SENATE BILL 200

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

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AN ACT

RELATING TO PROFESSIONAL LICENSES; AMENDING THE SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES ACT TO CLARIFY THE DEFINITION AND USE OF CERTAIN TERMS IN THE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-14B-2 NMSA 1978 (being Laws 1996, Chapter 57, Section 2, as amended) is amended to read:

"61-14B-2. DEFINITIONS.--As used in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act:

A. "apprentice" means a person working toward full licensure in speech-language pathology who meets the requirements for licensure as an apprentice in speech and language pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

B. "appropriate supervisor" means a person licensed..."
pursuant to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who has a minimum of two years' experience as a speech-language pathologist after the clinical fellowship year;

C. "auditory trainer" means a custom-fitted FM amplifying instrument other than a hearing aid designed to enhance signal-to-noise ratios;

D. "audiologist" means a person who engages in the practice of audiology, who may or may not dispense hearing aids and who meets the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

E. "bilingual-multicultural endorsement" means an endorsement that is issued pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act to a qualified speech-language pathologist and that recognizes the licensee's or applicant's demonstrated proficiency in the use of languages other than English to provide speech-language pathology services;

[F. "board" means the speech-language pathology, audiology and hearing aid dispensing practices board;

[F. "business location" means a permanent physical business location in New Mexico where records can be examined and process served;
H. "certification by a national professional association" means certification issued by a board-approved national speech-language or hearing association;

[G-] I. "clinical fellow" means a person who has completed all academic course work and practicum requirements for a master's degree or the equivalent in speech-language pathology and engages in the practice of speech-language pathology as set forth in the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

[H-] J. "clinical fellowship year" or "CFY" means the time following the completion of all academic course work and practicum requirements for a master's degree in speech-language pathology and during which a clinical fellow is working toward [a certificate of clinical competence from a nationally recognized speech-language or hearing association or the equivalent] certification by a national professional association;

[I-] K. "department" means the regulation and licensing department;

[J-] L. "hearing aid" means a wearable instrument or device designed or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including earmolds but excluding batteries and cords;

[K-] M. "hearing aid dispenser" means a person
other than an audiologist or an otolaryngologist who is licensed to sell, fit and service hearing aids pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and maintains or occupies a permanent physical business location in New Mexico where records can be examined and process can be served;

[L.] N. "otolaryngologist" means a licensed physician who has completed a recognized residency in otolaryngology and is certified by the American board of otolaryngology;

[M.] O. "paraprofessional" means a person who provides adjunct speech-pathology or audiology services under the direct supervision of a licensed speech-language pathologist or audiologist;

[N.] P. "practice of audiology" means the application of principles, methods and procedures of measurement, testing, appraisal, prognostication, aural rehabilitation, aural habilitation, consultation, hearing aid selection and fitting, counseling, instruction and research related to hearing and disorders of hearing for the purpose of nonmedical diagnosis, prevention, identification, amelioration or the modification of communicative disorders involving speech, language auditory function or other aberrant behavior related to hearing disorders;

[O.] Q. "practice of hearing aid dispensing" means
the behavioral measurement of human hearing for the purpose of
the selection and fitting of hearing aids or other
rehabilitative devices to ameliorate the dysfunction of hearing
sensitivity; this may include otoscopic inspection of the ear,
fabrication of ear impressions and earmolds, instruction,
consultation and counseling on the use and care of these
instruments, medical referral when appropriate and the analysis
of function and servicing of these instruments involving their
modification or adjustment;

[P-R] R. "practice of speech-language pathology"
means the rendering or offering to render to individuals,
groups, organizations or the public any service in speech or
language pathology involving the nonmedical application of
principles, methods and procedures for the measurement,
testing, diagnosis, prognostication, counseling and instruction
related to the development and disorders of communications,
speech, fluency, voice, verbal and written language, auditory
comprehension, cognition, dysphagia, oral pharyngeal or
laryngeal sensorimotor competencies and treatment of persons
requiring use of an augmentative communication device for the
purpose of nonmedical diagnosing, preventing, treating and
ameliorating such disorders and conditions in individuals and
groups of individuals;

[Q-S] S. "screening" means a pass-fail procedure to
identify individuals who may require further assessment in the
areas of speech-language pathology, audiology or hearing aid dispensing;

[T.] "speech-language pathologist" means a person who engages in the practice of speech-language pathology and who meets the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

[U.] "sponsor" means a licensed hearing aid dispenser, audiologist or otolaryngologist who has an endorsement to dispense hearing aids and:

(1) is employed in the same business location where the trainee is being trained; and

(2) has been actively engaged in the dispensing of hearing aids during three of the past five years;

[V.] "student" means a person who is a full- or part-time student enrolled in an accredited college or university program in speech-language pathology, audiology or communicative disorders;

[W.] "supervisor" means a speech-language pathologist or audiologist licensed pursuant to the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who provides supervision in the area of speech-language pathology or audiology; and

[X.] "trainee" means a person working toward full licensure as a hearing aid dispenser under the direct
supervision of a sponsor."

SECTION 2. Section 61-14B-12 NMSA 1978 (being Laws 1996, Chapter 57, Section 12, as amended) is amended to read:

"61-14B-12. REQUIREMENTS FOR LICENSURE--SPEECH-LANGUAGE PATHOLOGIST.--A license to practice as a speech-language pathologist shall be issued to a person who files a completed application, accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

A. holds at least a master's degree in speech pathology, speech-language pathology or communication disorders or an equivalent degree regardless of degree name and meets the academic requirements for certification by a national professional association; and either

B. currently holds a certificate of clinical competence from a nationally recognized speech-language certification by a national professional association in the area for which the applicant is seeking licensure; or

C. has completed the current academic, practicum and employment experience requirements for a certificate of clinical competence from a nationally recognized speech-language certification by a national professional association in the area for which the applicant is applying for license and..."
has passed a recognized standard national examination in speech-language pathology."

SECTION 3. Section 61-14B-12.1 NMSA 1978 (being Laws 2005, Chapter 250, Section 3, as amended) is amended to read:

"61-14B-12.1. REQUIREMENTS FOR LICENSURE--AUDIOLOGIST.--

A. A license to practice as an audiologist shall be issued to any person who:

(1) files a completed application, accompanied by the required fees and documentation;

(2) certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978;

and

(3) submits satisfactory evidence that the applicant:

(a) holds a doctor of audiology degree or an equivalent degree regardless of degree name and meets the academic requirements for certification by a [nationally recognized hearing] national professional association, as determined by the board by rule; [and]

(b) has passed a nationally recognized standard examination in audiology, if required by rule; and

[(c) provides official documentation from a nationally recognized hearing association, as determined by the board by rule]

(c) has earned certification by a
national professional association as evidence that the applicant meets the clinical experience and examination requirements of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and

(5) maintains or occupies a business location, hospital, clinical medical practice or other facility in which hearing aids are regularly dispensed.

B. A license to practice as an audiologist shall be issued to a person who:

(1) files a completed application, accompanied by the required fees and documentation;

(2) certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and

(3) submits satisfactory evidence that the applicant:

(a) holds a master's degree in audiology or communication disorders or an equivalent degree in audiology or communication disorders or an equivalent degree awarded prior to January 1, 2007; [meets] has met the academic requirements for certification by a [nationally recognized hearing] national professional association; and has earned [a certificate of clinical competence from a nationally recognized hearing] certification by a national professional association in the area in which the applicant is seeking licensure; or
(b) has completed the current academic, practicum and employment experience requirements for [a certificate of competence in audiology from a nationally recognized hearing] certification by a national professional association and has passed a nationally recognized standard examination in audiology; and

[(e) (4)] provides evidence satisfactory to the board of at least six months' experience in the dispensing of hearing aids through practical examination or other methods as determined by the board in either a graduate training program or in a work or training experience [and

(d) maintains or occupies a business location, hospital, clinical medical practice or other facility in which hearing aids are regularly dispensed]."

SECTION 4. Section 61-14B-13 NMSA 1978 (being Laws 1996, Chapter 57, Section 13, as amended) is amended to read:

"61-14B-13. REQUIREMENTS FOR ENDORSEMENT TO DISPENSE HEARING AIDS AS AN [AUDIOLOGIST OR OTOLARYNGOLOGIST].--An endorsement to practice hearing aid dispensing shall be issued to a licensed [audiologist or] otolaryngologist who files a completed application accompanied by the required fees and documentation and who:

A. provides evidence satisfactory to the board of at least six months' experience in the dispensing of hearing aids through practical examination or other methods as

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determined by the board in either a graduate training program
or in a work or training experience;

   B. maintains or occupies a business location, hospital, clinical medical practice or other facility where
hearing aids are regularly dispensed;

   C. passes the jurisprudence examination given by
the board; and

   D. certifies that [he] the otolaryngologist is not
guilty of any activities listed in Section 61-14B-21 NMSA
1978."

SECTION 5. Section 61-14B-13.1 NMSA 1978 (being Laws
2013, Chapter 110, Section 16) is amended to read:
"61-14B-13.1. REQUIREMENTS FOR BILINGUAL-MULTICULTURAL
ENDORSEMENT.--A bilingual-multicultural endorsement shall be
issued to any person who:

   A. files a completed application, accompanied by
the required fees and documentation; certifies that the
applicant is not guilty of any of the activities listed in
Section 61-14B-21 NMSA 1978; and submits satisfactory evidence
that the applicant:

      (1) is eligible for and in the process of
obtaining a license to practice as a speech-language
pathologist;

      (2) has completed the required education as
determined by rule;

(3) has met experience requirements approved by the board; and

(4) has demonstrated proficiency in the specified language as determined by the board; or

B. files a completed application accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

(1) has an active license in good standing in the state of New Mexico as a speech-language pathologist;

(2) has a current bilingual endorsement from the public education department; or

(3) has a minimum of five years practicing with clients who utilize a language other than English and

(4) has demonstrated proficiency in the specified language as determined by the board; or

C. files a completed application, accompanied by the required fees and documentation; certifies that the applicant is not guilty of any of the activities listed in Section 61-14B-21 NMSA 1978; and submits satisfactory evidence that the applicant:

(1) has [an active] a license in good standing in another state or country as a speech-language pathologist;

(2) has a minimum of five years practicing
with clients who utilize a language other than English; and
(3) has demonstrated proficiency in the
specified language as determined by the board."

SECTION 6. Section 61-14B-15 NMSA 1978 (being Laws 1996,
Chapter 57, Section 15, as amended) is amended to read:

"61-14B-15. REQUIREMENTS FOR LICENSURE--CLINICAL FELLOW
OF SPEECH-LANGUAGE PATHOLOGY.--A license to practice as a
clinical fellow of speech-language pathology shall be issued to
a person who files a completed application, pays the required
fees, provides documentation and submits satisfactory evidence
that the person:

A. has met all academic course work and practicum
requirements for a master's degree in speech-language
pathology, speech pathology or communication disorders for
certification by a [nationally recognized speech-language or
hearing] national professional association;
B. certifies that the person has received no
reprimands of unprofessional conduct or incompetency;
C. applies for licensure under Section 61-14B-12
NMSA 1978 after completing the clinical fellowship year; and
D. has an appropriate supervisor, as defined in
Section 61-14B-2 NMSA 1978."

SECTION 7. Section 61-14B-21 NMSA 1978 (being Laws 1996,
Chapter 57, Section 21) is amended to read:

"61-14B-21. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW.--
A. The board may deny, revoke, suspend or impose conditions upon any a license held or applied for under the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act in accordance with the procedures set forth in the Uniform Licensing Act upon findings by the board that the licensee or applicant:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license;
(2) has been convicted of a felony. A certified copy of the record of conviction shall be conclusive evidence of the conviction;
(3) is guilty of incompetence;
(4) is guilty of unprofessional conduct;
(5) is selling or fitting the first hearing aid of any a child under sixteen years of age who has not been examined and cleared for the hearing aid by an otolaryngologist and or a dispensing audiologist who is certified competent by a nationally recognized speech-language or hearing association or holds equivalent certification; has earned certification by a national professional association;
(6) is selling or fitting a hearing aid on any a person who has not been tested, except for replacement aids;
(7) uses untruthful or misleading advertising;
(8) [is representing himself as] makes any
representation as being a medical doctor when [he] the licensee
or applicant is not a licensed medical doctor;

(9) is addicted to the use of habit-forming
drugs or is addicted to [any] a substance to such a degree as
to render [him] the licensee or applicant unfit to practice as
a speech-language pathologist, dispensing or nondispensing
audiologist or hearing aid dispenser;

(10) is guilty of unprofessional conduct, as
defined by regulation of the board;

(11) is guilty of [any] a violation of the
Controlled Substances Act;

(12) has violated [any] a provision of the
Speech-Language Pathology, Audiology and Hearing Aid Dispensing
Practices Act;

(13) is guilty of willfully or negligently
practicing beyond the scope of the Speech-Language Pathology,
Audiology and Hearing Aid Dispensing Practices Act;

(14) is guilty of aiding or abetting the
practice of speech-language pathology, audiology or hearing aid
dispensing by a person not licensed by the board;

(15) is guilty of practicing without a license
in violation of the Speech-Language Pathology, Audiology and
Hearing Aid Dispensing Practices Act and its regulations; or

(16) has had a license, certificate or
registration to practice speech-language pathology, audiology

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or hearing aid dispensing revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this section. A certified copy of the record of the jurisdiction taking such disciplinary action will be conclusive evidence thereof.

B. Disciplinary proceedings may be initiated by [any] a person filing a sworn complaint. [Any] A person filing a sworn complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice."