

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred House Bill  
3 No. 282 entitled “An act relating to professions and occupations regulated by  
4 the Office of Professional Regulation” respectfully reports that it has  
5 considered the same and recommends that the bill be amended as follows:

6 First: In Sec. 3, 3 V.S.A. § 129 (powers of boards; discipline process), in  
7 subdivision (f)(2), in the last sentence, following “of this title regarding”, by  
8 striking out “proposal” and inserting in lieu thereof “proposals”

9 Second: In Sec. 7, 26 V.S.A. chapter 28, subchapter 1 (registered and  
10 licensed practical nursing), by striking out in its entirety 26 V.S.A. § 1575a  
11 (criminal background checks)

12 Third: In Sec. 28, in 26 V.S.A. § 2804 (competency requirements of certain  
13 licensed practitioners), by striking out in its entirety subsection (d) and  
14 inserting in lieu thereof the following:

15 (d) This section does not apply to radiologists who are certified or eligible  
16 for certification by the American Board of Radiology, nuclear cardiologists  
17 who are certified or eligible for certification by the Certification Board of  
18 Nuclear Cardiology, or interventional cardiologists and electrophysiologists  
19 who are certified or eligible for certification by the American Board of Internal  
20 Medicine.

1        Fourth: By adding a new section to be Sec. 32a to read:

2        Sec. 32a. OFFICE OF PROFESSIONAL REGULATION REPORT; USE OF  
3                                THE TERM “SOCIAL WORKER”

4                (a) Representatives of the Office of Professional Regulation, the  
5                Department for Children and Families, and other appropriate State agencies  
6                shall meet and consult with the Vermont chapter of the National Association of  
7                Social Workers to address the use of the term “social worker” within the  
8                Department for Children and Families and other State agencies.

9                (b) On or before December 1, 2015, the Director of the Office of  
10               Professional Regulation shall report to the House and Senate Committees on  
11               Government Operations regarding the outcome of the meeting or meetings and  
12               any recommendations for the permitted use of the term “social worker.”

13        Fifth: By striking out in its entirety Sec. 39 (amending 26 V.S.A.  
14        chapter 87 (speech-language pathologists and audiologists)) and inserting in  
15        lieu thereof a new Sec. 39 to read:

16        Sec. 39. 26 V.S.A. chapter 87 is amended to read:

17                                CHAPTER 87. SPEECH-LANGUAGE PATHOLOGISTS ~~AND~~  
18    ~~AUDIOLOGISTS~~

19        § 4451. DEFINITIONS

20        As used in this chapter:

1           (1) ~~“Audiologist” means a person licensed to practice audiology under~~  
2 ~~this chapter.~~

3           (2) ~~“Audiology” means the application of principles, methods, and~~  
4 ~~procedures related to hearing and the disorders of hearing, and to related~~  
5 ~~language and speech disorders, which includes all conditions that impede the~~  
6 ~~normal process of human communication, including disorders of auditory~~  
7 ~~sensitivity, acuity, function, or processing.~~

8           (3) ~~“Board” means the Vermont Standards Board for Professional~~  
9 ~~Educators unless the context clearly requires otherwise.~~

10          (4) ~~“Agency” means the Agency of Education.~~

11          (5) ~~“Director” means the Director of the Office of Professional~~  
12 ~~Regulation.~~

13          (6)(2) ~~“Disciplinary action” means any action taken by the~~  
14 ~~administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a~~  
15 ~~licensee or applicant for licensure under this chapter, premised on a finding~~  
16 ~~that the person has engaged in unprofessional conduct. “Disciplinary action”~~  
17 ~~includes all sanctions of any kind, including obtaining injunctions, refusal to~~  
18 ~~give an examination, refusal to grant or renew a license, suspension or~~  
19 ~~revocation of a license, placement of limitations or restrictions upon a license,~~  
20 ~~issuance of warnings, ordering restitution, and other similar sanctions.~~

1           ~~(7) “Hearing aid” means an amplifying device to be worn by a person~~  
2           ~~who is hard of hearing to improve hearing, including any accessories~~  
3           ~~specifically used in connection with such a device, but excluding theater or~~  
4           ~~auditorium wide-area listening devices, telephone amplifiers, or other devices~~  
5           ~~designed to replace a hearing aid for restricted situations.~~

6           ~~(8) “Practice of audiology” includes:~~

7           ~~(A) facilitating the conservation of auditory system function, and~~  
8           ~~developing and implementing environmental and occupational hearing~~  
9           ~~conservation programs;~~

10          ~~(B) screening, identifying, assessing and interpreting, diagnosing,~~  
11          ~~preventing, and rehabilitating peripheral and central auditory system~~  
12          ~~dysfunctions;~~

13          ~~(C) providing and interpreting behavioral and electro-physiological~~  
14          ~~measurements of auditory, vestibular, and facial nerve functions;~~

15          ~~(D) selecting, fitting, and dispensing of hearing aids, amplification,~~  
16          ~~assistive listening and alerting devices, implantable devices, and other systems,~~  
17          ~~and providing training in their use;~~

18          ~~(E) dispensing hearing aids, including conducting and interpreting~~  
19          ~~hearing tests for the purpose of selecting suitable hearing aids;~~

20          ~~(F) making ear molds or impressions;~~

1           ~~(G) providing instruction to patients on the care and use of hearing~~  
2           ~~aids, auditory system functions, and hearing conservation;~~

3           ~~(H) all acts pertaining to selling, renting, leasing, pricing, delivering,~~  
4           ~~and giving warranties for hearing aids;~~

5           ~~(I) providing aural rehabilitation and related counseling services to~~  
6           ~~individuals who are hard of hearing and their families;~~

7           ~~(J) screening of speech language and other factors affecting~~  
8           ~~communication function for the purposes of an audiologic evaluation, or initial~~  
9           ~~identification of individuals with other communication disorders; and~~

10           ~~(K) management of cerumen.~~

11           (3) “Office” means the Office of Professional Regulation.

12           ~~(9)~~(4) “Practice of speech-language pathology” includes:

13           (A) screening, identifying, assessing and interpreting, diagnosing,  
14           rehabilitating, treating, and preventing disorders of language and speech,  
15           including disorders involving articulation, fluency, and voice;

16                                   \* \* \*

17           (E) providing aural rehabilitation, speech-language, and related  
18           counseling services to individuals who are hard of hearing or experiencing  
19           auditory processing problems and their families;

20           (F) enhancing speech-language proficiency and communication  
21           effectiveness, including accent ~~reduction~~ modification; and

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~~(10) “Private practice” means any work performed by a licensed speech-language pathologist or audiologist that is not within the jurisdiction of the Board.~~

(11)(5) “Secretary” means the Secretary of State.

(12)(6) “Speech-language pathologist” means a person licensed to practice speech-language pathology under this chapter.

(13)(7) “Speech-language pathology” means the application of principles, methods, and procedures related to the development and disorders of human communication, which include any and all conditions that impede the normal process of human communication.

~~(14) “Within the jurisdiction of the Board” means conduct or work performed by a licensed speech language pathologist or audiologist on behalf of a supervisory union or public school district in Vermont or an independent school approved for special education purposes, or conduct otherwise subject to discipline under the licensing rules of the Board.~~

§ 4452. PROHIBITIONS; PENALTIES

(a) ~~No~~ A person shall not:

(1) practice or attempt to practice ~~audiology or~~ speech-language pathology or hold oneself out as being permitted to do so in this ~~state~~ State unless the person is licensed in accordance with this chapter;

1           (2) use in connection with the person's name; an insignia or any letters  
2 or words ~~which~~ that indicate the person is ~~an audiologist or a~~ speech-language  
3 pathologist unless the person is licensed in accordance with this chapter; or

4           (3) practice ~~audiology or~~ speech-language pathology after the person's  
5 license under this chapter has been suspended or revoked.

6           (b) A person who violates a provision of this section or who obtains a  
7 license by fraud or misrepresentation shall be subject to the pertinent penalties  
8 provided in ~~3 V.S.A. § 127(e)~~ 3 V.S.A. § 127.

9           § 4453. EXEMPTIONS

10           The provisions of section 4452 of this ~~title~~ chapter shall not apply to ~~the~~  
11 ~~following persons:~~

12           ~~(1) A~~ a person enrolled in a course of study leading to a degree or  
13 certificate in ~~audiology or~~ speech-language pathology at a school accredited by  
14 the American Speech-Language Hearing Association, provided:

15           ~~(A)~~(1) the activities and services performed constitute part of a  
16 supervised course of study;

17           ~~(B)~~(2) the person is designated by a title which clearly indicates the  
18 person's student or trainee status; and

19           ~~(C)~~(3) the person is under the direct supervision of ~~an audiologist or a~~  
20 speech-language pathologist licensed in this ~~state~~ State.

1           ~~(2) A hearing aid dispenser performing services within the scope of a~~  
2           ~~license under chapter 67 of this title.~~

3           § 4454. CONSTRUCTION

4           ~~(a)~~ This chapter shall not be construed to limit or restrict in any way the  
5           right of a practitioner of another occupation ~~which~~ that is regulated by this  
6           state State from performing services within the scope of his or her professional  
7           practice.

8           ~~(b) This chapter shall not be construed to limit the authority of the board to~~  
9           ~~determine and evaluate the qualifications of, issue licenses to, or discipline~~  
10          ~~licensees who are within the jurisdiction of the board.~~

11          § 4455. ADVISOR APPOINTEES

12          ~~(a) The Secretary, in consultation with the Secretary of Education,~~ shall  
13          appoint two individuals to serve as advisors in matters related to ~~audiology and~~  
14          speech-language pathology. ~~One advisor~~ Both advisors shall be a licensed  
15          speech-language pathologist, ~~and one advisor shall be an audiologist.~~ Advisors  
16          ~~who are speech language pathologists or audiologists~~ pathologists, shall have  
17          not less than three years' experience as ~~audiologists or~~ speech-language  
18          pathologists immediately preceding appointment, and shall be actively engaged  
19          in the practice of ~~audiology or~~ speech-language pathology in Vermont during  
20          incumbency. ~~The advisors shall be appointed for staggered terms of three~~



1 ~~years, and shall serve at the pleasure of the Secretary. One of the initial~~  
2 ~~appointments may be for less than a three-year term.~~

3 (b) The ~~Secretary~~ Director shall seek the advice of the individuals  
4 appointed under this section in ~~matters related to qualifications or alleged~~  
5 ~~misconduct not within the jurisdiction of the Board~~ carrying out the provisions  
6 of this chapter. The advisors shall be entitled to compensation and necessary  
7 expenses as provided in 32 V.S.A. § 1010 for meetings called by the Director.

8 ~~(c) The Secretary may seek the advice of other audiologists and~~  
9 ~~speech language pathologists licensed under this chapter.~~

10 § 4456. ~~SECRETARY OF EDUCATION;~~ DIRECTOR DUTIES

11 (a) The ~~Secretary of Education~~ Director shall administer the application  
12 and renewal process for all licensees under this chapter, and shall:

13 \* \* \*

14 (5) receive applications for licensure, grant licensure under this chapter,  
15 renew licenses, and deny, revoke, suspend, reinstate, or condition licenses as  
16 directed by ~~the~~ an administrative law officer;

17 ~~(6) refer all complaints and disciplinary matters not within the~~  
18 ~~jurisdiction of the Board to the Secretary of State;~~

19 ~~(7)~~ with the advice of the advisor appointees, adopt rules necessary to  
20 implement the provisions of this chapter;

1           ~~(8)(7)~~ prepare and maintain a registry of licensed speech-language  
2 pathologists ~~and audiologists~~; and

3           ~~(9)(8)~~ issue to each person licensed a certificate of licensure ~~which that~~  
4 shall be prima facie evidence of the right of the person to whom it is issued to  
5 practice as a licensed ~~audiologist or~~ speech-language pathologist, subject to the  
6 conditions and limitations of this chapter.

7           ~~(b) The Agency may contract with the Secretary of State for provision of~~  
8 ~~adjudicative services of one or more administrative law officers and other~~  
9 ~~investigative, legal, and administrative services related to licensure and~~  
10 ~~discipline of speech-language pathologists and audiologists. [Repealed.]~~

11       § 4457. LICENSURE; APPLICATIONS; ELIGIBILITY

12           ~~Applicants~~ An applicant for licenses licensure under this chapter shall  
13 submit an application to the ~~department~~ Office on a form furnished by the  
14 ~~department~~ Office, along with payment of the specified fee and evidence of the  
15 eligibility qualifications established by the ~~board which~~ Director that shall  
16 include, at a minimum:

17           (1) ~~A~~ a master's degree or equivalent in ~~audiology or~~ speech-language  
18 pathology from an educational institution approved by the ~~department~~ Director  
19 with course work completed in areas specified by rule.;

20           (2) ~~Completion~~ completion of a supervised clinical practicum, the length  
21 and content of which shall be established by rule.;

1           (3) ~~Completion~~ completion of a period, as determined by rule, of  
2 postgraduate professional training as approved by the ~~department~~.  
3 Director; and

4           (4) ~~Passing~~ passing an examination in ~~audiology or speech-language~~  
5 pathology approved by the ~~department~~, which, ~~in the case of the audiology~~  
6 ~~examination, shall include a section which is equivalent to the hearing aid~~  
7 ~~dispensers examination described in section 3295 of this title. Audiologists~~  
8 ~~who have passed an examination chosen by the department are not required to~~  
9 ~~take the hearing aid dispensers examination required by section 3295~~ Director.

10 § 4458. RENEWALS; CONTINUING EDUCATION

11           (a) A license shall be renewed ~~at an interval determined by the board which~~  
12 ~~shall be no fewer than every two years and no more than every seven years~~ on  
13 a schedule set by the Director upon payment of the renewal fee, provided the  
14 person applying for renewal completes professional development activities in  
15 accord with the processes approved by the ~~department or the board~~, during the  
16 ~~interval~~ Director. The ~~board~~ Director shall establish, by rule, guidelines and  
17 criteria for the renewal or reinstatement of licenses issued under this chapter.

18           (b) ~~At the time interval required for renewal, the department shall forward a~~  
19 ~~renewal form to each licensee. Upon receipt of the completed application and~~  
20 ~~the renewal fee, the department shall issue a new license.~~

1 § 4459. FEES

2 ~~(a) Each applicant and licensee shall be subject to pay the following fees:~~

3 ~~(1) Initial processing of application \$35.00~~

4 ~~(2) Issuance of initial license \$35.00 per year for~~  
5 ~~the term of the license~~

6 ~~(3) Renewal of license \$35.00 per year for~~  
7 ~~the term of the renewal~~

8 ~~(4) Replacement of license \$10.00~~

9 ~~(5) Duplicate license \$3.00~~

10 ~~(b) Fees collected under this section shall be credited to special funds~~

11 ~~established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and~~

12 ~~shall be available to the department to offset the costs of providing those~~

13 ~~services set forth in 3 V.S.A. § 125.~~

14 \* \* \*

15 § 4464. UNPROFESSIONAL CONDUCT

16 (a) A licensee or applicant shall not engage in unprofessional conduct.

17 (b) Unprofessional conduct means the following conduct and the conduct  
18 set forth in 3 V.S.A. § 129a:

19 (1) Willfully making or filing false reports or records in the practice of  
20 audiology, dispensing hearing aids or speech-language pathology, willfully

1 impeding or obstructing the proper making or filing of reports or records, or  
2 willfully failing to file the proper report or record;

3 \* \* \*

4 (4) Advertising or making a representation ~~which~~ that is intended or has  
5 a tendency to deceive the public, including:

6 (A) advertising a particular type of service, or equipment, ~~or hearing~~  
7 ~~aid~~ when the particular service, or equipment, ~~or hearing~~ ~~aid~~ is not available;

8 (B) ~~stating or implying that the use of a hearing aid will retard the~~  
9 ~~progression of a hearing impairment;~~

10 (C) advertising or making any statement related to the practice of  
11 speech-language pathology ~~or audiology~~ ~~which~~ that is intended to or tends to  
12 deceive or mislead the public;

13 (D)(C) using or promoting or causing the use of any misleading,  
14 deceiving, improbable, or untruthful advertising matter, promotional literature,  
15 testimonial guarantee, ~~warranty, label, brand, insignia,~~ or any other  
16 representation;

17 \* \* \*

18 (6) Willfully failing to honor any representation, promise, or agreement,  
19 ~~or warranty~~ to a client or consumer;

20 (7) Professional negligence or malpractice;

1 (8) Any of the following, except when reasonably undertaken in an  
2 emergency situation in order to protect life or health:

3 (A) practicing or offering to practice beyond the scope permitted  
4 by law;

5 (B) accepting and performing professional or occupational  
6 responsibilities ~~which~~ that the licensee knows or has reason to know the  
7 licensee is not competent to perform; or

8 (C) performing professional or occupational services ~~which~~ that have  
9 not been authorized by the consumer or his or her legal representative;

10 \* \* \*

11 (12) Conviction of a crime related to the practice of ~~audiology or~~  
12 ~~speech-language pathology or conviction of a felony, whether or not related to~~  
13 the practice of the profession;

14 (13) ~~Discouraging clients or consumers in any way from exercising their~~  
15 ~~right to a refund within a 45-day trial period, unreasonably delaying payment~~  
16 ~~of such refunds as may be due, or deducting amounts from refunds beyond~~  
17 ~~those allowed by law; [Repealed.]~~

18 (14) ~~Failing to inform a consumer prior to sale of a hearing aid that a~~  
19 ~~medical evaluation of hearing loss prior to purchasing a hearing aid is in the~~  
20 ~~consumer's best health interest; [Repealed.]~~

1           (15) Engaging in fraud in connection with any ~~state~~ State or  
2 ~~federally-assisted~~ federally assisted medical assistance programs; or

3           (16) Violating any part of the Code of Ethics of the American  
4 Speech-Language-Hearing Association.

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9           (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE