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HOUSE BILL 363

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;

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

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

8 D. "clinical fellow" means a person who has
9 completed all academic course work and practicum requirements
10 for a master's degree or the equivalent in speech language
11 pathology or audiology or both and engages in the practice of
12 speech language pathology or audiology as set forth in the
13 provisions of the Speech Language Pathology, Audiology and
14 Hearing Aid Dispensing Practices Act;

15 E. "clinical fellowship year" or "CFY" means the
16 time following the completion of all academic course work and
17 practicum requirements for a master's degree in speech language
18 pathology or audiology or both, and during which the clinical
19 fellow is working towards a certificate of clinical competence
20 from a nationally recognized speech language or hearing
21 association or the equivalent;

22 F. "CFY supervisor" means a person licensed
23 pursuant to the provisions of the Speech Language Pathology,
24 Audiology and Hearing Aid Dispensing Practices Act who oversees
25 the work of a clinical fellow and is so designated in the CFY

1 plan that is approved by the board;

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

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

9 I. "hearing aid" means any wearable instrument or
10 device designed or offered for the purpose of aiding or
11 compensating for impaired human hearing and any parts,
12 attachments or accessories, including earmolds but excluding
13 batteries and cords;

14 J. "hearing aid dispenser" means any person other
15 than a dispensing audiologist or an otolaryngologist who is
16 licensed to sell, fit and service hearing aids under the Speech
17 Language Pathology, Audiology and Hearing Aid Dispensing
18 Practices Act and maintains or occupies a permanent physical
19 business location in New Mexico where records can be examined
20 and process can be served;

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

25 L. "otolaryngologist" means a licensed physician who

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1 has completed a recognized residency in otolaryngology and is
2 certified by the American board of otolaryngology;

3 M "paraprofessional" means a person who provides
4 adjunct speech pathology or audiology services under the direct
5 supervision of a licensed speech language pathologist or
6 audiologist;

7 N. "practice of audiology" means the application of
8 principles, methods and procedures of measurement, testing,
9 appraisal, prognostication, aural rehabilitation, aural
10 habilitation, consultation, hearing aid selection and fitting,
11 counseling, instruction and research related to hearing and
12 disorders of hearing for the purpose of nonmedical diagnosis,
13 prevention, identification, amelioration or the modification of
14 communicative disorders involving speech, language auditory
15 function or other aberrant behavior related to hearing
16 disorders;

17 O. "practice of speech language pathology" means the
18 rendering or offering to render to individuals, groups,
19 organizations or the public any service in speech or language
20 pathology involving the nonmedical application of principles,
21 methods and procedures for the measurement, testing, diagnosis,
22 prognostication, counseling and instruction related to the
23 development and disorders of speech, fluency, voice, verbal and
24 written language, auditory comprehension, cognition, dysphagia,
25 oral pharyngeal or laryngeal sensorimotor competencies and

1 treatment of persons requiring use of an augmentative
2 communication device for the purpose of nonmedical diagnosing,
3 preventing, treating and ameliorating such disorders and
4 conditions in individuals and groups of individuals;

5 P. "speech language pathologist" means a person who
6 engages in the practice of speech language pathology and who
7 meets the qualifications set forth in the Speech Language
8 Pathology, Audiology and Hearing Aid Dispensing Practices Act;

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

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

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

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

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

24 A. The scope of practice for speech language
25 pathologists shall include:

1 (1) rendering or offering to render
2 professional services, including diagnosis, prevention,
3 identification, evaluation, consultation, habilitation,
4 rehabilitation, instruction, counseling, prognostication,
5 training and research to individuals or groups of individuals
6 who have or are suspected of having disorders of communication,
7 including speech comprehension, voice, fluency, language in all
8 its expressive and receptive forms, including oral expression,
9 reading, writing and comprehension, oral pharyngeal function,
10 oral motor function, dysphagia, functional maintenance therapy
11 or cognitive-communicative processes; and

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

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

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

24 (2) aural rehabilitation that is defined as
25 services and procedures for facilitation of adequate receptive

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1 and expressive communication in individuals with hearing
2 impairment; or

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

5 Section 4. SCOPE OF PRACTICE--NONDISPENSING
6 AUDILOGISTS. --

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

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

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

16 (3) cerumen management;

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

20 (5) evaluation and management of tinnitus.

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

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

1 function and hearing conservation;

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

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

8 Section 5. SCOPE OF PRACTICE--DISPENSING AUDIOLOGISTS.--

9 The scope of practice for dispensing audiologists shall include:

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

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

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

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

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

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

1 professionals;

2 C. the fabrication of ear impressions or ear molds
3 for the purpose of selecting and fitting hearing aids;

4 D. the analysis of hearing aid function by means of
5 the appropriate testing equipment;

6 E. the selection and fitting of hearing aids with
7 appropriate instruction, orientation, counseling and management
8 regarding the use and maintenance of these devices; and

9 F. the modification and general servicing of hearing
10 aids.

11 Section 7. LICENSE REQUIRED. --

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

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

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

24 (3) advertise, hold out to the public or
25 represent in any manner that one is authorized to practice

1 speech language pathology, audiology or hearing aid dispensing.

2 B. No person shall represent himself to be a speech
3 language pathologist or hold out to the public by any means or
4 by any service or function perform, directly or indirectly, or
5 by using the terms "speech pathology", "speech pathologist",
6 "speech therapy", "speech therapist", "speech correction",
7 "speech correctionist", "speech clinic", "speech clinician",
8 "language pathology", "language pathologist", "voice therapy",
9 "voice therapist", "voice pathology", "voice pathologist",
10 "logopedics", "logopedist", "communication", "communicationist",
11 "aphasiology", "aphasiologist", "phoniatrist" or "swallowing
12 therapist" unless licensed as such under the provisions of the
13 Speech Language Pathology, Audiology and Hearing Aid Dispensing
14 Practices Act.

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

25 D. No person shall represent himself to be a hearing

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1 aid dispenser or use the terms "hearing aid dealer", "hearing
2 aid fitter", "hearing aid sales", "hearing aid center" or
3 "hearing aid service center" unless licensed as such under the
4 provisions of the Speech Language Pathology, Audiology and
5 Hearing Aid Dispensing Practices Act.

6 Section 8. EXEMPTIONS. --

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

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

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

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

25 C. Nothing in the Speech Language Pathology,

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1 Audiology and Hearing Aid Dispensing Practices Act prevents
2 qualified members of other recognized professional groups, such
3 as licensed physicians, dentists or teachers of the deaf, from
4 doing appropriate work in the area of communication disorders
5 consistent with the standards and ethics of their respective
6 professions.

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

17 Section 9. BOARD CREATED. --

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

21 B. The board shall consist of ten members who have
22 been New Mexico residents for at least five years prior to their
23 appointment. Among the membership, two members shall be
24 licensed speech language pathologists, two members shall be
25 licensed audiologists, two members shall be licensed hearing aid

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1 dispensers, one member shall be a licensed otolaryngologist and
2 three members shall represent the public and have no interest,
3 direct or indirect, in the profession regulated.

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

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

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

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

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

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

23 E. Members of the board shall be reimbursed as
24 provided in the Per Diem and Mileage Act and shall receive no
25 other compensation, perquisite or allowance.

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1 F. No member of the board shall be liable in a civil
2 action for any act performed in good faith in the performance of
3 his duties.

4 Section 11. BOARD POWERS AND DUTIES. --The board shall:

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

9 B. adopt rules implementing continuing education
10 requirements;

11 C. adopt a code of ethics;

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

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

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

22 G. establish fees for licensure;

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

25 I. adopt rules that provide for licensure by

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1 reciprocity, including temporary permits for speech language
2 pathologists, audiologists or hearing aid dispensers.

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

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

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

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

22 D. has submitted evidence of having completed the
23 current academic, practicum and employment experience
24 requirements for a certificate of clinical competence from a
25 nationally recognized speech language or hearing association in

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1 the area for which he is applying for license and has passed a
2 recognized standard national examination in either speech
3 language pathology or audiology or both and has complied with
4 the provisions of Subsection B of this section.

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

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

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

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

25 D. certifies that he is not guilty of any of the

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1 activities listed in Section 21 of the Speech Language
2 Pathology, Audiology and Hearing Aid Dispensing Practices Act.

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

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

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

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

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

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

24 (c) certifies that he is not guilty of
25 any of the activities listed in Section 21 of the Speech

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1 Language Pathology, Audiology and Hearing Aid Dispensing
2 Practices Act.

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

6 C. The board:

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

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

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

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

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

25 A. has met all academic course work and practicum

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1 requirements for a master's degree in speech language pathology,
2 speech pathology, communication disorders or audiology or both
3 for certification by a nationally recognized speech language or
4 hearing association;

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

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

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

12 E. has a CFY supervisor who:

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

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

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

25 Section 17. HEARING AID DISPENSING TEMPORARY PERMITS--

1 ISSUANCE. --

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

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

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

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

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

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

22 B. A temporary trainee permit shall:

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

1 (2) allow the person to complete a training
2 period.

3 C. A person issued a temporary trainee permit may be
4 eligible for licensure as a hearing aid dispenser upon:

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

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

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

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

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

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

24 A. knowledge in the fitting and sale of hearing
25 aids, including basic physics of sound, anatomy and physiology

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1 of the ear and the function of hearing aids; and

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

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

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

9 (3) masking when indicated;

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

13 (5) taking earmold impressions; and

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

16 Section 19. LICENSE RENEWAL. --

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

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

25 C. Any license not renewed by the end of the grace

1 period will be considered expired and the licensee shall not be
2 eligible to practice within the state until the license is
3 renewed. The board shall develop rules regarding requirements
4 for renewal of an expired license and may require the licensee
5 to reapply as a new applicant.

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

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

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

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

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

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

- 1 D. two hundred dollars (\$200) for examinations;
- 2 E. one hundred dollars (\$100) for late renewal fees;
- 3 and
- 4 F. reasonable administrative fees.

5 Section 21. DISCIPLINARY PROCEEDINGS-- JUDICIAL REVIEW. --

6 A. The board may deny, revoke, suspend or impose
7 conditions upon any license held or applied for under the Speech
8 Language Pathology, Audiology and Hearing Aid Dispensing
9 Practices Act in accordance with the procedures set forth in the
10 Uniform Licensing Act upon findings by the board that the
11 licensee or applicant:

12 (1) is guilty of fraud or deceit in procuring or
13 attempting to procure a license;

14 (2) has been convicted of a felony. A certified
15 copy of the record of conviction shall be conclusive evidence of
16 the conviction;

17 (3) is guilty of incompetence;

18 (4) is guilty of unprofessional conduct;

19 (5) is selling or fitting the first hearing aid
20 of any child under sixteen years of age who has not been
21 examined and cleared for the hearing aid by an otolaryngologist
22 and a dispensing audiologist who is certified competent by a
23 nationally recognized speech language or hearing association or
24 holds equivalent certification;

25 (6) is selling or fitting a hearing aid on any

1 person who has not been tested, except for replacement aids;

2 (7) uses untruthful or misleading advertising;

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

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

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

12 (11) is guilty of any violation of the
13 Controlled Substances Act;

14 (12) has violated any provision of the Speech
15 Language Pathology, Audiology and Hearing Aid Dispensing
16 Practices Act;

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

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

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

Underscored material = new
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1 (16) has had a license, certificate or
2 registration to practice speech language pathology, audiology or
3 hearing aid dispensing revoked, suspended or denied in any
4 jurisdiction, territory or possession of the United States or
5 another country for actions of the licensee similar to acts
6 described in this section. A certified copy of the record of
7 the jurisdiction taking such disciplinary action will be
8 conclusive evidence thereof.

9 B. Disciplinary proceedings may be initiated by any
10 person filing a sworn complaint. Any person filing a sworn
11 complaint shall be immune from liability arising out of civil
12 action if the complaint is filed in good faith and without
13 actual malice.

14 Section 22. PENALTIES. --

15 A. Any person who fails to furnish the board, its
16 investigators or representatives with information requested by
17 the board is guilty of a misdemeanor and upon conviction shall
18 be punished by a fine not to exceed one thousand dollars
19 (\$1,000) or by imprisonment for a period of one year or both.

20 B. Any person who violates any provision of the
21 Speech Language Pathology, Audiology and Hearing Aid Dispensing
22 Practices Act is guilty of a misdemeanor and upon conviction
23 thereof shall be punished by a fine not to exceed one thousand
24 dollars (\$1,000) or imprisonment for a period of one year or
25 both.

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1 Section 23. **CRIMINAL OFFENDER EMPLOYMENT ACT.** -- The
2 provisions of the Criminal Offender Employment Act shall govern
3 any consideration of criminal records required or permitted by
4 the Speech Language Pathology, Audiology and Hearing Aid
5 Dispensing Practices Act.

6 Section 24. **FUND ESTABLISHED.** --

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

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

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

23 Section 25. **TERMINATION OF AGENCY LIFE-- DELAYED**
24 **REPEAL.** -- The speech language pathology, audiology and hearing
25 aid dispensing practices board is terminated on July 1, 1997,

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1 pursuant to the Sunset Act. The board shall continue to operate
2 according to the provisions of the Speech Language Pathology,
3 Audiology and Hearing Aid Dispensing Practices Act until July 1,
4 1998. Effective July 1, 1998, the Speech Language Pathology,
5 Audiology and Hearing Aid Dispensing Practices Act is repealed.

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

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

19 Section 28. EFFECTIVE DATE. --The effective date of the
20 provisions of this act is July 1, 1996.

State of New Mexico House of Representatives

**FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996**

February 6, 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

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HB 339

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Gurule, Hobbs, Olguin, Varela, Rodella

Absent: None

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State of New Mexico House of Representatives

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

February 8, 1996

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

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HB363

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

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

Absent: none

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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February 12, 1996

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Mr. President:

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Your PUBLIC AFFAIRS COMMITTEE, to whom has been
referred

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HOUSE BILL 363

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

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Respectfully submitted,

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Shannon Robinson, Chairman

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Adopted _____ Not Adopted _____

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FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: E. Jennings, Smith, Garcia

Absent: None

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Underscored material = new
[bracketed material] = delete