

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 403 (Delegate Cullison)
Health and Government Operations

State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists - Cease and Desist Orders and Injunctive Relief

This bill repeals the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists' authority to sue to enforce any provision of the Maryland Audiology, Hearing Aid Dispensing, and Speech-Language Pathology Act. Instead, the board is authorized to issue a cease and desist order or obtain injunctive relief for (1) a disciplinary violation by a licensee; (2) a violation of the prohibition against practicing, attempting to practice, or offering to practice audiology, hearing aid dispensing, or speech-language pathology without a license; or (3) specified prohibitions against misrepresentation to the public.

Fiscal Summary

State Effect: Any additional workload on the State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists can be handled with existing resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An action may be maintained in the name of the State or the board to enjoin (1) conduct that is a ground for disciplinary action by the board; (2) the unauthorized practice of audiology, hearing aid dispensing, or speech-language pathology; or (3) aiding and abetting in the unauthorized practice of audiology, hearing aid dispensing, or speech-language pathology. Such an action may be brought by the

board (in its own name) or the Attorney General or a State's Attorney (in the name of the State). An action must be brought in the county where the defendant resides or engages in the act sought to be enjoined. Proof of actual damage or that any person will sustain any damage is not required. An action is *in addition to and not instead* of criminal prosecution for unauthorized practice or a disciplinary action by the board.

Current Law: The board is authorized to sue to enforce any provision of the Maryland Audiology, Hearing Aid Dispensing, and Speech-Language Pathology Act by injunction or other appropriate proceeding. Such an action is *in addition to and not instead of* criminal prosecution. A person who violates any provision of the Act is guilty of a misdemeanor and subject to a fine of up to \$5,000 or imprisonment for up to three years, or both.

Subject to hearing provisions, the board may deny a license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee violates any of the 23 grounds for disciplinary action. The board is also authorized to impose a penalty of up to \$5,000 *in addition to* suspending or revoking a license, reprimanding a licensee, or placing a licensee on probation. Any penalties are paid to the general fund.

A person may not practice, attempt to practice, or offer to practice audiology, hearing aid dispensing, or speech-language pathology, or assist in the practice of speech-language pathology unless licensed by the board. Likewise, a person may not use or attempt to use a license that has been purchased, fraudulently obtained, counterfeited, or materially altered.

A person may not represent to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice audiology or that the person evaluates, examines, directs, instructs, or counsels individuals suffering from disorders or conditions that affect hearing and balance or assists those individuals in the perception of sound. An unlicensed individual is also prohibited from using specified words or terms with the intent to represent that the person practices audiology.

A person may not represent to the public, by use of a title, including "licensed hearing aid dispenser," by description of services, methods, or procedures, or otherwise, that the person is authorized to practice hearing aid dispensing.

A person may not represent to the public by title, by description of services, methods, or procedures, or otherwise that the person is authorized to practice speech-language pathology or that the person evaluates, examines, instructs, or counsels individuals suffering from disorders or conditions that affect speech, language, communication, and swallowing. An unlicensed individual is also prohibited from using specified words or terms connoting professional proficiency in speech-language pathology.

A person may not represent to the public, by title, description of services, methods, or procedures, or otherwise, that the person is authorized to practice as a speech-language pathology assistant in the State or assists in the practice of speech-language pathology. An unlicensed individual is also prohibited from using specified words or terms connoting professional proficiency in speech-language pathology.

Background: Three health occupations boards (nursing, nursing home administrators, and physicians) are authorized to issue cease and desist orders.

Additional Information: In response to ongoing challenges among the health occupations boards in addressing unlicensed practitioners, several bills have been introduced in the 2014 legislative session that authorize various boards to issue cease and desist orders, seek injunctive relief, and/or impose fines or penalties:

- **SB 379/HB 304** – State Acupuncture Board and State Board of Dietetic Practice – Action and Penalties for Violations of Practice Acts;
- **SB 380/HB 302** – State Board of Podiatric Medical Examiners – Cease and Desist Orders and Fines;
- **SB 448/HB 112** – State Board of Professional Counselors and Therapists – Cease and Desist Orders and Penalties for Misrepresentation and Practicing Without a License; and
- **SB 587/HB 791** – State Board of Examiners in Optometry – Cease and Desist Orders, Injunctive Relief, and Penalties.

Additional Information

Prior Introductions: None.

Cross File: SB 453 (Senator Conway) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene; Department of Legislative Services

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