

Memorandum

To: Members of the Senate Government Operations Committee
Members of the House Government Operations Committee
Members of the Senate Education Committee
Senator Mullin
Representative Shaw

From: Vermont Speech-Language Hearing Association

Date: January 26, 2016

Re: Licensing of Speech Language Pathologists (SLPs)

The Vermont Speech-Language Hearing Association (VSHA) is supportive of the three bills that will affect SLPs - S.217, S.188, and H.612. These bills will result in better government and a more streamlined licensing process.

Despite last year's SLP licensing move from AOE to OPR, and contrary to statute and the Administrative Procedures Act, AOE now requires SLPs who work in schools to:

- (1) obtain a second license from AOE;
- (2) pay additional licensing fees to AOE, and
- (3) obtain additional continuing education units

History

Until 2015, AOE licensed SLPs and issued Endorsement 84 to those who wish to provide speech-language services in the schools. Regulatory statutes and fees were found in Title 26. SLPs paid \$105 to AOE for a three-year license. There was no additional fee for Endorsement 84. The continuing education unit (CEU) requirement to maintain a license for Vermont's SLPs has always followed the national association certification requirement (ASHA Certificate of Clinical Competence, or CCCs) of 30 CEUs over three years. For Endorsement 84, school-based SLPs were required to demonstrate that a percentage of those 30 continuing education hours were related to special education law, child language, and the relationship of language and literacy.

License/Regulation

The intent of the move from AOE to OPR last year was to have SLPs regulated by the most appropriate government agency, OPR. OPR is best equipped to handle all licensing issues. The legislature agreed to allow the move to OPR and all prior licensing statutes contained in Title 26 were amended to reflect that the new licensing/regulatory body is OPR. Given the greater scope of regulatory oversight that we will receive by OPR, we agreed, in the end, to an increase in fees to OPR to be in line with other professions regulated by OPR. It was also our understanding that Endorsement 84 would remain for school-based SLPs.

After the bill passed, we were dismayed to find out that AOE is now requiring us to obtain a second *license* from AOE in order to work in the schools. AOE now requires *two* licenses – one from OPR and one from AOE.

It is important to note that not all professions that perform work in the schools are “licensed” by AOE, in addition to their OPR license. Behavior Analysts, Physical Therapists, and Occupational Therapists are not required by AOE to obtain an AOE license in addition to an OPR license, in order to work in the schools.

Finally, it is unclear as to what AOE actually does to regulate the SLP profession. When inquiries have been made over the past year as to what licensure by AOE entails, the responses we have received describe job standards. This is precisely the reason that regulatory authority was moved to OPR last year.

Fees

SLP fees have always been set forth in Title 26, not in Title 16. The fees used to go to AOE. Now that licensure has moved to OPR, OPR collects those Title 26 fees. SLPs have been informed by AOE that they must also pay an additional fee to AOE for their “Level I AOE license” - \$50 annually. *However, we cannot find any statutory authority for AOE to charge fees to SLPs under Title 16 (or any other Title).*

Educators who are licensed by AOE are charged a fee under Title 16 (Title 16 fees have never included SLPs). If you look at last year’s fee bill (which was originally H.184, but was later incorporated into H.489), you will note that SLP fees (Title 26) were treated differently than educator fees (Title 16) -

<http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT057/ACT057%20As%20Enacted.pdf>

In H.489, Section 6 increased the fees for *Educators* from \$40 to \$50/year by amending Title 16. Section 7 increased the fees for SLPs from \$35 to \$50/year by amending Title 26. Section 7a was added just before passage of the bill to state that Section 7 (the increase for SLP fees) would not go into effect if “the General Assembly enacts legislation to transfer the licensure of speech-language pathologists and audiologists from the Agency of Education to the Office of Professional Regulation” (which the General Assembly did). The Senate Finance Committee realized that the fee increase that AOE was requesting for SLPs in Section 7 was a moot point once the OPR bill passed, because the SLP fees referred to in Section 7 were no longer going to go to AOE. They were going to go to OPR, so the fee language in Section 7 that AOE was amending no longer existed due to amendments made in the OPR bill. Therefore, the fee increase to \$50/year for SLPs to go to AOE was never enacted. There is no statutory authority for AOE to require any licensing fees from SLPs under Titles 16 or 26.

Continuing Education Units (CEUs) – Administrative Procedures Act (APA)

By increasing the CEU requirement from 30 to 45 hours, AOE has violated the APA, which governs rulemaking in the Executive Branch. AOE unilaterally changed the CEU requirement. There was no statutory or rule change in accordance with the APA. SLPs did not receive notice of the intent to make this change and the public input notice regarding changes to endorsements does not include SLPs in the list of 14 endorsements that were subject to amendments.

Thank you for your attention to this matter. We look forward to participating in testimony on S.217, S.188, and/or H.612.