

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Bradford**

A Bill

SENATE BILL 174

For An Act To Be Entitled

8 "AN ACT TO AMEND CHAPTER 97 OF TITLE 17 OF THE ARKANSAS
9 CODE TO CLARIFY THE LICENSURE LAW OF SPEECH-LANGUAGE
10 PATHOLOGISTS AND AUDIOLOGISTS; TO RE-DEFINE SPEECH-
11 LANGUAGE PATHOLOGISTS; TO REMOVE THE EXEMPTION FOR
12 PRIVATE, NON-PROFIT CORPORATIONS LICENSED BY DEVELOPMENTAL
13 DISABILITIES SERVICES AND EMPLOYEES OF THE STATE
14 GOVERNMENT; TO GIVE THE BOARD AUTHORITY TO ASSESS CIVIL
15 PENALTIES AND OBTAIN INJUNCTIVE RELIEF AGAINST VIOLATORS
16 OF THIS ACT OR THE RULES AND REGULATIONS OF THE BOARD; TO
17 GIVE THE BOARD THE AUTHORITY TO ESTABLISH FEES FOR
18 APPLICANTS AND RENEWALS; AND FOR OTHER PURPOSES."

Subtitle

21 "TO AMEND THE LICENSURE ACT OF SPEECH-LANGUAGE
22 PATHOLOGISTS AND AUDIOLOGISTS."

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27 SECTION 1. Arkansas Code 17-97-101 is amended to read as follows:

28 "§17-97-101. Title.

29 This chapter may be cited as the Licensure Act of Speech-Language
30 Pathologists and Audiologists."

32 SECTION 2. Arkansas Code §17-97-102 is amended to read as follows:

33 "§17-97-102. Public policy.

34 It is declared to be a policy of the State of Arkansas that, in order to
35 safeguard the public health, safety, and welfare; to protect the public from

1 being misled by incompetent, unscrupulous, and unauthorized persons and from
2 unprofessional conduct on the part of qualified speech-language pathologists
3 and audiologists; and to help to assure the availability of the highest
4 possible quality speech-language pathology and audiology services to the
5 communicatively handicapped people of this state, it is necessary to provide
6 regulatory authority over persons offering speech-language pathology and
7 audiology services to the public."

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9 SECTION 3. Arkansas Code §17-97-103 is amended to read as follows:

10 "§17-97-103. Definitions.

11 As used in this chapter, unless the context otherwise requires:

12 (1) "Board" means the State Board of Examiners in Speech-language
13 Pathology and Audiology, established under § 17-97-201;

14 (2) "Person" means any individual, organization, or corporate body,
15 except that only an individual may be licensed under this chapter;

16 (3) "Speech-language pathologist" means an individual who practices
17 speech-language pathology by any title or description of services
18 incorporating the words "Speech-Language Pathologist," "Speech Therapist,"
19 "Speech Correctionist," "Speech Clinician," "Language Pathologist," "Language
20 Therapist," "Logopedist," "Communicologist," "Voice Therapist," "Voice
21 Pathologist," or any similar title or description of service;

22 (4) "Speech-language pathology" means the application of principles,
23 methods, and procedures for the measurement, testing, evaluation, prediction,
24 counseling, instruction, habilitation, or rehabilitation related to the
25 development and disorders of speech, voice, or language for the purpose of
26 evaluating, preventing, ameliorating, or modifying such disorders and
27 conditions in individuals and groups of individuals;

28 (5) "Audiologist" means an individual who practices audiology by any
29 title or description of services incorporating the words "Audiologist,"
30 "Hearing Clinician," "Hearing Therapist," or any similar title or description
31 of services;

32 (6) "Audiology" means the application of principles, methods, and
33 procedures of measurement, testing, evaluation, prediction, consultation,
34 counseling, instruction, habilitation, or rehabilitation related to hearing
35 and disorders of hearing for the purpose of evaluating, identifying,

1 preventing, ameliorating, or modifying such disorders and conditions in
2 individuals and groups of individuals. For the purposes of this subdivision
3 the words "habilitation" and "rehabilitation" include, but are not limited to,
4 hearing and evaluation and recommendations, auditory training, and speech
5 reading;

6 (7) "Association" means the Arkansas Speech-Language-Hearing Association,
7 Incorporated;

8 (8) "ASHA" means the American Speech-Language-Hearing Association"
9

10 SECTION 4. Arkansas Code §17-97-104 is amended to read as follows:

11 "§ 17-97-104. Exemptions.

12 Nothing in this chapter shall be construed as preventing or restricting:

13 (1) A physician or surgeon from engaging in the practice of medicine in
14 this state;

15 (2) A hearing aid dealer from engaging in the business of fitting and
16 selling hearing aids in this state in accordance with chapter 83 of this
17 title;

18 (3) Any person licensed in this state by any other law from engaging in
19 the profession or occupation for which he is licensed;

20 (4) A person from performing speech-language pathology or audiology
21 services solely within the confines or under the jurisdiction of: a public
22 school system if that person holds a valid and current certificate as a speech
23 therapist or speech-language pathologist issued by the Department of Education.

24 (A) However, without obtaining a license under this chapter, such
25 person may consult with or disseminate his research findings and other
26 specific information to speech-language pathologists and audiologists outside
27 the jurisdiction of the school district by which he is employed. Such person
28 may also offer lectures to the public for a fee, monetary or other, without
29 being licensed under this chapter.

30 (B) The person may additionally elect to be subject to this
31 chapter;

32 (5) The activities and services of persons pursuing a course of study
33 leading to a degree in speech-language pathology or audiology at a college or
34 university if the activities and services constitute a part of a supervised
35 course of study and if the persons are designated as speech-language pathology

1 interns, speech-language pathology trainees, audiology interns, audiology
2 trainees or by other such titles clearly indicating the training status
3 appropriate to their level of training;

4 (6) (A) The performance of speech-language pathology or audiology
5 services in this state by any person not a resident of this state who is not
6 licensed under this chapter if the services are performed for no more than
7 five (5) days in any calendar year and in cooperation with a speech-language
8 pathologist or audiologist licensed under this chapter and if the person meets
9 the qualifications and requirements for application for licensure described in
10 § 17-97-302(b).

11 (B) The performance of speech-language pathology or audiology
12 services in this state by a person not a resident of this state who is not
13 licensed under this chapter, but who is licensed under the law of another
14 state which has established licensure requirements at least equivalent to
15 those established by § 17-97-302(b), or who is the holder of the ASHA
16 certificate of clinical competence in speech-language pathology or audiology
17 or its equivalent if such services are performed in the state for no more than
18 thirty (30) days in any fiscal year and are performed in cooperation with a
19 speech-language pathologist or audiologist licensed under this chapter.

20 (7) *A person from performing speech-language-pathology or audiology*
21 *services solely within the confines of the person's duties as an employee of*
22 *the State of Arkansas provided that the person was an employee of the State of*
23 *Arkansas on January 1, 1993 and further more this exemption applies to such*
24 *state employees who subsequently transfer to another agency of the state.'"*

25 SECTION 5. Subchapter 1 of Chapter 97 of Title 17 of the Arkansas Code
26 is amended by inserting two additional sections at the end thereof to read as
27 follows:

28 "§17-97-106. Any person who, after notice and hearing, is found by the
29 board to have violated any provision of this chapter or any rule or regulation
30 of the board may be assessed a civil penalty not to exceed one thousand
31 dollars (\$1,000) for each violation.

32 (b) The penalty provided for in this subsection, plus interest at ten
33 percent (10%) per annum, shall be paid to the board before the speech-language
34 pathologist or audiologist can be issued a license to engage in practice in
35 this state.

1 (c) The board shall have the authority to withhold approval, for up to
2 six (6) months, of any application for any person who, prior to approval of
3 the application, has been found in violation of this chapter.

4 (d) The board shall have the authority to file suit in the Circuit
5 Court of Pulaski County *or the circuit court of the county in which the person*
6 *resides* to obtain a judgment for the amount of any penalty not paid within
7 thirty (30) days of service on the person of the order assessing the penalty,
8 unless the circuit court enters a stay pursuant to the provisions of the
9 Administrative Procedures Act.

10 §17-97-107. When any person not licensed by the board, or any licensee,
11 shall engage in the practice of speech-language pathology or audiology as
12 herein defined in violation of this chapter or the rules and regulations of
13 the board, the board shall have the authority to go into the Chancery Court of
14 Pulaski County or the county in which the person resides and, upon affidavit,
15 secure a writ of injunction, without bond, restraining and prohibiting the
16 person from the practice of speech-language pathology or audiology in
17 violation of this chapter."
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19 SECTION 6. Arkansas Code §17-97-201 is amended to read as follows:

20 "§17-97-201. Creation - Members.

21 (a) There is established, as an independent agency of the executive
22 branch of the government of the State of Arkansas, the Board of Examiners in
23 Speech-Language Pathology and Audiology.

24 (b) The board shall be comprised of eight (8) members, who shall be
25 residents of this state for at least two (2) years immediately preceding their
26 appointments and shall be appointed by the Governor for terms of three (3)
27 years.

28 (1) Seven (7) members shall be appointed from names submitted by
29 the Arkansas Speech-Language- Hearing Association, Incorporated, or other
30 professional groups or individuals. Not less than thirty (30) days before the
31 end of each fiscal year, the association shall recommend not more than three
32 (3) persons for each vacancy.

33 (A) Professional members shall be two (2) speech-language
34 pathologists, and two (2) shall be audiologists, with a fifth member being
35 either a speech-language pathologist or an audiologist.

1 (B) There shall be one (1) consumer member and one (1)
2 public representative who are not engaged in a health-related profession.

3 (2) One (1) member of the board shall be a representative of the
4 elderly and shall be sixty (60) years of age or older, and shall not be
5 actively engaged in or retired from the practice of speech-language pathology
6 or audiology, shall be appointed from the state at large, subject to
7 confirmation by the Senate, and shall be a full voting member but shall not
8 participate in the grading of examinations.

9 (3) The consumer representative and the elderly representative
10 positions may not be filled by the same person.

11 (c)(1) No person shall be eligible to serve more than two (2) full
12 consecutive terms.

13 (2) Terms shall begin on the first day of the fiscal year and end
14 on the last day of the fiscal year in which members are appointed before
15 commencing the terms prescribed by this section.

16 (d) In the event of a mid-term vacancy, the association, as soon as
17 practicable, shall recommend not more than three (3) persons to fill the
18 professional, consumer, or public representative vacancies. The Governor, as
19 soon thereafter as practicable, shall appoint one (1) of these persons who
20 shall fill the unexpired term.

21 (e) Board members may receive compensation for their services, after
22 prior approval by the board, and shall receive appropriate per diem and travel
23 expenses to the extent authorized by the appropriate state travel
24 regulations."

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26 SECTION 7. Arkansas Code §17-97-202(b) is amended to read as follows:

27 "(b) The board shall adopt rules and regulations relating to
28 professional conduct commensurate with the policy of this chapter, including,
29 but not limited to, regulations which establish ethical standards of practice
30 necessary to the enforcement and orderly administration of this chapter and,
31 for other purposes, may amend or repeal the same in accordance with the
32 Administrative Procedure Act, as amended, § 25-15-201 et seq. Following their
33 adoption, the rules and regulations shall govern and control the professional
34 conduct of every person who holds a license to practice speech-language
35 pathology or audiology in this state."

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SECTION 8. Arkansas Code §17-97-203(b) is amended to read as follows:

"(b) Four (4) members of the board shall constitute a quorum for all purposes, but in no instance shall a meeting of four (4) board members who do not include both a speech-language pathologist and audiologist be considered a certain quorum."

SECTION 9. Arkansas Code §17-97-301 is amended to read as follows:

"§17-97-301. License required.

(a) No person shall practice or represent himself as a speech-language pathologist or audiologist in this state unless he is licensed in accordance with the provisions of this chapter.

(b) A license shall be granted either in speech-language pathology or audiology independently. A person may be licensed in both areas if he meets the respective qualifications."

SECTION 10. Arkansas Code §17-97-302 is amended to read as follows:

"§17-97-302. Eligibility.

(a) The board shall issue a license to any person who meets the requirements of this chapter and pays to the board the initial license fee prescribed in §17-97-308.

(b) To be eligible for licensure by the board as a speech-language pathologist or audiologist, a person shall:

(1) Be of good moral character;

(2) Possess at least a master's degree in the area of speech-language pathology or audiology, as the case may be, from an educational institution recognized by the board;

(3) Submit evidence of the completion of the educational, clinical experience, and employment requirements, which shall be based on appropriate national standards and prescribed by the rules and regulations adopted pursuant to this chapter;

(4) Pass an examination approved by the board. This examination may be taken either before or after the completion of the employment requirement specified pursuant to subdivision (b)(3) of this section.

(c) The board shall issue a provisional license to any person who meets

1 the requirements of this chapter, submits the appropriate application and pays
2 to the board the initial license fee prescribed in §17-97-308.

3 (d) To be eligible for provisional licensure by the board as a speech-
4 language pathologist or audiologist, a person shall:

5 (1) Be of good moral character;

6 (2) Possess at least a master_s degree in the area of speech-
7 language pathology or audiology, as the case may be, from an educational
8 institution recognized by the board;

9 (3) Be in the process of completing the post graduate
10 professional experience requirement;

11 (4) Pass an examination approved by the board.

12 (e) The purpose of a provisional license is to permit a person to
13 practice speech-language pathology or audiology while completing the
14 postgraduate professional experience as required by this act. A person
15 holding a provisional license is authorized to practice speech-language
16 pathology or audiology only while working under the supervision of a person
17 fully licensed by this state in accordance with this act.

18 (f) The board shall have the authority to adopt rules and regulations
19 regarding the term and conditions for which a provisional license is granted."
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21 SECTION 11. Arkansas Code §17-97-308(a) is amended to read as follows:

22 "(a) The board shall prescribe, and publish in a manner it deems
23 appropriate, fees in amounts determined by the board for the following
24 purposes:

25 (1) Application for examination;

26 (2) Initial licensing;

27 (3) Renewal of license;

28 (4) Late penalty per month."
29

30 SECTION 12. All provisions of this act of a general and permanent
31 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
32 Code Revision Commission shall incorporate the same in the Code.
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34 SECTION 13. If any provision of this act or the application thereof to
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 14. (a) Ark. Code 17-97-205 is hereby repealed.

6 (b) All laws and parts of laws in conflict with this act are hereby
7 repealed.

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/s/Senator Bradford

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