42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

EDWARD C. SANDOVAL

AN ACT

RELATING TO LICENSURE; ENACTING THE SPEECH LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES ACT; PROVIDING FOR PENALTIES; REPEALING THE SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY ACT; REPEALING THE HEARING AID ACT; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the "Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act".

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

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

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

D. "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 or audiology or both and engages in the practice of speech language pathology or audiology as set forth in the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

E. "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 or audiology or both, and during which the clinical fellow is working towards a certificate of clinical competence from a nationally recognized speech language or hearing association or the equivalent;

F. "CFY supervisor" means a person licensed pursuant to the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who oversees the work of a clinical fellow and is so designated in the CFY
plan that is approved by the board;

G. "department" means the regulation and licensing department;

H. "dispensing audiologist" means an audiologist who practices the dispensing or fitting of hearing aids and maintains or occupies a permanent physical business location in New Mexico where records can be examined and process can be served;

I. "hearing aid" means any 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;

J. "hearing aid dispenser" means any person other than a dispensing audiologist or an otolaryngologist who is licensed to sell, fit and service hearing aids under 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;

K. "nondispensing audiologist" means a person who engages in the practice of audiology and who meets the qualifications set forth in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

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

M. "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. "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. "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 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;

P. "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;

Q. "sponsor" means an individual who is employed
full time in the same physical location in New Mexico where the
trainee is being trained and is:

   (1) a dispensing audiologist licensed under the
   provisions of the Speech Language Pathology, Audiology and
   Hearing Aid Dispensing Practices Act; or

   (2) a hearing aid dispenser licensed under the
   provisions of the Speech Language Pathology, Audiology and
   Hearing Aid Dispensing Practices Act and who has been actively
   engaged in dispensing or fitting hearing aids during three of
   the past five years; and

R. "trainee" means a person working toward full
licensure as a hearing aid dealer or fitter under the direct
supervision of a sponsor.

Section 3. SCOPE OF PRACTICE--SPEECH LANGUAGE PATHOLOGY.--

A. The scope of practice for speech language
pathologists shall include:
(1) rendering or offering to render professional services, including diagnosis, prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, counseling, prognostication, training and research to individuals or groups of individuals who have or are suspected of having disorders of communication, including speech comprehension, voice, fluency, language in all its expressive and receptive forms, including oral expression, reading, writing and comprehension, oral pharyngeal function, oral motor function, dysphagia, functional maintenance therapy or cognitive-communicative processes; and

(2) determining the need for personal augmentative and alternative communication systems, computer access or assistive technology, recommending such systems, and providing set-up, modification, training, trouble-shooting and follow-up in the utilization of such systems.

B. The scope of practice for speech language pathologists may include:

(1) conducting pure-tone air conduction hearing screening, tympanometry screening, limited to a pass or fail determination, for the purpose of performing a speech and language evaluation or for the initial identification of individuals with other disorders of communications;

(2) aural rehabilitation that is defined as services and procedures for facilitation of adequate receptive
and expressive communication in individuals with hearing impairment; or

(3) supervision of graduate students, clinical fellows or paraprofessionals.

Section 4. SCOPE OF PRACTICE--NONDISPENSING AUDIOLOGISTS. --

A. The scope of practice for nondispensing audiologists shall include:

(1) rendering or offering to render professional services, including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research to individuals who have or are suspected of having disorders of hearing or balance;

(2) making ear impressions or fabrication of ear molds for non-amplification purposes;

(3) cerumen management;

(4) performance and interpretation of behavioral or electrophysiological tests of auditory or vestibular function; and

(5) evaluation and management of tinnitus.

B. The scope of practice for nondispensing audiologists may include:

(1) consultation regarding noise control and hearing conservation, evaluations of environment or equipment, including calibration of equipment used in testing auditory
function and hearing conservation;

(2) speech or language screening limited to a pass or fail determination for the purpose of initial identification of individuals with other disorders of communication; and

(3) supervision of graduate students, clinical fellows and paraprofessionals.

Section 5. SCOPE OF PRACTICE--DISPENSING AUDIOLOGISTS.-- The scope of practice for dispensing audiologists shall include:

A. the scope of practice for a nondispensing audiologist as specified in Section 4 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

B. dispensing of hearing aids and auditory trainers, including evaluation, prescription, preparation and orientation training for these devices; and

C. making ear impressions or fabrication of ear molds for the purpose of amplification.

Section 6. SCOPE OF PRACTICE--HEARING AID DISPENSER.-- The scope of practice of the hearing aid dispenser shall include:

A. the measurement and evaluation of the sensitivity of human hearing by means of appropriate behavioral testing equipment for the purpose of amplification;

B. the otoscopic observation of the outer ear in connection with the evaluation of hearing and the fitting of hearing aids and for the purpose of referral to other
professionals;

C. the fabrication of ear impressions or ear molds for the purpose of selecting and fitting hearing aids;
D. the analysis of hearing aid function by means of the appropriate testing equipment;
E. the selection and fitting of hearing aids with appropriate instruction, orientation, counseling and management regarding the use and maintenance of these devices; and
F. the modification and general servicing of hearing aids.

Section 7. LICENSE REQUIRED.--

A. Unless licensed to practice speech language pathology, audiology or hearing aid dispensing under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, no person shall:

(1) practice as a speech language pathologist, audiologist or hearing aid dispenser;

(2) use the title or represent himself as a licensed speech language pathologist, audiologist or hearing aid dispenser or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed to practice as a speech language pathologist, audiologist or hearing aid dispenser; or

(3) advertise, hold out to the public or represent in any manner that one is authorized to practice
speech language pathology, audiology or hearing aid dispensing.

B. No person shall represent himself to be a speech language pathologist or hold out to the public by any means or by any service or function perform, directly or indirectly, or by using the terms "speech pathology", "speech pathologist", "speech therapy", "speech therapist", "speech correction", "speech correctionist", "speech clinic", "speech clinician", "language pathology", "language pathologist", "voice therapy", "voice therapist", "voice pathology", "voice pathologist", "logopedics", "logopedist", "communicology", "communicologist", "aphasiology", "aphasiologist", "phoniatrist" or "swallowing therapist" unless licensed as such under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

C. No person shall represent himself to be an audiologist or hold out to the public by any means, or by any service or function perform directly or indirectly, or by using the terms "audiology", "audiologist", "audiometry", "audiometrist", "audiological", "audiometrics", "hearing therapy", "hearing therapist", "hearing clinic", "hearing clinician", "hearing center", "hearing aid audiologist" or "audioprosthologist" unless licensed as such under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

D. No person shall represent himself to be a hearing
aid dispenser or use the terms "hearing aid dealer", "hearing aid fitter", "hearing aid sales", "hearing aid center" or "hearing aid service center" unless licensed as such under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 8. EXEMPTIONS.

A. Nothing in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act shall be construed to prevent qualified members of other recognized professions that are licensed, certified or registered under New Mexico law or regulation from rendering services within the scope of their license, certificate or registration, provided they do not represent themselves as holding a license in speech language pathology, audiology or hearing aid dispensing.

B. Any person not meeting the requirements for licensure as a speech language pathologist or audiologist under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, may practice as a speech pathologist or audiologist until July 1, 1997 if:

(1) he is employed as a speech pathologist or audiologist on a waiver license issued by the state department of public education prior to the effective date of that act; and

(2) he is actively seeking the educational requirements for licensure under that act.

C. Nothing in the Speech Language Pathology,
Audiology and Hearing Aid Dispensing Practices Act prevents qualified members of other recognized professional groups, such as licensed physicians, dentists or teachers of the deaf, from doing appropriate work in the area of communication disorders consistent with the standards and ethics of their respective professions.

D. Nothing in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act restricts the activities and services of a speech language pathology or audiology graduate student at an accredited or approved college or university or an approved clinical training facility; provided that these activities and services constitute part of his supervised course of study and that he is designated as a speech language pathology or audiology graduate student or other title clearly indicating the training status appropriate to his level of training.

Section 9. BOARD CREATED.--

A. There is created the "speech language pathology, audiology and hearing aid dispensing practices board" that shall be administratively attached to the department.

B. The board shall consist of ten members who have been New Mexico residents for at least five years prior to their appointment. Among the membership, two members shall be licensed speech language pathologists, two members shall be licensed audiologists, two members shall be licensed hearing aid
dispensers, one member shall be a licensed otolaryngologist and
three members shall represent the public and have no interest,
direct or indirect, in the profession regulated.

C. The licensed members of the board shall not hold
any elected or appointed office in any related professional
organization.

Section 10. TERMS--REIMBURSEMENT--MEETINGS.--

A. Members of the board shall be appointed by the
governor for staggered terms of three years. Each member shall
hold office until successors are appointed. Vacancies shall be
filled for the unexpired term in the same manner as original
appointments.

B. A majority of the board members serving
constitutes a quorum of the board. The board shall meet at
least once a year and at such other times as it deems necessary.

C. The board shall elect a chairman and other
officers as deemed necessary to administer its duties.

D. No board member shall serve more than two full
consecutive terms, and any member failing to attend three
meetings after proper notice shall automatically be recommended
for removal as a board member, unless excused for reasons set
forth in board regulations.

E. Members of the board shall be reimbursed as
provided in the Per Diem and Mileage Act and shall receive no
other compensation, perquisite or allowance.
F. No member of the board shall be liable in a civil action for any act performed in good faith in the performance of his duties.

Section 11. BOARD POWERS AND DUTIES.—The board shall:

A. adopt rules and regulations and establish policy necessary to carry out the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act in accordance with the Uniform Licensing Act;

B. adopt rules implementing continuing education requirements;

C. adopt a code of ethics;

D. conduct hearings upon charges relating to the discipline of licensees, including the denial, suspension or revocation of a license in accordance with the Uniform Licensing Act;

E. investigate complaints against licensees by issuing investigative subpoenas prior to the issuance of a notice of contemplated action;

F. hire staff as may be necessary to carry out the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

G. establish fees for licensure;

H. provide for the licensing and renewal of licenses of applicants; and

I. adopt rules that provide for licensure by
reciprocity, including temporary permits for speech language pathologists, audiologists or hearing aid dispensers.

Section 12. REQUIREMENTS FOR LICENSURE--SPEECH LANGUAGE PATHOLOGIST--NONDISPENSING AUDIOLOGIST. -- A license to practice as a speech language pathologist or a nondispensing audiologist shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the applicant:

A. holds at least a master’s degree in speech pathology, speech language pathology, communication disorders or audiology or equivalent degree regardless of degree name, and meets the academic requirements for certification by a nationally recognized speech language or hearing association;

B. certifies that he is not guilty of any of the activities listed in Section 21 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; and

C. currently holds a certificate of clinical competence from a nationally recognized speech language or hearing association in the area for which he is seeking licensure; or

D. has submitted evidence of having completed the current academic, practicum and employment experience requirements for a certificate of clinical competence from a nationally recognized speech language or hearing association in
the area for which he is applying for license and has passed a recognized standard national examination in either speech language pathology or audiology or both and has complied with the provisions of Subsection B of this section.

Section 13. REQUIREMENTS FOR LICENSURE WITHOUT EXAMINATION--DISPENSING AUDIOLOGIST--DISPENSING OTOLARYNGOLOGIST.--A license to practice as a dispensing audiologist or as a dispensing otolaryngologist shall be issued without an examination to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the applicant:

A. is currently certified in audiology by a nationally recognized speech language or hearing association or meets all the requirements for certification and provides evidence satisfactory to the board of experience in the dispensing or fitting of hearing aids either in a graduate training program or in a work or training experience;

B. is currently a clinical fellow in audiology and provides evidence satisfactory to the board of experience in dispensing or fitting hearing aids either in a graduate training program or in a work or training experience; or

C. is an otolaryngologist and provides evidence satisfactory to the board of experience in the dispensing or fitting of hearing aids; and

D. certifies that he is not guilty of any of the
activities listed in Section 21 of the Speech Language
Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 14. REQUIREMENTS FOR LICENSURE BY EXAMINATION--
HEARING AID DISPENSER.---

A. A license to practice as a hearing aid dispenser shall be issued to any person who files a completed application, passes the examination approved by the board, pays the required fees and documentation and submits satisfactory evidence that the person:

(1) is a dispensing audiologist, a clinical fellow in audiology or an otolaryngologist who does not meet the qualifications regarding a dispensing otolaryngologist set forth in Section 13 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; or

(2) is a person other than a dispensing audiologist, a nondispensing audiologist, a clinical fellow in audiology or an otolaryngologist applying for a license under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and who:

(a) has at least a high school education or the equivalent;

(b) has worked for no less than seven months under a training permit; and

(c) certifies that he is not guilty of any of the activities listed in Section 21 of the Speech
Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

B. The examination for hearing aid dispenser shall be conducted by the board quarterly unless there are no applicants for examination.

C. The board:

(1) shall provide procedures to assure that examinations for licensure are offered as needed;

(2) shall establish rules regarding the examination application deadline and other rules relating to the taking and retaking of licensure examinations;

(3) shall determine a passing grade for the examination; and

(4) may accept an applicant’s examination scores used for national certification or other examination approved by the board.

Section 15. REQUIREMENTS FOR LICENSURE--CLINICAL FELLOW OF SPEECH LANGUAGE PATHOLOGY--CLINICAL FELLOW OF AUDIOLOGY.--A license to practice as a clinical fellow of speech language pathology or audiology shall be issued to any person who files a completed application, passes the examination approved by the board prior to or within one year of applying for the examination, pays the required fees, provides documentation and submits satisfactory evidence that the person:

A. has met all academic coursework and practicum
requirements for a master's degree in speech language pathology, speech pathology, communication disorders or audiology or both for certification by a nationally recognized speech language or hearing association;

B. has filed a CFY plan that meets with board approval;

C. certifies that he has received no reprimands of unprofessional conduct or incompetency;

D. applies for licensure under Section 12 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act after completing the clinical fellowship year; and

E. has a CFY supervisor who:

(1) is a speech language pathologist or audiologist licensed under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; and

(2) has registered with the board as a CFY supervisor for the clinical fellowship year.

Section 16. LICENSURE UNDER PRIOR LAWS.--Any license issued in accordance with the Speech-Language Pathology and Audiology Act or the Hearing Aid Act prior to the effective date of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act shall be valid until the expiration date of the license.

Section 17. HEARING AID DISPENSING TEMPORARY PERMITS--
ISSUANCE.--

A. Any person who does not meet the requirements for licensure without examination as a dispensing audiologist or a dispensing otolaryngologist as set forth in Section 13 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act or as a hearing aid dispenser as set forth in Section 14 of that act, may apply for a temporary trainee permit. A temporary trainee permit shall be issued to a person who:

   (1) has a high school education or the equivalent;

   (2) has identified a sponsor as defined in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

   (3) pays an application fee as determined by the board;

   (4) has not failed the licensing examination twice within a five-year period; and

   (5) certifies that he is not guilty of any of the activities listed in Section 21 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

B. A temporary trainee permit shall:

   (1) be valid for one year from the date of its issuance and is nonrenewable for a period of one year following its expiration; and

   (2) be issued for a period of one year following its expiration; and
C. A person issued a temporary trainee permit may be eligible for licensure as a hearing aid dispenser upon:

(1) the completion of a minimum of three hundred twenty hours of training, to be completed within a three-month period under the direct supervision of the sponsor;

(2) the completion of five continuous months of full-time dispensing work during which time all sales are approved by the sponsor prior to delivery; and

(3) the sponsor approving all fittings, adjustments, modifications or repairs to hearing aids and earmolds.

D. A dispensing audiologist, nondispensing audiologist, clinical fellow in audiology or otolaryngologist issued a temporary trainee permit may be eligible for licensure without examination as a hearing aid dispenser upon the sponsor providing direct supervision for a minimum of three months of all fittings, adjustments, modifications or repairs to hearing aids and earmolds.

Section 18. SCOPE OF HEARING AID DISPENSING EXAMINATION.--

In preparing the hearing aid dispensing examination, the board shall use tests that demonstrate:

A. knowledge in the fitting and sale of hearing aids, including basic physics of sound, anatomy and physiology
of the ear and the function of hearing aids; and

B. proficient use of techniques for the fitting of
hearing aids, including:

(1) pure-tone audiometry, including air
conduction and bone conduction testing;

(2) live voice or recorded voice speech
audiometry, including speech reception threshold and speech
recognition score tests;

(3) masking when indicated;

(4) recording and evaluation of audiograms and
speech audiometry for determining proper selection and
adjustment of hearing aids;

(5) taking earmold impressions; and

(6) analyzing hearing aid function,
modification and general service.

Section 19. LICENSE RENEWAL.--

A. Each licensee shall renew his license every year
by submitting a renewal application, as provided for in the
board's regulations. The board may require proof of continuing
education as a requirement for renewal.

B. A sixty-day grace period shall be allowed to each
licensee after each licensing period. A license may be renewed
during the grace period upon payment of a renewal fee and a late
fee as prescribed by the board.

C. Any license not renewed by the end of the grace
period will be considered expired and the licensee shall not be eligible to practice within the state until the license is renewed. The board shall develop rules regarding requirements for renewal of an expired license and may require the licensee to reapply as a new applicant.

D. Clinical fellow licenses may be renewed for no more than three years; provided the clinical fellow has submitted evidence of passing a recognized standard national examination in either speech language pathology or audiology or both, prior to or within his first year of the CFY. The CFY license will not be renewed without evidence of passing a recognized standard national examination in either speech language pathology or audiology or both.

E. The board may issue rules providing for inactive status of licenses.

Section 20. FEES.--The board shall establish a schedule of reasonable fees for applications, licenses, renewal of licenses, exams, penalties and administrative fees. The license and license renewal fees shall not exceed:

A. fifty dollars ($50.00) for hearing aid dispenser trainees and clinical fellows;

B. one hundred dollars ($100) for nondispensing audiologists or speech language pathologists;

C. three hundred dollars ($300) for hearing aid dispensers or dispensing audiologists;

.D. Clinical fellow licenses may be renewed for no more than three years; provided the clinical fellow has submitted evidence of passing a recognized standard national examination in either speech language pathology or audiology or both, prior to or within his first year of the CFY. The CFY license will not be renewed without evidence of passing a recognized standard national examination in either speech language pathology or audiology or both.

E. The board may issue rules providing for inactive status of licenses.

Section 20. FEES.--The board shall establish a schedule of reasonable fees for applications, licenses, renewal of licenses, exams, penalties and administrative fees. The license and license renewal fees shall not exceed:

A. fifty dollars ($50.00) for hearing aid dispenser trainees and clinical fellows;

B. one hundred dollars ($100) for nondispensing audiologists or speech language pathologists;

C. three hundred dollars ($300) for hearing aid dispensers or dispensing audiologists;
D. two hundred dollars ($200) for examinations;
E. one hundred dollars ($100) for late renewal fees;
and
F. reasonable administrative fees.

Section 21. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW.--
A. The board may deny, revoke, suspend or impose
conditions upon any 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 child under sixteen years of age who has not been
examined and cleared for the hearing aid by an otolaryngologist
and a dispensing audiologist who is certified competent by a
nationally recognized speech language or hearing association or
holds equivalent certification;

(6) is selling or fitting a hearing aid on any
person who has not been tested, except for replacement aids;

(7) uses untruthful or misleading advertising;

(8) is representing himself as a medical doctor when he is not a licensed medical doctor;

(9) is addicted to the use of habit-forming drugs or is addicted to any substance to such a degree as to render him 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 violation of the Controlled Substances Act;

(12) has violated any 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 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 person filing a sworn complaint. Any 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.

Section 22. PENALTIES.

A. Any person who fails to furnish the board, its investigators or representatives with information requested by the board is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment for a period of one year or both.

B. Any person who violates any provision of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or imprisonment for a period of one year or both.
Section 23. CRIMINAL OFFENDER EMPLOYMENT ACT.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 24. FUND ESTABLISHED.--

A. There is created in the state treasury the "speech language pathology, audiology and hearing aid dispensing practices board fund".

B. All money received by the board under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act shall be deposited with the state treasurer for credit to the speech language pathology, audiology and hearing aid dispensing practices board fund. The state treasurer shall invest the fund as other state funds are invested. All balances in the fund shall remain in the fund and shall not revert to the general fund.

C. Money in the speech language pathology, audiology and hearing aid dispensing practices board fund is appropriated to the board and shall be used only for the purpose of carrying out the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The speech language pathology, audiology and hearing aid dispensing practices board is terminated on July 1, 1997,
pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act until July 1, 1998. Effective July 1, 1998, the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is repealed.

Section 26. TEMPORARY PROVISION--TRANSFER.--On the effective date of this act, all fees, money, appropriations, balances and funds collected or deposited pursuant to the Speech-Language Pathology and Audiology Act and the Hearing Aid Act shall be transferred to the speech language pathology, audiology and hearing aid dispensing practices board fund.

Section 27. REPEAL.--Sections 61-14B-1 through 61-14B-17 and 61-24A-1 through 61-24A-21 NMSA 1978 (being Laws 1981, Chapter 249, Sections 1 through 16, Laws 1990, Chapter 16, Section 4, Laws 1979, Chapter 349, Sections 1 through 15, Laws 1991, Chapter 46, Section 9, Laws 1979, Chapter 349, Sections 17 and 18 and Laws 1991, Chapter 46, Sections 10 through 12, as amended) are repealed.

Section 28. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.
Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has been referred

HOUSE BILL 363

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the

APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Fred Luna, Chairman
The roll call vote was 7 For 0 Against
Yes: 7
Excused: Gurule, Hobbs, Olguin, Varela, Rodella
Absent: None
Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom has been referred

HOUSE BILL 363

has had it under consideration and reports same with recommendation that it DO PASS.

Respectfully submitted,

____________________________
Max Coll, Chairman
Adopted ____________________  Not Adopted ____________________

(Clerk)  (Clerk)

Date _____________

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Bird, Buffett, Coll, Gentry, Martinez, Salazar, Varela,
         Watchman

Absent: none
February 12, 1996

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 363

has had it under consideration and reports same with recommendation that it DO PASS.

Respectfully submitted,

--------------------------------------------------
Shannon Robinson, Chairman

Adopted ________________________________________ Not Adopted ____________________________
The roll call vote was 5 For 0 Against
Yes: 5
No: 0
Excused: E. Jennings, Smith, Garcia
Absent: None