

ACT 320

H.B. NO. 2519

A Bill for an Act Relating to Speech Pathologists and Audiologists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- [(2)] Chapter 468E (Board of Speech Pathology and Audiology)
- (3)] (2) Chapter 468K (Travel Agencies)
- [(4)] (3) Chapter 373 (Commercial Employment Agencies)
- [(5)] (4) Chapter 442 (Board of Chiropractic Examiners)
- [(6)] (5) Chapter 448 (Board of Dental Examiners)
- [(7)] (6) Chapter 436E (Board of Acupuncture)

(b) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(c) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)

- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 458 (Board of Dispensing Opticians)
- (5) Chapter 460J (Pest Control Board)
- (6) Chapter 462A (Pilotage)
- (7) Chapter 438 (Board of Barbers)
- (d) The following chapters are hereby repealed effective December 31, 1991:
 - (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapter is hereby repealed effective December 31, 1994:
 - (1) Chapter 468E (Speech Pathology and Audiology)
- [(g)] (h) The following chapters are hereby repealed effective December 31,

1997:

- (1) Chapter 463 (Board of Private Detectives and Guards)
- (2) Chapter 471 (Board of Veterinary Examiners)."

SECTION 2. Section 468E-1, Hawaii Revised Statutes, is amended to read as follows:

"[§468E-1]] Purpose. It is the policy and the purpose of this chapter to insure that [the highest quality of speech pathology and audiology services are available to the people of this State. The public health and welfare requires that persons offering speech pathology and audiology services be in fact qualified in such fields; that a public authority competent to assess and prescribe the qualifications of speech pathologists and audiologists be established and continued; that] only qualified persons be allowed to practice in the fields of speech pathology and audiology."

SECTION 3. Section 468E-4, Hawaii Revised Statutes, is amended to read as follows:

"§468E-4 Persons and practices not affected. Nothing in this chapter shall be construed as preventing or restricting:

- (1) A physician or surgeon from engaging in the practice of medicine in this State; or
- (2) A licensed hearing aid dealer from engaging in the practices of fitting and selling hearing aids in this State; or
- (3) Any person licensed in this State by any other law from engaging in the profession or occupation for which the person is licensed; or

- (4) Any person employed by any federal government agency [whose] as a speech pathologist [and/or] or audiologist from performing that person's duties as an employee of the agency if the person must qualify for employment under government certification or under civil service regulations [but only at those times when that person is carrying out the functions of such governmental employment.]; provided that this section is applicable only when the person is performing duties as a federal employee. However, such person [may], without obtaining a license under this chapter, may consult with or disseminate the person's research findings and other scientific information to speech pathologists and audiologists outside the jurisdiction of the organization by which the person is employed. Such person may additionally elect to be subject to this chapter; or
- (5) The activities and services of persons pursuing a course of study leading to a degree in speech pathology at a college or university, if such activities and services constitute a part of a supervised course of study and such person is designated "speech pathology intern," "speech pathology trainee," or by other such titles clearly indicating the training status appropriate to the person's level of training; or
- (6) The activities and services of a person pursuing a course of study leading to a degree in audiology at a college or university, if such activities and services constitute a part of a supervised course of study and such person is designated "audiology intern," "audiology trainee," or by any other such titles clearly indicating the training status appropriate to the person's level of training; or
- (7) The activities and services of a person fulfilling the clinical experience requirements or the clinical fellowship year leading to the [American Speech and Hearing Association] ASHA certificate of clinical competence; or
- (8) The performance of speech pathology or audiology services in this State by any person not a resident of this State who is not licensed under this chapter, if such services are performed for no more than five working days in any calendar year and in cooperation with a speech pathologist or audiologist licensed under this chapter, and if such person meets the qualifications and requirements for application for licensure described in [paragraphs (1) to (3) of] section 468E-5. However, a person not a resident of this State who is not licensed under this chapter, but who is licensed under the law of another state which has established licensure requirements at least equivalent to those established by section 468E-5, or who is the holder of the ASHA Certificate of Clinical Competence in Speech Pathology or Audiology or its equivalent, may offer speech pathology or audiology services in this State for no more than thirty working days in any calendar year, if such services are performed in cooperation with a speech pathologist or audiologist licensed under this chapter."

SECTION 4. Section 468E-5, Hawaii Revised Statutes, is amended to read as follows:

"Eligibility for licensure.¹ To be eligible for licensure by the board as a speech pathologist or audiologist, a person shall:

- (1) [Be of good moral character;

- (2) Possess at least a master's degree or its equivalent in the area of speech pathology or audiology, as the case may be, from an educational institution recognized by the board;
- [(3)] (2) Submit to the board evidence of eligibility for meeting the requirements of the American Speech and Hearing Association for the certificate of clinical competence in speech pathology and/or audiology; and
- [(4)] (3) Pass a written examination approved by the board."

SECTION 5. Section 468E-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board shall, in accordance with the provisions of chapter 91, adopt rules [and regulations] relating to professional conduct to effectuate the policy of this chapter, including but not limited to [regulations] rules which establish ethical standards of practice, and for other purposes, and may amend or repeal the same."

SECTION 6. Section 468E-8, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) [On and after January 1, 1975,] After December 31, 1988, no person shall engage in the practice of speech pathology or audiology unless the person is licensed in accordance with [the provisions of] this chapter or as otherwise provided in this chapter.

(b) All speech pathologists and audiologists employed by a [local] county or state government shall comply with the license requirements of this chapter by December 31, 1984; provided that [any]:

- (1) Any person engaged in the practice of speech pathology or audiology on or before October 1, 1981, as an employee of or under contract to a [local] county or state government agency shall be deemed in compliance with the licensure requirements without the necessity of [the written examination] holding an ASHA certificate and may continue to practice speech pathology or audiology, as the case may be, [after October 1, 1981, for the government agency] for as long as the person remains continuously employed [from such date by the] in any county or state government agency for that purpose; [provided further that the] and
- (2) The records of the board of speech pathology and audiology shall distinguish between those employees practicing speech pathology and audiology who are licensed in accordance with [the provisions of] this chapter, and those who are deemed to be in compliance with the licensure requirements in accordance with this subsection."

SECTION 7. Section 468E-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any application shall be accompanied by the appropriate fee [prescribed by section 468E-15, which fee shall in no case be refunded]."

SECTION 8. Section 468E-11, Hawaii Revised Statutes, is amended to read as follows:

"**[§468E-11] Waiver of examination or parts thereof.** [(a)] The board shall waive the requirements of [paragraphs (2) through (4) of] section 468E-5 for

applicants for licensure who, on the effective date of this chapter, are actually engaged in this State in the practice of speech pathology or audiology, upon proof of bona fide practice presented to the board in a manner prescribed by [regulations promulgated] rules adopted by the board.

[(b) The board may waive the examination and grant licensure to any applicant who shall present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the board to be equivalent to those set forth in this chapter.]”

SECTION 9. Section 468E-12, Hawaii Revised Statutes, is amended to read as follows:

“**[§468E-12] Issuance of license.** The board shall issue a license to any person who meets the requirements of this chapter and who pays to the board the initial license fee [prescribed in section 468E-15 of this chapter].”

SECTION 10. Section 468E-13, Hawaii Revised Statutes, is amended to read as follows:

“**§468E-13 Disciplinary action.** (a) The board may take disciplinary action against any licensee, including but not limited to revocation, suspension, fine, or a combination thereof, or refuse to issue or renew a license for any of the following causes:

- (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) Professional misconduct or unethical conduct;
- (3) Conduct constituting fraudulent or dishonest dealings;
- (4) Violating any provision of this chapter or rules adopted [pursuant thereto;] thereunder;
- (5) Failure to comply with a board order; or
- (6) Making a false statement on any document submitted or required to be filed by this chapter.

(b) Any person who violates this chapter or the rules adopted [pursuant thereto] thereunder shall be fined not more than \$1,000 and each day a violation exists, failure to comply with this chapter shall constitute a separate violation.”

SECTION 11. Section 468E-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Every person licensed under this chapter [shall], on or before December 31, 1975, and each odd-numbered year thereafter, shall pay a fee for renewal of the person’s license to the board. The board may, in the event payment of the renewal fee is rendered after December 31 of any odd-numbered year, renew a license upon payment of the renewal of license fee plus a monthly late renewal payment penalty, which penalty shall [equal the amount prescribed by the board according to the authority vested in it by section 468E-15 of this chapter], be multiplied by the number of full months which have elapsed since expiration of the license. No person who requests renewal of license, whose license has expired, shall be required to submit to examination as a condition to renewal, if such renewal application is made within two years from the date of such expiration.”

SECTION 12. Section 468E-15, Hawaii Revised Statutes, is amended to read as follows:

“**§468E-15 Fees.** (a) The director of commerce and consumer affairs shall prescribe fees by rules adopted [pursuant to] under chapter 91 for the following purposes:

- (1) Application for license;
- (2) Initial licensing;
- (3) Renewal of licensing; and
- (4) Late renewal payment monthly penalty.

(b) Every person to whom a license is issued [pursuant to] under this chapter [shall], as a condition precedent to its issuance, and in addition to any [application, examination, or] other fee, shall pay the prescribed initial license fee. The board may, by [regulation,] rule, provide for the waiver of all or part of such fee where the license is issued less than one hundred twenty days before the date on which it will expire.

(c) All fees received by the board and moneys collected under this chapter shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.”

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval; provided that this Act shall not affect any rights or duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

(Approved June 13, 1988.)

Note

- 1. So in original.