

SENATE BILL NO. 132

INTRODUCED BY J. ESSMANN, HAWKS, GREEF

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A LICENSED AUDIOLOGIST SELLING, DISPENSING, OR FITTING HEARING AIDS IS NOT SUBJECT TO LICENSURE AS A HEARING AID DISPENSER; GRANTING RULEMAKING AUTHORITY TO THE BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS; AND AMENDING SECTIONS 37-15-102, 37-15-103, 37-16-103, 37-16-401, AND 37-16-405, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-15-102, MCA, is amended to read:

"37-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Association" means the Montana speech-language and hearing association.

(2) "Audiologist" means a person who practices audiology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is an audiologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words "audiologist", "audiology", "audiometrist", "audiometry", "audiological", "audiometrics", "hearing clinician", "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any similar title or description of services.

(3) "Audiology aide or assistant" means any person meeting the minimum requirements established by the board of speech-language pathologists and audiologists who works directly under the supervision of a licensed audiologist.

(4) "Board" means the board of speech-language pathologists and audiologists provided for in 2-15-1739.

(5) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(6) "Practice of audiology" means nonmedical diagnosis, assessment, and treatment services relating to auditory and vestibular disorders as provided by board rule and includes the selling, dispensing, and fitting of hearing aids.

(7) "Practice of speech-language pathology" means nonmedical diagnosis, assessment, and treatment

1 services relating to speech-language pathology as provided by board rule.

2 (8) "Speech-language pathologist" means a person who practices speech-language pathology and who
3 meets the qualifications set forth in this chapter. A person represents to the public that the person is a
4 speech-language pathologist by incorporating in any title or description of services or functions that the person
5 directly or indirectly performs the words "speech pathologist", "speech pathology", "speech correctionist", "speech
6 corrections", "speech therapist", "speech therapy", "speech clinician", "speech clinic", "language pathologist",
7 "language pathology", "voice therapist", "voice therapy", "voice pathologist", "voice pathology", "logopedist",
8 "logopedics", "communicologist", "communicology", "aphasiologist", "aphasiology", "phoniatrist", "language
9 therapist", "language clinician", or any similar title or description of services or functions.

10 (9) "Speech-language pathology aide or assistant" means a person meeting the minimum requirements
11 established by the board who works directly under the supervision of a licensed speech-language pathologist."
12

13 **Section 2.** Section 37-15-103, MCA, is amended to read:

14 **"37-15-103. Exemptions -- rulemaking.** (1) This chapter does not prevent a person licensed in this
15 state under any other law from engaging in the profession or business for which that person is licensed.

16 (2) This chapter does not restrict or prevent activities of a speech-language pathology or audiology
17 nature or the use of the official title of the position for which the activities were performed on the part of a
18 speech-language pathologist or audiologist employed by federal agencies.

19 (3) Those persons performing activities described in subsection (2) who are not licensed under this
20 chapter may perform those activities only within the confines of or under the jurisdiction of the organization in
21 which they are employed and may not offer speech-language pathology or audiology services to the public for
22 compensation over and above the salary they receive for performance of their official duties with organizations
23 by which they are employed. However, without obtaining a license under this chapter, these persons may consult
24 or disseminate their research findings and scientific information to other accredited academic institutions or
25 governmental agencies. They also may offer lectures to the public for a fee without being licensed under this
26 chapter.

27 (4) This chapter does not restrict the activities and services of a student in speech-language pathology
28 or audiology from pursuing a course of study in speech-language pathology or audiology at an accredited or
29 approved college or university or an approved clinical training facility. However, these activities and services must
30 constitute a part of a supervised course of study, and a fee may not accrue directly or indirectly to the student.

1 These students must be designated by the title "speech-language pathology or audiology intern",
2 "speech-language pathology or audiology trainee", or a title clearly indicating the training status appropriate to
3 the level of training.

4 (5) This chapter does not restrict a person from another state from offering speech-language pathology
5 or audiology services in this state if the services are performed for not more than 5 days in any calendar year and
6 if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this
7 chapter. However, by securing a temporary license from the board subject to limitations that the board may
8 impose, a person not a resident of this state who is not licensed under this chapter but who is licensed under the
9 law of another state that has established licensure requirements at least equivalent to those established by this
10 chapter may offer speech-language pathology or audiology services in this state for not more than 30 days in any
11 calendar year if the services are performed in cooperation with a speech-language pathologist or audiologist
12 licensed under this chapter.

13 (6) This chapter does not restrict a person holding a class A certificate issued by the conference of
14 executives of American schools of the deaf from performing the functions for which the person qualifies.

15 (7) This chapter does not restrict a person who holds a certificate of registration in this state as a hearing
16 aid dealer from performing the functions for which the person qualifies and that are described in Title 37, chapter
17 16.

18 (8) ~~(a) This chapter does not exempt an~~ An audiologist who sells, dispenses, or fits hearing aids is
19 exempt from the licensing requirements or other provisions of Title 37, chapter 16, EXCEPT FOR THE PROVISIONS
20 OF 37-16-304.

21 (b) The board may adopt rules pertaining to the selling, dispensing, and fitting of hearing aids and
22 hearing aid parts, attachments, and accessories."

23
24 **Section 3.** Section 37-16-103, MCA, is amended to read:

25 **"37-16-103. Exemptions.** ~~(4)~~ This chapter does not apply to a person who is:

26 (1) a physician licensed to practice by the state board of medical examiners;

27 ~~(2) This chapter does not apply to a person while the person is engaged in the practice of fitting hearing~~
28 ~~aids if the person's practice is part of the academic curriculum of an accredited institution of higher education or~~
29 ~~part of a program conducted by a public agency;~~ or

30 (3) licensed as an audiologist under the provisions of Title 37, chapter 15, EXCEPT THAT THE PROVISIONS

1 OF 37-16-304 APPLY TO LICENSED AUDIOLOGISTS."

2
3 **Section 4.** Section 37-16-401, MCA, is amended to read:

4 **"37-16-401. License required -- exception.** ~~A~~ Except as provided in 37-16-103, a person may not
5 engage in selling, dispensing, or fitting hearing aids or display a sign or in any other way advertise the selling,
6 dispensing, or fitting of hearing aids in Montana unless the person holds a current license issued by the
7 department."
8

9 **Section 5.** Section 37-16-405, MCA, is amended to read:

10 **"37-16-405. Trainee license.** (1) An applicant who fulfills the requirements of 37-16-402 and who has
11 not previously applied to take a practical examination may apply to the board for a trainee license.

12 (2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and
13 verification that the applicant has passed the written portion of the examination with a passing score as
14 determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a training
15 period during which the applicant shall work under the direct supervision of the sponsoring licensed hearing aid
16 dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing
17 aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing
18 aid and related devices must be made by the trainee and the supervisor.

19 (3) A trainee license may not be issued unless the board has on file an unrevoked statement from a
20 qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid
21 dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and
22 training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings
23 of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing a written notice by certified
24 mail to the board and the trainee.

25 ~~(4) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person~~
26 ~~practicing pursuant to 37-1-305 is exempt from the training period but is required to pass the examinations~~
27 ~~prescribed in this chapter.~~

28 ~~(5)~~(4) The trainee license terminates 1 year after issuance or after the trainee passes the practical
29 examination, whichever occurs first.

30 ~~(6)~~(5) Upon completion of 1,000 hours of supervised training, the trainee is eligible to take the practical

1 examination.

2 ~~(7)~~(6) A trainee who does not complete 1,000 hours of supervised training before the trainee license
3 terminates may be issued a second trainee license upon making application and paying the appropriate fee. The
4 hours of training obtained under the first trainee license must be carried forward.

5 ~~(8)~~(7) A trainee who fails the practical examination may continue to practice under direct supervision until
6 the trainee license terminates. A second trainee license may not be issued. Termination of the trainee license
7 and cessation of the authority to practice do not preclude a person from retaking the practical examination upon
8 payment of the appropriate fees.

9 ~~(9)~~(8) Upon passing the practical examination, a trainee may submit an application for a hearing aid
10 dispenser license with the appropriate fee and a hearing aid dispenser license must be issued.

11 ~~(10)~~(9) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable
12 under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's
13 own.

14 ~~(11)~~(10) For the purposes of this section, "direct supervision" means the direct and regular observation
15 and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt
16 consultation and treatment."

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