



**STATE BOARD OF EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY**

TEXAS OCCUPATIONS CODE, CHAPTER 401

TITLE 3. HEALTH PROFESSIONS

SUBTITLE G. PROFESSIONS RELATED TO HEARING AND SPEECH

CHAPTER 401. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 401.001. DEFINITIONS. In this chapter:

(1) "Audiologist" means a person who meets the qualifications of this chapter to practice audiology.

(2) "Audiology" means the application of nonmedical principles, methods, and procedures for measurement, testing, appraisal, prediction, consultation, counseling, habilitation, rehabilitation, or instruction related to disorders of the auditory or vestibular systems for the purpose of providing or offering to provide services modifying communicative disorders involving speech, language, or auditory or vestibular function or other aberrant behavior relating to hearing loss.

(3) "Board" means the State Board of Examiners for Speech-Language Pathology and Audiology.

(4) "Department" means the Department of State Health Services.

(4-a) "Hearing instrument" has the meaning assigned by Section 402.001.

(5) "Speech-language pathologist" means a person who meets the qualifications of this chapter to practice speech-language pathology.

(6) "Speech-language pathology" means the application of nonmedical principles, methods, and procedures for measurement, testing, evaluation, prediction, counseling, habilitation, rehabilitation, or instruction related to the development and disorders of communication, including speech, voice, language, oral pharyngeal function, or cognitive processes, for the purpose of evaluating, preventing, or modifying those disorders and conditions in an individual or a group.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 1, eff. September 1, 2011.

Sec. 401.002. APPLICATION OF SUNSET ACT.

The State Board of Examiners for Speech-Language Pathology and Audiology is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 3.04, eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. [928](#), Sec. 4.03, eff. June 15, 2007. Acts 2009, 81st Leg., 1st C.S., Ch. [2](#), Sec. 1.09, eff. July 10, 2009. Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 2, eff. September 1, 2011.

SUBCHAPTER B. APPLICATION OF CHAPTER

Sec. 401.051. PHYSICIANS. (a) This chapter does not prevent or restrict a physician from engaging in the practice of medicine in this state. (b) This chapter does not restrict a licensed physician from personally conducting a speech or hearing test or evaluation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.052. NURSES. This chapter does not prevent or restrict a communication, speech, language, or hearing screening, as defined by board rule, from being conducted by a registered nurse:

(1) licensed in this state; and

(2) practicing in accordance with the standards of professional conduct and ethics established by rules adopted by the Texas Board of Nursing.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2007, 80th Leg., R.S., Ch. [889](#), Sec. 46, eff. September 1, 2007.

Sec. 401.053. PERSONS TRAINED BY DEPARTMENT. (a) This chapter does not apply to a person who shows evidence of having received training by the department in a communication, speech, language, or hearing screening training program approved by the department if the person's activity is limited to screening as defined by board rule.

(b) A person who has received training by the department in a program under Subsection (a) may not:

(1) practice speech-language pathology or audiology; or

(2) represent that the person is a speech-language pathologist or audiologist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.054. PERSONS CERTIFIED BY TEXAS EDUCATION AGENCY. (a) This chapter does not prevent or restrict the activities and services or the use of an official title by a person who is certified in speech-language pathology by the Texas Education Agency if the person only

performs speech-language pathology or audiology services as part of the person's duties within an agency, institution, or organization under the jurisdiction of the Texas Education Agency.

(b) The Texas Education Agency certificate in speech-language pathology must require an applicant to:

(1) hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech-Language-Hearing Association; and

(2) pass a national examination in speech-language pathology or audiology approved by the board.

(c) A person affected by this section who performs work as a speech-language pathologist or audiologist in addition to performing the person's duties within an agency, institution, or organization under the jurisdiction of the Texas Education Agency is required to hold a license issued by the board unless that work is limited to speech and hearing screening procedures performed without compensation.

(d) For the purposes of Subsection (b)(1), an applicant's educational credentials are equivalent to a master's degree in communicative disorders if the credentials:

(1) consist of graduate-level course work and practicum from a program accredited by the American Speech-Language-Hearing Association; and

(2) meet requirements that are the same as those established by the board for a license in speech-language pathology or audiology.

(e) The clinical fellowship year experience or internship may not be a requirement for the Texas Education Agency certificate in speech-language pathology.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.055. UNIVERSITY OR COLLEGE TEACHERS. This chapter does not restrict the use of an official title by a person teaching in a university or college training program, if the person:

(1) is not engaged in the practice of speech-language pathology or audiology; and

(2) does not supervise a person engaged in the practice of speech-language pathology or audiology.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.056. STUDENTS. This chapter does not restrict the activities and services of a student pursuing a course of study leading to a degree in speech-language pathology or audiology at a college or university accredited by the Southern Association of Colleges and Universities or its equivalent if:

(1) the activities and services are part of the student's supervised course of study;

(2) the student is supervised by a person licensed under this chapter; and

(3) the student is designated as a "Speech-Language Pathology Trainee," an "Audiology Trainee," or by another title that clearly indicates the student's professional preparation status.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.057. HEARING CONSERVATION PROGRAM. This chapter does not prevent a person in an industrial setting from engaging in hearing testing as a part of a hearing conservation program in compliance with federal Occupational Safety and Health Administration regulations if the person is certified by an agency acceptable to the Occupational Safety and Health Administration.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.058. APPLICATION TO HEARING INSTRUMENT FITTERS AND DISPENSERS.

(a) This chapter does not prevent or restrict a person licensed under Chapter 402 from engaging in the practice of fitting and dispensing hearing instruments.

(b) This chapter does not prohibit a fitter and dispenser of hearing instruments licensed under Chapter 402 from measuring human hearing by any means, including an audiometer, to make a selection, adaptation, or sale of a hearing instrument, including:

(1) making impressions for earmolds to be used as part of a hearing instrument; and

(2) providing post-fitting counseling to fit and dispense hearing instruments.

(c) A person who is not an audiologist who is licensed to fit and dispense hearing instruments under Chapter 402 may not:

- (1) practice speech-language pathology or audiology; or
- (2) represent that the person is a speech-language pathologist or audiologist by the use of any term restricted by this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.059. APPLICATION TO OTHER LICENSED PROFESSIONALS. This chapter does not prevent a person licensed in this state under another law from engaging in the profession for which the person is licensed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.060. MEDICAL PRACTICE. This chapter does not permit a person to perform an act that violates Subtitle B.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

Sec. 401.101. BOARD WITHIN DEPARTMENT. The State Board of Examiners for Speech-Language Pathology and Audiology is within the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 619, Sec. 3, eff. September 1, 2011.

Sec. 401.102. BOARD MEMBERSHIP. (a) The board consists of nine members appointed by the governor as follows:

- (1) three audiologist members;
 - (2) three speech-language pathologist members; and
 - (3) three members who represent the public.
- (b) Board members must:
- (1) have been a resident of this state for the two years preceding the date of appointment;
 - (2) be from the various geographic regions of the state; and
 - (3) be from varying employment settings.
- (c) The board members appointed under Subsections (a)(1) and (2) must:

- (1) have been engaged in teaching, research, or providing services in speech-language

pathology or audiology for at least five years; and

- (2) be licensed under this chapter.
- (d) One of the public board members must be a physician licensed in this state and certified in otolaryngology or pediatrics.
- (e) Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.103. ELIGIBILITY OF PUBLIC MEMBERS. A person may not be a public member of the board, other than the public member described by Section 401.102(d), if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participating in the management of an agency or business entity that:

- (A) provides health care services;
 - (B) sells, manufactures, or distributes health care supplies or equipment; or
 - (C) receives money from the board or the department;
- (3) owns, controls, or has a direct or indirect interest of more than 10 percent in a business entity that:

- (A) provides health care services;
- (B) sells, manufactures, or distributes health care supplies or equipment; or
- (C) receives money from the board or department; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the board or department other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 619, Sec. 4, eff. September 1, 2011.

Sec. 401.104. MEMBERSHIP RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing

with mutual business or professional problems and in promoting their common interest.

(b) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities in a health-related area.

(c) A person may not be a member of the board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 5, eff. September 1, 2011.

Sec. 401.105. TERMS. (a) Members are appointed for staggered six-year terms. The terms of three members expire September 1 of each odd-numbered year.

(b) A person may not be appointed to serve more than two consecutive terms.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.106. COMPENSATION; PER DIEM. (a) A board member may not receive compensation for the member's services.

(b) A member is entitled to a per diem and travel allowance for each day the member engages in board business at the rate set for state employees in the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.107. BOARD OFFICERS. (a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor.

(b) The presiding officer must hold a license under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 6, eff. September 1, 2011.

Sec. 401.108. MEETINGS. (a) The board shall hold at least two regular meetings each year.

(b) Additional meetings may be held at the call of the presiding officer or on the written request of any three members of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.109. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 401.102;

(2) does not maintain during service on the board the qualifications required by Section 401.102;

(3) is ineligible for membership under Section 401.103 or 401.104;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that the action is taken when a ground for removal of a board member exists.

(c) If the commissioner of state health services has knowledge that a potential ground for removal exists, the commissioner shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 7, eff. September 1, 2011.

Sec. 401.110. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the programs, functions, rules, and budget of the board;

(3) the results of the most recent formal audit of the board;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 7, eff. September 1, 2011.

SUBCHAPTER D. BOARD PERSONNEL

Sec. 401.151. EMPLOYEES. The department shall provide administrative and clerical employees necessary to administer this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.152. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. BOARD AND DEPARTMENT POWERS AND DUTIES

Sec. 401.201. GENERAL POWERS AND DUTIES. (a) With the assistance of the department, the board shall:

(1) administer, coordinate, and enforce this chapter;

(2) evaluate the qualifications of license applicants;

(3) provide for the examination of license applicants;

(4) in connection with a hearing under Section 401.454, issue subpoenas, examine witnesses, and administer oaths under the laws of this state;

(5) conduct hearings and keep records and minutes necessary to the orderly administration of this chapter; and

(6) investigate persons engaging in practices that violate this chapter.

(b) The board may appoint subcommittees to work under its jurisdiction.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.171(a), eff. Sept. 1, 2001.

Sec. 401.202. RULEMAKING AUTHORITY. The board shall adopt rules necessary to administer and enforce this chapter, including rules that establish standards of ethical practice.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.201. JOINT RULES FOR HEARING INSTRUMENTS. With the assistance of the department, the board and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments shall jointly adopt rules to establish requirements for each sale of a hearing instrument. The rules must:

(1) address:

(A) the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B) records that must be retained under this chapter or Chapter 402; and

(C) guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument; and

(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

Added by Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 8, eff. September 1, 2011.

Sec. 401.203. BOARD DUTIES REGARDING COMPLAINTS. (a) The board by rule shall adopt a form to standardize information concerning complaints made to the board.

(b) The board by rule shall prescribe information to be provided to a person when the person files a complaint with the board.

(c) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.204. FEES. (a) The board by rule shall establish fees in amounts reasonable and necessary so that the fees in the aggregate are

sufficient to cover the costs of administering this chapter.

(b) All expenses for the administration of this chapter shall be paid from fees collected by the board under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.205. SEAL. The board shall adopt a seal to authenticate its proceedings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.206. LEGAL REPRESENTATION. The board shall be represented by the attorney general and the district and county attorneys of this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.207. TRAINING. Each board member shall comply with the board member training requirements established by any other state agency authorized to establish the requirements for the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. PUBLIC ACCESS AND INFORMATION

Sec. 401.251. COMPLAINTS. The board shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.252. RECORDS OF COMPLAINTS. (a) The board shall keep an information file about each complaint filed with the board. The file must be current and contain a record for each complaint of:

- (1) each person contacted in relation to the complaint;
- (2) a summary of findings made at each step of the complaint process;
- (3) for a complaint that is dismissed, an explanation of the legal basis and reason for dismissal;
- (4) the schedule established for the complaint under Section 401.253(b)(2) and a notation of any change in the schedule; and
- (5) other relevant information.

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.253. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION.

(a) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules must:

- (1) distinguish among categories of complaints;
- (2) ensure that a complaint is not dismissed without appropriate consideration;
- (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;
- (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and
- (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

(b) The board shall:

- (1) dispose of each complaint in a timely manner; and
 - (2) establish a schedule for conducting each phase of a complaint investigation that is under the control of the board not later than the 30th day after the date the complaint is received by the board.
- (c) Each party to a complaint shall be notified of the projected time requirements for pursuing the complaint.
- (d) Each party to the complaint shall be notified of any change in the schedule established under Subsection (b)(2) not later than the seventh day after the date the change is made.
- (e) The director of the board shall notify the board of a complaint that is not resolved within the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Sec. 401.2535. COMPLAINT INVESTIGATION; SUBPOENA. (a) In an investigation of a complaint filed with the board, the board may request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(e) The board may delegate the authority granted under Subsection (a) to the secretary-treasurer of the board.

(f) The board shall pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the board may charge for copies of its records.

(g) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.

(h) All information and materials subpoenaed or compiled by the board in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the board or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the board in a disciplinary action against the holder of a license;

(2) professional speech-language pathologist and audiologist licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the board under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the board against a holder of a license, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.172(a), eff. Sept. 1, 2001.

Sec. 401.254. PUBLIC PARTICIPATION. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the board's programs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER G. LICENSE REQUIREMENTS

Sec. 401.301. LICENSE REQUIRED. A person may not practice speech-language pathology or audiology or represent that the person is a speech-language pathologist or audiologist in this state unless the person holds a license under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.302. ISSUANCE OF LICENSE. (a) The board shall issue a license to an applicant who meets the requirements of this chapter and who pays to the board the initial nonrefundable license fee.

(b) The board may issue to an applicant a license in either speech-language pathology or audiology.

(c) The board may issue a license in both speech-language pathology and audiology to an applicant.

(d) The board by rule shall establish qualifications for dual licensing in speech-language pathology and audiology and may develop a full range of licensing options and establish rules for qualifications.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.303. LICENSE APPLICATION. (a) A person who desires a license under this chapter must apply to the board on a form and in the manner the board prescribes.

(b) The application must be accompanied by a nonrefundable application fee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.304. APPLICANT ELIGIBILITY. (a) To be eligible for licensing as a speech-language pathologist or audiologist, an applicant must:

(1) if the application is for a license in:

(A) speech-language pathology, possess at least a master's degree with a major in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is approved by the board and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university; or

(B) audiology, possess at least a doctoral degree in audiology or a related hearing science from a program accredited by a national accrediting organization that is approved by the board and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university;

(2) submit a transcript from a public or private institution of higher learning showing successful completion of course work in amounts set by the board in:

(A) normal development and use of speech, language, and hearing;

(B) evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) related fields that augment the work of clinical practitioners of speech-language pathology and audiology;

(3) have successfully completed at least 36 semester hours in courses that are acceptable toward a graduate degree by the college or university in which the courses are taken, at least 24 of which must be in the professional area for which the license is requested and at least six of which must be:

(A) in audiology if the application is for a speech-language pathology license; or

(B) in speech-language pathology if the application is for an audiology license;

(4) have completed the minimum number of hours, established by the board, of supervised clinical experience with persons who present a variety of communication disorders; and

(5) have completed the full-time supervised professional experience, as defined by board rule, in which clinical work has been accomplished in the major professional area for which the license is being sought.

(b) Clinical experience required under Subsection (a)(4) must be obtained:

(1) in the applicant's educational institution or in one of the institution's cooperating programs; and

(2) under the supervision of a person holding a license to practice speech-language pathology or audiology.

(c) Supervised professional experience under Subsection (a)(5) must:

(1) be under the supervision of a qualified person acceptable to the board under guidelines approved by the board; and

(2) begin after completion of the academic and clinical experience required by this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 617, Sec. 1, eff. September 1, 2011.

Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The Department of State Health Services on behalf of the board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

Added by Acts 2011, 82nd Leg., R.S., Ch. [619](#), Sec. 9, eff. September 1, 2011.

Sec. 401.305. EXAMINATION. (a) To obtain a license, an applicant must:

(1) pass a validated examination approved by the board; and

(2) pay fees in a manner prescribed by the board.

(b) The board shall:

(1) administer an examination at least twice each year;

(2) determine standards for acceptable performance on the examination; and

(3) maintain a record of all examination scores for at least two years after the date of examination.

(c) The board by rule may:

(1) establish procedures for the administration of the examination; and

(2) require a written or oral examination, or both.

(d) The board may examine an applicant in any theoretical or applied field of speech-language pathology or audiology it considers appropriate. The board may examine an applicant on professional skills and judgment in the use of

speech-language pathology or audiology techniques or methods.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.306. EXAMINATION RESULTS. (a)

The board shall notify each examinee of the results of the examination not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service that does not directly notify examinees of the examination results, the board shall notify each examinee of the results not later than the 14th day after the date the board receives the results from the testing service.

(b) If the notice of examination results graded or reviewed by a national or state testing service will be delayed for longer than 90 days after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.307. REEXAMINATION. (a) A person who fails the examination may take a subsequent examination on payment of a nonrefundable fee for the subsequent examination.

(b) An applicant who fails two examinations may not be reexamined until the person:

(1) submits a new application accompanied by a nonrefundable application fee; and

(2) presents evidence acceptable to the board of additional study in the area for which a license is sought.

(c) To request an analysis of the person's performance on the examination, a person who fails a licensing examination administered under this chapter must contact the testing service that administered the examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.308. PROVISIONAL LICENSE; CERTIFICATE OF CLINICAL COMPETENCE WAIVER. (a) The board may grant a provisional license to an applicant who:

(1) is licensed in good standing as a speech-language pathologist or an audiologist in another state that has licensing requirements that are

substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the board relating to speech-language pathology or audiology; and

(3) is sponsored by a license holder with whom the provisional license holder may practice under this section.

(b) An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) if the board determines that compliance with that requirement is a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license.

(d) The board shall issue a license under this chapter to a provisional license holder:

(1) who passes the examination required by Section 401.305;

(2) for whom the board verifies satisfaction of the academic and experience requirements for a license under this chapter; and

(3) who satisfies any other license requirements under this chapter.

(e) The board shall complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued.

(f) The board may waive the examination requirement and issue a license to an applicant who holds the Certificate of Clinical Competence of the American Speech-Language-Hearing Association.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.309. TEMPORARY LICENSE. The board by rule may provide for the issuance of a temporary license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.310. TEMPORARY CERTIFICATE OF REGISTRATION. (a) The board shall issue a temporary certificate of registration to an applicant who:

(1) satisfies the requirements of Section 401.304;

(2) has not previously applied to take the examination; and

(3) pays the nonrefundable application fee.

(b) A holder of a temporary certificate of registration may practice speech-language pathology or audiology for a period ending eight weeks after the date the examination concludes.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.311. INTERN LICENSE. (a) A license applicant who has completed only the requirements of Sections 401.304(a)(1)-(4) may be licensed as an intern under this chapter.

(b) An applicant who has successfully completed the academic and clinical requirements of Sections 401.304(a)(1)-(4) but who has not had the degree officially conferred on the applicant may be licensed as an intern under this chapter.

(c) The board by rule shall:

(1) prescribe the terms governing a person's practice as an intern under this section; and

(2) establish general guidelines and renewal procedures for the holder of an intern license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.312. LICENSED ASSISTANTS. (a) The board may establish minimum qualifications for licensed assistants in speech-language pathology and in audiology.

(b) A licensed assistant in speech-language pathology or in audiology must meet the minimum qualifications established by the board.

(c) A licensed assistant in speech-language pathology shall work under the direction of a licensed speech-language pathologist.

(d) The qualifications for licensing as a licensed assistant in speech-language pathology must be uniform and be less stringent than the requirements under this chapter for a speech-language pathologist license.

(e) A licensed assistant in audiology shall work under the direction of a licensed audiologist.

(f) The qualifications for licensing as a licensed assistant in audiology must be uniform and be less stringent than the requirements under this chapter for an audiologist license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.313. INACTIVE STATUS. (a) The board by rule may provide for a license holder to be placed on inactive status.

(b) Rules adopted under this section must include a time limit for a license holder to remain on inactive status.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.314. LIMITED LICENSE TO PRACTICE IN PUBLIC SCHOOLS. (a) The board shall waive the licensing requirements under this chapter and issue a limited license to practice in the public schools as a fully licensed speech-language pathologist to an applicant who:

(1) was eligible for a waiver of licensing requirements under Section 13(a), Chapter 381, Acts of the 68th Legislature, Regular Session, 1983, as amended by Chapter 448, Acts of the 69th Legislature, Regular Session, 1985;

(2) for the two years preceding January 1, 1996, was employed by a school district as a speech-language therapist;

(3) submits with the person's application a written statement by the superintendent of the school district employing the person, certifying that the district has not been able to employ as a speech-language pathologist a person who meets the licensing requirements imposed under this chapter;

(4) holds a baccalaureate degree in communication disorders (speech-language) from an accredited institution of higher education and is certified by the Texas Education Agency in speech and hearing therapy or, in the judgment of the board, satisfies equivalent requirements; and

(5) successfully completes the examination required under Section 401.305.

(b) The board shall waive the licensing requirements imposed under this chapter and issue a limited license to practice in the public schools as a fully licensed speech-language pathologist to a person who:

(1) meets the requirements of Subsections (a)(2)-(5); and

(2) is enrolled in a program of study toward a master's degree with a major in at least one of the areas of communicative sciences or disorders from a program accredited by the American Speech-Language-Hearing Association in a regionally accredited college or university.

(c) Beginning September 1, 1998, and biennially after that date, a person licensed under Subsection (b) must demonstrate in a manner prescribed by the board that the person has successfully completed in the preceding two-year period at least 12 hours of course work toward completing a master's degree described by Subsection (b)(2).

(d) A person who holds a limited license issued under this section may apply for a full license as provided by this chapter.

(e) An applicant for a limited license must have:
(1) applied not later than September 1, 1996; and

(2) provided proof satisfactory to the board that the person satisfies the requirements of this section.

(f) A person must complete the requirements for a license under this section not later than January 1, 2003.

(g) This section expires on the effective date of any federal requirement that a speech-language pathologist hold a master's degree as a condition for receipt of federal funding by the entity employing the person.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER H. LICENSE EXPIRATION AND RENEWAL

Sec. 401.351. EXPIRATION. (a) The board by rule may adopt a system under which licenses expire on various dates during the year.

(b) For the year in which the license expiration date is changed, license fees payable on the original expiration date shall be prorated on a monthly basis so that each license holder pays only the portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.352. LICENSE RENEWAL. (a) Each licensed speech-language pathologist or audiologist must annually pay the nonrefundable fee for license renewal. The board shall allow a 60-day grace period. After expiration of the

grace period, the board may renew a license on payment of a penalty set by board rule.

(b) An application for a license filed not later than the second anniversary of the license expiration date is considered an application for renewal.

The board may not require a person who applies for renewal on or before the second anniversary of the license expiration date to take an examination as a condition of renewal.

(c) A person whose license has been expired for two years or more may not renew the license.

The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

For expiration of this section, see Subsection (d).

Sec. 401.3521. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL. (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 401.3041.

(b) The board may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) The requirements of this section do not apply to a license holder who has previously submitted fingerprints under this section or Section 401.3041.

(d) This section expires February 1, 2015.

Added by Acts 2011, 82nd Leg., R.S., Ch. 619, Sec. 10, eff. September 1, 2011.

Sec. 401.353. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER.

(a) The board may renew without reexamination an expired license of a person who was licensed in this state within the three years preceding application for renewal and who is currently licensed and has been in practice in another state for the two years preceding the application date.

(b) The person must pay to the board a fee that is equal to the amount of the license examination fee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.354. MEDICAL HARDSHIP. The board may adopt rules concerning the reinstatement of a license in a case of medical hardship.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.355. CONTINUING EDUCATION. (a)

The board shall establish uniform mandatory continuing education requirements. A license holder may not renew the person's license unless the person meets the continuing education requirements.

(b) The board shall establish the requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

(c) The board shall:

(1) provide to a license applicant, with the application form on which the person is to apply for a license, information describing the continuing education requirements; and

(2) notify each license holder of any change in the continuing education requirements at least one year before the date the change takes effect.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER I. PRACTICE BY LICENSE HOLDER

Sec. 401.401. AUDIOMETRIC TESTING. (a) If audiometric testing is not conducted in a stationary acoustical enclosure, sound-level measurements must be conducted at the time of the testing to ensure that ambient noise levels meet permissible standards for testing threshold to 20 dB based on the most recent American National Standards Institute "ears covered" octave band criteria for permissible ambient noise levels during audiometric testing.

(b) A dBa equivalent level may be used to determine compliance.

(c) The board shall adopt rules necessary to enforce this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.402. PRACTICE BY SPEECH-LANGUAGE PATHOLOGISTS. (a) A speech-language pathologist may perform basic audiometric screening tests and aural habilitation or rehabilitation.

(b) A person licensed as a speech-language pathologist under this chapter may not fit, dispense, or sell hearing instruments unless the person meets the specific requirements for fitting and dispensing hearing instruments under this chapter or Chapter 402.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.403. PRACTICE BY AUDIOLOGISTS.

(a) An audiologist may:

(1) engage in any act necessary to:

(A) evaluate hearing;

(B) train in the use of amplification, including hearing instruments;

(C) make earmolds for hearing instruments;

(D) fit, dispense, and sell hearing instruments; or

(E) manage cerumen;

(2) participate in consultation regarding noise control and hearing conservation;

(3) provide evaluations of environment or equipment, including calibration of equipment used in testing auditory functioning and hearing conservation; and

(4) perform basic speech and language screening tests and procedures consistent with the audiologist's training.

(b) A person who meets the requirements of this chapter for licensing as an audiologist or audiologist intern and who fits and dispenses hearing instruments must:

(1) register with the board the person's intention to fit and dispense hearing instruments;

(2) comply with the profession's code of ethics;

(3) comply with the federal Food and Drug Administration guidelines for fitting and dispensing hearing instruments;

(4) when providing services in this state, use a written contract that contains the board's name, mailing address, and telephone number; and

(5) follow the guidelines adopted by board rule for a 30-day trial period on every hearing instrument purchased.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.404. HEARING INSTRUMENT SALES TO MINORS. A licensed audiologist may not sell a hearing instrument to a person under 18 years of age unless the person or the parent or

guardian of the person presents to the audiologist a written statement signed by a licensed physician who specializes in diseases of the ear stating that:

(1) the person's hearing loss has been medically evaluated during the six-month period preceding the date the statement is presented; and

(2) the person may be considered a candidate for a hearing instrument.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER J. LICENSE DENIAL AND DISCIPLINARY PROCEDURES

Sec. 401.451. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY ACTION. (a) After a hearing, the board may deny a license to an applicant or may suspend or revoke a person's license or place on probation a license holder if the applicant or license holder:

(1) violates this chapter or an order or rule of the board;

(2) obtains a license by means of fraud, misrepresentation, or concealment of a material fact;

(3) sells, barter, or offers to sell or barter a license or certificate of registration; or

(4) engages in unprofessional conduct that:

(A) endangers or is likely to endanger the health, welfare, or safety of the public as defined by board rule; or

(B) violates the code of ethics adopted and published by the board.

(b) Any person may commence a proceeding for revocation or suspension of a license by filing written charges with the board under oath.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.452. MONITORING OF LICENSE HOLDER. (a) The board by rule shall develop a system for monitoring a license holder's compliance with this chapter.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the board to perform certain acts; and

(2) identify and monitor license holders who represent a risk to the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.453. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR CRIMINAL CONVICTION. (a) The board may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The board may take action authorized by this section when:

- (1) the time for appeal of the person's conviction has elapsed;
- (2) the judgment or conviction has been affirmed on appeal; or
- (3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:
 - (A) allows a withdrawal of a plea of guilty;
 - (B) sets aside a verdict of guilty; or
 - (C) dismisses an information or indictment.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction for purposes of this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.4531. RECUSAL OF BOARD MEMBER. (a) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:

- (1) may not vote on the matter at a board meeting related to the complaint; and
- (2) shall state at the meeting why the member is prohibited from voting on the matter.

(b) A statement under Subsection (a)(2) shall be entered into the minutes of the meeting.

Added by Acts 2011, 82nd Leg., R.S., Ch. 619, Sec. 11, eff. September 1, 2011.

Sec. 401.454. ADMINISTRATIVE PROCEDURE.

(a) Except as provided by this subchapter, a proceeding to deny a license application or to take disciplinary action against a license holder is subject to Chapter 2001, Government Code.

(b) A person whose application for a license is denied is entitled to a hearing before the board if the person submits a written request to the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.455. INFORMAL PROCEDURES. (a) The board by rule shall adopt procedures governing:

- (1) informal disposition of a contested case under Section 2001.056, Government Code; and
- (2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

- (1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;
- (2) provide the license holder an opportunity to be heard; and
- (3) require the presence of a legal representative of the department who represents the board or the board's employees or a representative of the attorney general to advise the board or the board's employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.456. SCHEDULE OF SANCTIONS.

The board shall use the schedule of sanctions adopted by board rule for any sanction imposed as the result of a hearing conducted by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.457. REINSTATEMENT. (a) A person may apply for reinstatement of a revoked license on or after the first anniversary of the date of revocation.

- (b) The board may:
- (1) accept or reject the application; and
 - (2) require an examination as a condition for reinstatement of the license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.458. PROBATION. The board may require a license holder whose license suspension is probated to:

- (1) report regularly to the board on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the board; or
- (3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.459. REPRIMAND; CONTINUING EDUCATION. (a) In addition to other disciplinary action authorized by this subchapter, the board may:

(1) issue a written reprimand to a license holder who violates this chapter; or

(2) require that a license holder who violates this chapter attend continuing education programs.

(b) The board may specify the number of hours of continuing education that must be completed by a license holder to fulfill the requirement of Subsection (a)(2).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.460. EMERGENCY SUSPENSION. (a) The board or a three-member committee of board members designated by the board shall temporarily suspend the license of a license holder if the board or committee determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

(b) A license may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 4, eff. Sept. 1, 2003.

SUBCHAPTER K. PENALTIES AND OTHER ENFORCEMENT PROVISIONS

Sec. 401.501. DECEPTIVE TRADE PRACTICE. A violation of Section 401.301 is a deceptive trade practice.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.502. INJUNCTION. The board may apply to a district court in any county for an injunction or another order to restrain the violation of this chapter by a person other than a license holder under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 401.5021. BOARD-ORDERED REFUND. The board may order an audiologist to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 401.2021.

Added by Acts 2011, 82nd Leg., R.S., Ch. 619, Sec. 12, eff. September 1, 2011.

Sec. 401.5022. CEASE AND DESIST ORDER. (a) If it appears to the board that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of speech-language pathology or audiology, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under Subchapter L.

Added by Acts 2011, 82nd Leg., R.S., Ch. 619, Sec. 12, eff. September 1, 2011.

Sec. 401.503. CRIMINAL OFFENSE. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is a misdemeanor punishable by:

(1) confinement in the county jail for a period not to exceed six months;

(2) a fine not to exceed \$1,000; or

(3) both the confinement and the fine.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER L. ADMINISTRATIVE PENALTY

Sec. 401.551. IMPOSITION OF ADMINISTRATIVE PENALTY. The board may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.552. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The amount of the administrative penalty may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(b) The amount shall be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the economic harm caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.553. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If the commissioner of public health or the commissioner's designee determines that a violation occurred, the commissioner or the designee may issue to the board a report stating:

(1) the facts on which the determination is based; and

(2) the commissioner's or the designee's recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

(b) Within 14 days after the date the report is issued, the commissioner of public health or the commissioner's designee shall give written notice of the report to the person. The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended administrative penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.554. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 10 days after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended administrative penalty of the commissioner of public health or the commissioner's designee; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the commissioner of public health or the commissioner's designee, the board by order shall approve the determination and impose the recommended penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.555. HEARING. (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the commissioner of public health or the commissioner's designee shall set a hearing and give written notice of the hearing to the person.

(b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.556. DECISION BY BOARD. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the board by order may determine that:

(1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the board's order given to the person must include a statement of the right of the person to judicial review of the order.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.557. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. (a) Within 30 days after the date the board's order becomes final, the person shall:

- (1) pay the administrative penalty; or
- (2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

- (1) stay enforcement of the penalty by:
 - (A) paying the penalty to the court for placement in an escrow account; or
 - (B) giving the court a supersedeas bond approved by the court that:
 - (i) is for the amount of the penalty; and
 - (ii) is effective until all judicial review of the board's order is final; or
 - (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
 - (B) giving a copy of the affidavit to the commissioner of public health or the commissioner's designee by certified mail.
- (c) If the commissioner of public health or the commissioner's designee receives a copy of an affidavit under Subsection (b)(2), the commissioner or the designee may file with the court, within five days after the date the copy is received, a contest to the affidavit.
- (d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.558. COLLECTION OF PENALTY. (a) If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the penalty may be collected. (b) The attorney general may sue to collect the penalty.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.559. DETERMINATION BY COURT. (a) If the court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.560. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the administrative penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(d) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(e) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.

Sec. 401.561. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is a contested case under Chapter 2001, Government Code.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 5, eff. Sept. 1, 2003.