: (1) through September 30, 2007, hold a master's degree in audiology or doctor of audiology degree (repealing the provision allowing the degree's equivalent to meet this standard); (2) beginning October 1, 2007, hold a doctor of audiology degree from an accredited educational institution which incorporates the academic course work and minimum hours of supervised clinical training; or (3) qualify for a license under provisions allowing the board to grant a waiver of licensure requirements. An applicant must pass an audiology examination and complete training consistent with the standards established by the Accreditation Commission for Audiology Education or the Council of Academic Accreditation. An applicant also must demonstrate oral competency.

However, the board may waive any of the qualifications for licensure if:

- the individual holds or has held a national certification in audiology from an organization that is recognized by the board and meets practice requirements established in board regulations;
- the individual holds a current license to practice audiology in another state with equivalent requirements for licensure and practice requirements; or

- by September 30, 2007, the individual holds a license to practice audiology in Maryland or another state or from a federal government agency or a board, agency, or department of Maryland or another state and specified conditions are met.

Hearing Aid Dispensing Requirements

Beginning January 1, 2008, an applicant for an initial license to practice hearing aid dispensing must be a graduate of an accredited two-year postsecondary program with a diploma or degree before receiving a full license. Before taking the State licensing examination, the applicant must provide proof of successfully completing the International Hearing Society Curriculum entitled “Distance Learning for Professionals in Hearing Health Sciences” or a board-approved equivalent course. An applicant also must demonstrate oral competency.

The bill repeals the provision requiring an applicant for a hearing aid dispensing license to be at least 18 years old as well as the requirement for a licensee to be a high school graduate or the equivalent. The bill repeals provisions related to the content and procedures associated with a written examination and instead allows the board to adopt an examination given by a national body. In addition, the bill modifies the provisions for granting a waiver of examination requirements related to the practice of hearing aid dispensing.

By repealing the exemptions for third-party referrals, the bill prohibits door-to-door solicitation of hearing aid sales based on such referrals. The bill also requires additional information to be provided as part of the receipt for a hearing aid sale.

Speech-language Pathology Requirements

The bill specifies that an applicant for speech-language pathology licensure must pass an examination approved under the board’s regulations and adds that an applicant must demonstrate oral competency. The bill expands the conditions under which the board can waive any qualifications required for a license to practice speech-language pathology by allowing a waiver for an individual who holds a current license to practice in another state with equivalent requirements and who meets practice requirements. The board also may waive these qualifications if an applicant holds current national board certification as a hearing instrument specialist and meets practice requirements.

The board may waive any speech-language pathology license qualification requirements.

Renewal and Reinstatement Provisions

The bill modifies provisions related to the term of a renewal license, so that no time frame is specified. It also requires the board to contact licensees at their last known address at least two months before their license expires. Licensees also must provide with their renewal application evidence that each audiometer in use has been calibrated within 12 months before the license renewal date.

The bill repeals as obsolete the provision allowing the board to waive any education, supervised postgraduate professional practice, or examination requirement for an individual seeking renewal of a license to practice audiology or speech-language pathology if specified conditions are met. The bill also repeals the provision that the board may not renew a license to provide hearing aid services unless the licensee within each two-year term of a license successfully completes at least 20 hours of instruction provided through one or more board-approved courses.

The bill also requires payment of a renewal fee, in addition to a reinstated fee, when an expired license is reinstated.

Limited Licenses

The bill treats existing limited licenses differently with respect to applying for another license. If a limited licensee to practice hearing aid dispensing or speech-language pathology fails to receive a full license within two years, the individual must wait at least one year before applying for another license. However, a limited licensee to practice audiology who fails to receive a full license within two years may not apply for another limited license.

The bill establishes a limited license for speech-language pathology assistants. The board must issue a limited license to an applicant who, except for the supervised practice requirement, meets the board's license requirements and demonstrates that the limited licensee will practice only under the supervision of a specified individual. Limited license applicants also must submit an application and fee. The limited license expires on the first anniversary of its effective date. The board may renew the limited license only once for an additional one-year term. If a limited licensee fails to receive a full license within two years, the individual must wait at least one year before applying for a new limited license.

Disciplinary Action, Penalties, Hearings, and Judicial Review

The bill clarifies that disciplinary action may be taken against a licensee, limited licensee, or applicant who knowingly (instead of willfully) makes a false report or record in the practice of audiology, hearing aid dispensing, or speech-language pathology or in the assistance of speech-language pathology or who knowingly (instead of willfully) fails to file or record any report as required by law.

The bill increases the penalty the board may impose in a disciplinary action from a maximum \$1,000 fine to a maximum \$5,000 fine.

It also increases the maximum misdemeanor penalties for violating any provision of the Act from a \$500 fine to a \$5,000 fine, 90 days imprisonment to three years imprisonment, or both.

The bill gives the board the power to issue a subpoena or administer an oath, with the signature of a board officer or administrator, for certain investigations, hearings, or proceedings. If, after a hearing, a licensee is found to violate the Act, the licensee must pay the hearing costs as specified under board regulations.

An order of the board may not be stayed pending review.

Board Powers and Duties

The bill expands the board's powers and duties to include regulating the practice of telehealth communications by audiologists, hearing aid dispensers, and speech-language pathologists. The bill repeals the board's authority to inspect the facilities used by licensed hearing aid dispensers. The bill also makes clarifying changes to the board's powers and duties.

The bill requires the board to appoint an executive director.

Board Membership

Board members who are licensed audiologists, speech-language pathologists, physicians, and hearing aid dispensers must be currently practicing in their profession. The requirement for one of the board's consumer members to be hearing impaired is repealed and replaced with the requirement that he/she must be a consumer of services provided by a person regulated by the board. A board member may not be an employee of a professional or trade association whose membership is regulated by the board. A

majority of the members currently serving on the board (not the full authorized membership of the board, as currently required under statute) is a quorum to do business.

Rehabilitation Committees

The bill consolidates the audiologist rehabilitation committee, speech-language pathologist rehabilitation committee, and hearing aid dispenser rehabilitation committee into a single rehabilitation committee for all professions regulated by the board.

Definitions

The bill adds new definitions and alters several existing definitions. Those changes include the following examples.

“Direct supervision” is defined as on-site and personal oversight of one individual licensed by the board by another individual licensed by the board who accepts the responsibility for the other individual’s conduct whether it is consistent or fails to be consistent with professional standards and statute.

The bill redefines “hearing aid” as any FDA approved instrument or device designed for or represented as being capable of improving or correcting impaired human hearing.

“Hearing aid dispensing” is defined as performing, conducting, and interpreting hearing assessment procedures to determine the type and extent of hearing loss for fitting suitable hearing instruments, selecting suitable hearing instruments, programming a hearing aid, making ear molds or ear impressions, and providing appropriate counseling. Hearing aid dispensing includes: (1) selling, renting, leasing, and delivering hearing instruments; and (2) providing hearing aid maintenance and repair services.

The bill repeals the definitions of “fit hearing aid” and “provide hearing aid services.”

“Oral competency” is defined as the demonstration of general English-speaking proficiency by receiving a passing score on a board-approved standardized test.

The bill defines “telehealth” as the use of telecommunications and information technologies for the exchange of information from one site to another for the provision of health care to an individual from a provider through hardware or Internet connection.

Current Law: An individual must be licensed by the board before the individual may practice audiology, provide hearing aid services, or practice speech-language pathology, with specified exceptions. A license may be renewed for a two-year term. The State

Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists Fund is a special, nonlapsing fund consisting of board license fees.

There are separate rehabilitation committees for the professionals licensed by the board that evaluate and provide assistance to those in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

A majority of the full authorized membership of the board, with at least one member of each profession regulated under the provisions of the Act being present, is a quorum to do business.

State Revenues: Board special fund revenues could increase beginning in fiscal 2008 depending on the number of new individuals licensed as speech-language pathology assistants, the number of licenses reinstated, or any change in the term of licensure.

General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court and as a result of the increased maximum civil penalty the board may impose on licensees.

State Expenditures: General fund expenditures could increase minimally as a result of the increase in the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Board special fund expenditures would not be affected as existing board staff could issue the speech-language pathology assistant licenses. In addition, the requirement for board to appoint an executive director would be fulfilled by renaming the existing board administrator position.

Local Revenues: Revenues could increase minimally as a result of the increase in the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the increase in the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$42 to \$120 per inmate in fiscal 2008.

Additional Information

Prior Introductions: Bills that would have made various changes to this Act were introduced during the 2006 session. SB 773 was amended and passed by the Senate and subsequently amended and passed by the House, although no further action was taken. Its cross file, HB 1329, had a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: HB 326 (Delegate Hubbard) – Health and Government Operations.

Information Source(s): Office of Administrative Hearings, Department of Health and Mental Hygiene, Department of Legislative Services

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