

SUNSET EVALUATION UPDATE
SPEECH PATHOLOGISTS AND AUDIOLOGISTS
Chapter 468E, Hawaii Revised Statutes

A Report to the Governor and the Legislature of the State of Hawaii

Submitted by the
Legislative Auditor of the State of Hawaii
Honolulu, Hawaii

Report No. 87-23
December 1987

FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specific times unless they are reestablished by the Legislature. Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, scheduled for termination 38 licensing programs over a six-year period. These programs are repealed unless they are specifically reestablished by the Legislature. In 1979, the Legislature assigned the Office of the Legislative Auditor responsibility for evaluating each program prior to its repeal.

This report updates our sunset evaluation of the practice of speech pathology and audiology under Chapter 468E, Hawaii Revised Statutes, which was conducted in 1981. It presents our findings as to whether the program complies with the Sunset Law and whether there is a reasonable need to regulate speech pathology and audiology to protect public health, safety, or welfare. It includes our recommendation on whether the program should be continued, modified, or repealed. In accordance with Act 136, SLH 1986, draft legislation intended to improve the regulatory program is incorporated in this report as Appendix B.

We acknowledge the cooperation and assistance extended to our staff by the Board of Speech Pathology and Audiology, the Department of Commerce and Consumer Affairs, and other officials contacted during the course of our examination. We also appreciate the assistance of the Legislative Reference Bureau which drafted the recommended legislation.

Clinton T. Tanimura
Legislative Auditor
State of Hawaii

December 1987

TABLE OF CONTENTS

	<i>Page</i>
Background on Speech Pathology and Audiology.....	1
Regulation of Speech Pathologists and Audiologists.....	3
Prior Sunset Evaluation	5
Subsequent Developments	7
Current Findings and Recommendations	9
Need for Regulation	9
Licensing Program	11
Conclusion	14
Recommendations.....	14
Notes.....	16
Appendix A: Comments on Agency Responses	A-1
Appendix B: Proposed Legislation.....	B-1

Sunset Evaluation Update

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

This report evaluates the regulation of the practice of speech pathology and audiology under Chapter 468E, Hawaii Revised Statutes, to determine whether the public interest is best served by reenactment, modification, or repeal of the statute. An evaluation of the regulation of speech pathology and audiology was previously conducted by this office in 1981. Our findings and recommendations were reported in the *Sunset Evaluation Report, Speech Pathologists and Audiologists, Chapter 468E, Hawaii Revised Statutes*. This update summarizes information contained in the 1981 evaluation, reports on developments since then, and presents our current findings and recommendations.

Background on Speech Pathology and Audiology

Speech pathologists and audiologists provide services to individuals with speech, language, or hearing impairments by evaluating these disorders and providing treatment.¹

Speech pathologists and audiologists may work independently as private practitioners, in conjunction with physicians or other health care providers, or as members of rehabilitative teams in both the private and public sectors. They work directly with their patients on communication disorders. Employment settings range from independent private practice to institutions such as hospitals, clinics, educational agencies, health organizations, government programs, and special schools.

Speech pathologists specialize in diagnosing and treating speech and language problems. They work with children and adults who may be suffering from organic problems such as brain injury, cleft palate, and mental retardation or from nonorganic problems such as a foreign dialect or emotional problems. They diagnose speech and language skills, and they plan, direct, and conduct treatment programs for individuals with communication problems.

Audiologists specialize in diagnosing, preventing, and treating hearing disorders. They determine the range and degree of hearing function using electroacoustic instruments such as speech audiometers, and they coordinate audiometric results with other diagnostic data such as educational, medical, social, and behavioral information.

The American Speech-Language and Hearing Association (ASHA) is the national professional association for speech-language pathologists, audiologists, and other professionals concerned with communication disorders. The basic professional standard for speech pathologists and audiologists is ASHA certification.

The certification requirements are: (1) a master's degree or equivalent coursework from an accredited college or university with specified hours of coursework in certain subjects; (2) 300 hours of supervised clinical experience; (3) nine months of full-time professional experience, known as the "Clinical Fellowship Year"; and (4) successful completion of the National Examination in either Speech-Language Pathology or Audiology prepared by the Educational Testing Service. Individuals who complete these requirements receive the Certificate of Clinical Competence.²

Our 1981 sunset evaluation reported that there were nearly 200 speech pathologists and audiologists in Hawaii. Approximately 150, or 75 percent, were

employed by the state and federal governments. About 50, or 25 percent, worked in the private sector for hospitals, clinics, physicians, and other private agencies.

Currently, there are 257 speech pathologists and 37 audiologists licensed to practice in Hawaii.³ The majority of licensees continue to be employed in the public sector. The State Department of Health and Department of Education employ the largest number of speech pathologists and audiologists in Hawaii. The remaining government-employed speech pathologists and audiologists are at the University of Hawaii or with the federal government.

Regulation of Speech Pathologists and Audiologists

A national movement for licensing speech pathologists and audiologists began in the late 1960s when state associations lobbied for licensure laws. The first licensing law was passed in Florida in 1969. Currently, 36 states regulate speech pathologists and audiologists.⁴

Regulation in Hawaii. Hawaii enacted its licensing law in 1974 "to insure that the highest quality of speech pathology and audiology are available to the people of this State. The public health and welfare requires that persons offering speech pathology and audiology services be in fact qualified in such fields; that a public authority competent to assess and prescribe the qualifications of speech pathologists and audiologists be established and continued; that only qualified persons be allowed to practice in the fields of speech pathology and audiology."

No person may practice speech pathology or audiology unless the person is licensed to do so. Section 468E-2, HRS, defines the practice of speech pathology as "the application of principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction related to the

development and disorders of speech and related language and hearing for the purpose of modifying speech and related language and hearing disorders."

The practice of audiology is similarly defined except that it focuses on disorders of hearing and on modifying hearing functions.

The law establishes a seven-member Board of Speech Pathology and Audiology consisting of two speech pathologists, two audiologists, and three public members, one of whom must be licensed to practice medicine in the State and certified by the American Board of Otorhinolaryngology (dealing with the ear, nose, and throat). Four members constitute a quorum, but the quorum cannot consist of only the two speech pathologists and two audiologists.

The board is authorized to administer, coordinate, and enforce the provisions of Chapter 468E; adopt rules and regulations relating to professional conduct, including regulations which establish ethical standards of practice, procedures for written examinations, standards for acceptable performance; and maintain a permanent record of all examinations scores. The board may issue and renew licenses to those meeting its requirements and take disciplinary action against any licensee.

To be licensed, applicants must (1) be of good moral character, (2) have at least a master's degree or its equivalent in speech pathology or audiology from an institution recognized by the board, (3) submit evidence of meeting ASHA's requirements for the certificate of clinical competence, and (4) pass a written examination approved by the board.

The board may waive the examination and license by endorsement any applicant who presents proof of current licensure in another state (including the District of Columbia) or territory which has professional standards equivalent to those set forth in Chapter 468E.

The law is not intended to restrict the practice of licensed physicians, licensed hearing aid dealers, others engaged in the occupation for which they are licensed in the State, and federally employed persons. Also not restricted are persons studying for a degree in speech pathology or audiology at a college or university or who are fulfilling the clinical experience requirements for the clinical fellowship year for ASHA certification.

Prior Sunset Evaluation

Our 1981 evaluation of the regulation of speech pathologists and audiologists resulted in the following findings:

- "1. The practice of speech pathology and audiology poses little harm to public health, safety, or welfare. There is no evidence of actual harm to the public, and existing controls within the private sector minimize the possibility of potential harm to the public.
- "2. The licensing requirements imposed under Chapter 468E are unnecessary. They merely duplicate the requirements for certification by the American Speech and Hearing Association (ASHA).
- "3. The Board of Speech Pathology and Audiology conducts no examinations and does not otherwise perform a meaningful function.
- "4. It is inconsistent for the State to regulate speech pathologists and audiologists in the private sector while exempting from regulation and applying lesser standards to its own personnel.
- "5. The administration of the regulatory program by the board and the staff of the Department of Regulatory Agencies (DRA) has been weak."

Need for regulation. We found that the practice of speech pathology and audiology poses little harm to public health, safety, or welfare. There was no documented evidence of injuries resulting from services performed by those licensed to practice speech pathology and audiology. There was also no evidence of injuries resulting from government speech pathologists and audiologists who were not

required to be licensed. No consumer complaints had been filed with the board since the enactment of the law.

Existing controls sufficient. We found that the private sector already provided assurance of public protection through their qualification standards. Nearly all private sector employers such as hospitals and clinics required the ASHA certification. Health insurance plans, such as those of the Hawaii Medical Service Association (HMSA), required practitioners to be ASHA certified in order to qualify for reimbursement. We concluded that continued regulation was not warranted and recommended that Chapter 468E be allowed to expire as scheduled.

Board is not necessary. We found that the board performed no meaningful function. The licensing requirements adopted by the board duplicated the certification requirements set by ASHA. The board conducted no examinations, relying instead on ASHA's national examinations. The board's main function was to receive and validate the documents submitted by applicants. This type of work could easily be handled by staff at the DRA, now the Department of Commerce and Consumer Affairs (DCCA).

Should licensing be continued, we recommended that the board be abolished and applicants register with the department by presenting evidence of meeting the ASHA certification requirements.

Inconsistency of excluding government employees. We questioned the exemption for those employed in government if there really were a potential for harm. Publicly-employed speech pathologists and audiologists represented nearly 75 percent of the total number practicing in Hawaii. The State's standards for employment were lower than those in the private sector. We noted that if the purpose of regulation was to ensure competence, it should not make any difference

whether the person is employed by government or by private industry. We questioned whether this inconsistent treatment was justifiable.

Deficiencies in administering the program. We found that the staff took an inordinately long time to process applications and issue licenses. Of the 20 licenses issued since the beginning of 1979, 13 took three months or longer from the time of application to board approval. It took another three months after board approval to issue the 13 licenses. We also found that the licensing staff required applicants to submit materials that were not legally required. We recommended that applications be processed more expeditiously and the staff observe the rules and regulations regarding the documents that must be submitted with the application.

Responses to the evaluation report. The Board of Speech Pathology and Audiology responded that it did not agree that the practice posed little harm to the public. It stated that the absence of consumer complaints could have been due to lack of public awareness of the licensing law and the reluctance of consumers to submit formal written complaints. The board reported that individual board members had received numerous verbal complaints.

The board said that speech pathologists and audiologists did not generally work in conjunction with a physician but worked independently. It did not agree that licensing should be deleted, and it recommended that Chapter 468E cover all government-employed speech pathologists and audiologists.

Subsequent Developments

A variety of interested parties testified at the Legislature that speech pathologists and audiologists provide an important service to the public and that

strict regulation is necessary to continue that level of service. Those testifying included the Board of Speech Pathologists and Audiologists, professionals and organizations in the field, and consumers.

The Legislature concluded that the practice of speech pathology and audiology warranted continued regulation and that regulation served an important function. Act 242, SLH 1981, extended the repeal date for Chapter 468E to December 31, 1988.

The act also removed the exemption for state and local government-employed speech pathologists and audiologists since "the application of professional skills and techniques by trained speech pathologists and audiologists are of such importance to the health and well-being of our citizens that licensure should be required for all practitioners" ⁵

The exemption for federally-employed practitioners was continued, but practitioners employed by the state or local governments were required to obtain state licensure by December 31, 1984.

In 1983, the Legislature again amended the law by allowing speech pathologists and audiologists employed by a local or state government agency on or before October 1, 1981, to be "deemed in compliance" with licensure requirements as long as they remained continuously employed for that purpose by the government agency.

The Legislature also required the board to maintain records distinguishing between those licensed in accordance with Chapter 468E and those deemed in compliance. Currently, there are approximately 30 practitioners deemed in compliance whose records are kept separately from those of regular licensees.

Current Findings and Recommendations

Our current findings are as follows:

1. The practice of speech pathology and audiology continues to pose little harm to public health, safety, or welfare. There has been no documented evidence of harm from services performed by those licensed to practice speech pathology and audiology. Employers and health insurance programs in the private sector continue to provide assurance of protection.

2. The State's licensing requirements continue to duplicate the ASHA certification requirements. A substantial number of applicants for licensure already possess an ASHA certificate. As a result, the board serves no meaningful function.

3. The processing of applications remains slow.

4. Some of the requirements for licensure are unnecessary.

5. Both the board's rule and statutory provision covering the exemption of state and local government practitioners are overly restrictive.

Need for Regulation

Speech pathologists and audiologists contend that consumers can suffer immediate and long-range harm from improperly or inadequately delivered services. According to them, potential sources of harm include risks from assessment of treatment, errors of omission, and misdiagnosis.

They say that consumers can suffer irreparable hearing and speech damage, tissue breakdown, blockages in airways and airflow, breathing and other aspiratory problems, and extended and compounded hearing losses.

They also say that incompetent practitioners can provide inappropriate or unnecessary treatment, inappropriate educational recommendations, delays in obtaining appropriate medical treatment, delays in developing speech and language skills, increased treatment time and cost due to lack of early intervention, increased severity, and emotional stress including frustration, withdrawal, and decreased motivation.

However, as in our 1981 evaluation, we found no evidence of actual harm to the public. A 1985 survey of 35 state licensure boards reported that the most frequent licensure violation involved individuals practicing without a license.⁶ Common complaints were the employment of unqualified or unlicensed persons, false and misleading advertising, and incompetent or unethical behavior.

In Hawaii, a small number of complaints were filed with the Regulated Industries Complaints Office (RICO). There were one or two per year, and they related to practicing without a license. Specifically, there were complaints that unlicensed services were provided under a physician's supervision, in a private school setting, in a volunteer hospital therapy program, and listed in the telephone directory's yellow pages. In all instances, advisory letters were issued, and no violations were found.

Controls in the private sector. The practice of speech pathology and audiology appears to be sufficiently regulated through national professional certification requirements which are widely observed in the private sector through employment qualifications and third-party reimbursements.

Employers and health insurance programs continue to set their own qualification standards. These private settings include hospitals, clinics, and rehabilitation centers.

Third-party reimbursements through health insurance plans and programs require ASHA certification or its equivalent. The HMSA requires the certificate, and Medicare and Medicaid require that the practitioner be eligible for ASHA certification, meet the educational requirements for certification, and be in the process of completing the supervised experience required for the certificate.

Since there have been no documented cases of consumer injury and few consumer complaints filed with RICO, and since there are sufficient controls in the private sector, we conclude that regulation of speech pathologists and audiologists is unwarranted.

Licensing Program

Board unnecessary. In 1981, we found that the board was not needed since the requirements for licensure were essentially the same as those for ASHA certification and since the board itself conducted no examinations. The function of validating applicant documents was one that could be readily handled by DCCA staff. Should regulation be continued, it need not be in the form of licensing by a board. A program where individuals registered their ASHA certification with the State would be sufficient.

Our current evaluation shows that the licensing requirements continue to be the same as ASHA certification requirements. The board continues to rely on the National Examination in Speech Pathology and the National Examination in Audiology. A sampling of current licensees showed that at least 80 percent were already ASHA certified at the time of application. Consequently, the board continues to serve no meaningful function.

Processing applications. In 1981, we found the board to be slow in processing applications and in issuing licenses, taking sometimes up to six months. There were also inconsistencies in the application requirements and board rules. These contributed to delays in the licensing process. The inconsistencies in the applications and rules have been corrected, but there continues to be a substantial time lag in issuing licenses.

Currently, there is at least a three-month time lag between the time of application and the issuing of a license. Approval for licensure is contingent on board action, and after board action, issuing of the actual license can take six to eight weeks.

There is a longer time lag when an applicant is not ASHA certified. A working committee of the board reviews transcripts, course content, clinical hours, and other required materials between regular board meetings.

Some individuals may have to delay practicing from three to five months, creating an unnecessary financial hardship on these individuals.

Unnecessary requirements. Good moral character. One of the requirements for licensure in the law is good moral character. This requirement should be removed as it is unnecessary, subjective, and impossible to verify.

Qualifications. Section 16-100-18 of the board's rules allows the board to request a personal interview with the applicant. This should be deleted as personal interviews are subjective and open the board to possible accusations of discrimination. The rules also require three letters of recommendation. This also should be removed since DCCA does not verify letters of recommendation, and they serve no purpose.

Restrictions on government employees. As noted previously in this report, all speech pathologists and audiologists who were employed by a local or state government agency on or before October 1, 1981, are deemed to be in compliance with the licensure requirements. Such persons can continue to practice without taking the written examination. However, Section 468E-8(b), HRS, also states that such persons shall be deemed to be in compliance with the licensure requirements and may practice for the government agency only for as long as they remain "continuously employed . . . by the government agency for such purpose."

Section 16-100-12 of the board's rules requires further that all speech pathologists and audiologists employed by or under contract to a local government agency on or before October 1, 1987, shall "remain in the specialty area (either speech pathology or audiology) of employment with the October 1, 1981 employing agency and may not transfer to another local government agency."

Both the statute and the board's rule covering government employees appear to be overly restrictive. We see no reason why under the statute a person deemed to be meet licensure requirements while employed in a government agency would lose that eligibility if that person transferred to another government agency. In addition, the board's rule prohibits transfers between agencies, and such a prohibition probably exceeds the board's authority. We believe that the exemption for eligible government employees should apply for as long as they remain in government *service*.

There is one additional observation to be made. The board's rule on persons deemed to be in compliance with licensure requirements addresses only those employed by or under contract to a *local* government agency. The statute clearly specifies that the exemption applies to those who were practicing with either a *local* or *state* government agency on or before October 1, 1981.

Conclusion

There continues to be no evidence of harm to consumers that would justify continued regulation of speech pathologists and audiologists. The majority of practitioners are already ASHA certified at the time of licensure. The State's licensing program, therefore, largely duplicates ASHA's requirements for certification and adds little to ensuring the competency of practitioners.

If regulation is continued, we still believe that a board is not necessary. A registration program where applicants provide evidence of ASHA certification to the State would reduce duplication of effort and delays in being allowed to practice. If professional expertise is needed, the Director of DCCA could convene a panel of specialists in speech pathology and audiology for advice.

Recommendations

We recommend the following:

1. *Chapter 468E, Hawaii Revised Statutes, be allowed to expire as scheduled on December 31, 1988.*
2. *If the Legislature should decide to reenact Chapter 468E, it consider making the following amendments:*
 - abolish the licensing board and require speech pathologists and audiologists to register with the Department of Commerce and Consumer Affairs by presenting evidence of ASHA certification;*
 - delete the requirement for good moral character; and*
 - allow eligible local and state government practitioners deemed in compliance to continue to practice for as long as they remain in government service.*

3. *If the board is continued, it amend its rules to clarify the provisions covering government practitioners and remove the provision for a personal interview and the requirement for letters of recommendation.*

4. *The licensing division of the Department of Commerce and Consumer Affairs review the application and licensing procedures with the objective of reducing the time lag in the granting of licenses.*

NOTES

1. U.S. Bureau of Labor Statistics, *Occupational Outlook Handbook, 1984-85 Edition*, Government Printing Office, Washington, D.C., 1984, p. 136.
2. American Speech-Language-Hearing Association, "Requirements for the Certificate of Clinical Competence," Rockville, Md, January 1, 1980.
3. Hawaii, Department of Commerce and Consumer Affairs, *Summary/Geographic Report*, Honolulu, June 16, 1987, p. 36.
4. Connie Lynch, "Harm to the Public: Is It Real?" *ASHA*, June 1986, p. 26.
5. Senate Standing Committee Report No. 557 on Senate Bill No. 601, Eleventh Legislature, 1981, State of Hawaii.
6. Connie Lynch, "Harm to the Public," p. 29.
7. Letter from Jeffrey I. Zuckerman, Director, Bureau of Competition, U.S. Federal Trade Commission, to Mr. George L. Schroeder, Director, Legislative Audit Council, State of South Carolina, April 23, 1987.

APPENDICES

APPENDIX A

COMMENTS ON AGENCY RESPONSES

A preliminary draft of this Sunset Evaluation Report was transmitted on November 2, 1987, to the Board of Speech Pathology and Audiology and the Department of Commerce and Consumer Affairs for their review and comments. A copy of the transmittal letter to the board is included as Attachment 1 of this Appendix. A similar letter was sent to the department. The response from the board is included as Attachment 2 and the department's response is Attachment 3.

The board does not agree with our recommendation to allow Chapter 468E, Hawaii Revised Statutes to expire. It also does not agree that the board be abolished. The board says that the practice could pose potential harm to consumers and that there have been cases on the mainland of injury and fraud. It says that the private sector is moving away from credentialing by private groups such as ASHA and that the practice of speech pathology and audiology would not be adequately regulated through private sector controls. The board says that it has an important function to perform, particularly in providing an opportunity for interested groups to participate in the development of rules. However, we note that this is a function that can be and is performed just as well by the department.

The board concurs with the recommendation to remove the requirement for good moral character and the finding concerning practitioners in government service. We have restated our recommendation on government practitioners to make

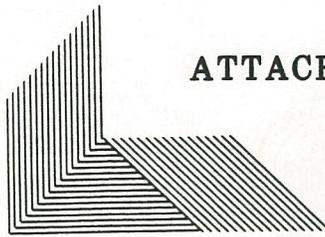
it clear that those who are now "deemed in compliance" should be allowed to continue to practice for as long as they remain in government service. As for the time lag in issuing licenses, the board says that it reviews applications within two weeks of being notified by the executive secretary. Applications needing further information take longer.

The Department of Commerce and Consumer Affairs responds that it supports the recommendation regarding review of the application and licensing procedures to reduce the time lag in granting licenses. As an interim step, it now notifies successful applicants by letter that they may begin practice immediately pending receipt of a license card. The department states that it can further review whether this can be done as soon as the board approves a license.

ATTACHMENT 1

THE OFFICE OF THE AUDITOR
STATE OF HAWAII
465 S. KING STREET, RM. 500
HONOLULU, HAWAII 96813

CLINTON T. TANIMURA
AUDITOR



November 2, 1987

COPY

Mrs. Irene Tamayo, Chairperson
Board of Speech Pathology and Audiology
Department of Commerce and Consumer Affairs
State of Hawaii
1010 Richards Street
Honolulu, Hawaii 96813

Dear Mrs. Tamayo:

Enclosed are eight preliminary copies, numbered 4 through 11, of our *Sunset Evaluation Update, Speech Pathologists and Audiologists, Chapter 468E, Hawaii Revised Statutes*. These copies are for review by you, other members of the board, and your executive secretary. This preliminary report has also been transmitted to Robert Alm, Director of the Department of Commerce and Consumer Affairs.

The report contains our recommendations relating to the regulation of speech pathology and audiology. If you have any comments on our recommendations, we would appreciate receiving them by December 3, 1987. Any comments we receive will be included as part of the final report which will be submitted to the Legislature.

Since the report is not in final form and changes may possibly be made to it, we request that you limit access to the report to those officials whom you wish to call upon for assistance in your response. Please do not reproduce the report. Should you require additional copies, please contact our office. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us.

Sincerely,

Clinton T. Tanimura
Legislative Auditor

Enclosures

ATTACHMENT 2

JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

STATE OF HAWAII
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P. O. BOX 3489
HONOLULU, HAWAII 96801

December 1, 1987

The Honorable Clinton T. Tanimura
Legislative Auditor
The Office of the Auditor
465 S. King Street, Room 500
Honolulu, HI 96813

RECEIVED

DEC 3 10 03 AM '87

OFFICE OF THE AUDITOR
STATE OF HAWAII

Dear Mr. Tanimura:

Thank you for the opportunity to review and respond to the Sunset Evaluation Update, Speech Pathologists and Audiologists, Chapter 468E, Hawaii Revised Statutes. Members of the Board of Speech Pathology and Audiology found the report to be appropriately directed to the issues confronting regulation of this professional group. However, after careful consideration, we agree that alternative findings, conclusions and recommendations are warranted.

Current findings of the Legislative Auditor regarding the regulation of speech pathology and audiology in Hawaii were stated as follows:

1. The practice of speech pathology and audiology continues to pose little harm to public health, safety, or welfare. There has been no documented evidence of harm from services performed by those licensed to practice speech pathology and audiology. Employers and health insurance programs in the private sector continue to provide assurance of protection.
2. The State's licensing requirements continue to duplicate the ASHA certification requirements. A substantial number of applicants for licensure already possess an ASHA certificate. As a result, the board serves no meaningful function.
3. The processing of applications remains slow.
4. Some of the requirements for licensure are unnecessary.

5. Both the board's rule and statutory provision covering the exemption of state and local government practitioners are overly restrictive."

THE BOARD'S RESPONSE

Need for Regulation

Potential Harm to Consumers

The 1985 ASHA survey of 35 licensure boards was appropriately cited in the legislative auditor's report as an important source of information regarding harm to the public from improperly or inadequately delivered speech pathology and audiology services. The survey of licensing boards, however, was only one source of information included in a comprehensive article (Lynch, 1985) examining the harm to the public issue. For example, in the same article is reviewed the case of Turpin v. Sortini.

According to the article, in the 1982 California judicial case, Turpin v. Sortini, the parents of a deaf child brought a suit for damages against an audiologist who allegedly failed to diagnose an older sibling's hereditary deafness. On the basis of erroneous information, the parents decided to conceive another child who was born with the same hearing impairment as her older sister. In finding for the plaintiffs on appeal, the California Supreme Court held that the child and her parents could recover special damages for the "extraordinary expenses necessary to treat the hereditary ailment." In deciding for the plaintiffs, the Court cited, in part, the Civil Code of California, section 3281, which specifies that "[e]very person who suffers detriment from the unlawful act or omission of another may recover from the person in fault a compensation therefore in money, which is called damages."

Fortunately, harm of the magnitude involved in Turpin v. Sortini is rare in the practice of speech pathology and audiology. Nevertheless, this case clearly demonstrates, that significant harm does, on occasion, occur.

The Lynch article also addresses the issue of potential harm to consumers from the perspective of a document developed by the Ontario Speech and Hearing Association (OSHA) describing risks

The Honorable Clinton T. Tanimura
Page 3
December 1, 1987

to the consumer which may occur from three sources in the service delivery process: risks from assessment and treatment, risks secondary to errors of omission and risks secondary to misdiagnosis. Each of the procedures identified in the OSHA report as entailing risk to the consumers can be substantiated. That there are no reports to date of harm resulting from these services is, perhaps, tribute to the high quality of training and standards of the speech pathology and audiology profession rather than lack of risk in the procedures themselves.

The legislative auditor's report correctly cited the results of the survey of 35 licensure boards in stating that the licensure violation most often mentioned involved individuals practicing without a license. Also cited in the auditor's report were the most frequent complaints against licensed individuals as being the employment of unqualified persons, false and misleading advertising and incompetent or unethical behavior. The auditor's report did not include explanatory information regarding these survey results which was also reported in the Lynch article.

For example, the North Carolina Board of Examiners for Speech Pathology and Audiology filed charges against a licensee for false and fraudulent advertising, falsification of treatment records, and overcharging patients and insurance carriers. The California Speech Pathology and Audiology Examining Committee reported two cases of licensees convicted of sexual misconduct including sexual molestation of children and female patients. One executive officer of a licensure board was quoted as follows, "We have had a number of cases involving licensed individuals causing harm. Without the cloak of licensure, there would be no means to assure that these individuals, once identified would not simply move to a new area and continue to do harm."

A case in Minnesota, a state without licensure, was reported in which an individual fraudulently obtained more than \$172,000 from Medicaid through false billing as a speech-language pathologist providing treatment of mentally retarded patients. The Lynch article quotes Attorney General Hubert Humphrey III as saying, "It was the largest billing fraud prosecuted by (his) Medicaid fraud strike force since it was organized in late 1983."

Based on the preceding data, the board cannot agree with the legislative auditor's findings that there is no evidence that the practice of speech pathology and audiology poses no potential harm to the public. The board requests that the legislative auditor's report be expanded to include a more comprehensive review of the issue of harm to the public.

Controls in the Private Sector

The legislative auditor's report states that the practice of SPA is adequately regulated through national certification (ASHA Certificate of Clinical Competence), employers and health insurance programs in the private sector. In fact, ASHA certification is a voluntary program. While it is true that many employees and health insurance programs at this time may require ASHA certification or its equivalent, there is no legal mandate that they do so. In fact, one of the trends nationally is a movement away from recognizing credentialing by private accreditation groups like ASHA (Lynch and Dublinske, 1985).

For example, according to Lynch and Dublinske (1985), the Joint Commission on Accreditation of Hospitals recently revised its Accreditation Manual for Hospitals and eliminated the reference to national certification boards (such as ASHA) as indicators that service providers are appropriately qualified. This being the case, a professional license will be the only assurance that the public will have services provided by qualified individuals.

White (1985) in an article on third party reimbursement reviewed the proposed revision of the conditions for hospital participation under Medicare and Medicaid. The proposed revision eliminates the reference to all national credentialing requirements. If the proposed revision is adopted, licensure would be the only credential that could ensure that practitioners have adequate education and clinical experience.

These examples illustrate the changes regarding credentialing that are occurring in the private sector. Clearly it is not at all certain that Hawaii will be able to rely on the private sector to regulate the practice of speech pathology and audiology in the future.

What of regulation in the public sector? The Sunset Evaluation Update does not address this issue, although records show that the great majority of the speech-language pathologists in Hawaii are employed by state agencies. Prior to enactment of Chapter 468E, HRS, ASHA recommended standards for education and clinical competence were available and widely used by private agencies in Hawaii. Yet despite the existence of recommended standards, records show that state agencies employed many speech pathologists and audiologists who did not meet the ASHA standards. In fact, even after enactment of Chapter 468E, HRS, in 1974, state agencies continued to hire individuals who could not meet the Hawaii licensure requirements! This practice was stopped in 1981 when the Chapter 468E, HRS, exemption for state and local employees was removed by the Legislature.

To its credit, the 1981 evaluation of the regulation of speech pathologists and audiologists by the legislative auditor recommended uniform regulation in both public and private sectors if licensure were continued.

In view of the information presented here, the board disagrees that the practice of speech pathology and audiology is adequately regulated through ASHA certification and private sector controls. The members also request that the auditor's review address the issue of public sector regulation.

Licensing Program

Board Unnecessary

The legislative auditor found that licensing requirements duplicate those of ASHA and that the function of validating documents could be handled by DCCA staff. Consequently, the board serves no meaningful function.

In response, the board reiterates that ASHA certification is a voluntary program. While ASHA encourages states to adopt the ASHA certification requirements for their licensure requirements, boards are under no obligation to do so. The Sunset Evaluation Update, is correct in stating that approximately 80% of the applicants for licensure hold ASHA Certification and that in these instances the board simply

validates documents. Approximately 20%, a significant percentage of the applicants, however, do not hold ASHA certification. It is the responsibility of the board to determine whether these applicants also meet state standards for professional practice. These decisions are not necessarily easy to make. For example, in requests for licensure by reciprocity, the board must determine whether licensure requirements in the applicant's state are equivalent to those in Hawaii. In other instances, the board must decide whether an applicant's education and experience are equivalent to a Master's degree. What qualifications must a clerk have in order to make such decisions?

It is important to recognize that the board has other responsibilities in addition to issuing licenses, notably, the development of rules by which Chapter 468E, HRS, is implemented. The development of rules is a serious, dynamic and continuous process. The Legislature, in creating the board wisely provided for representation of each of the groups -- consumers, physicians, and speech pathologists and audiologists -- affected by Chapter 468E, HRS. The Sunset Evaluation overlooks the major function of the board, that is, the opportunity for interested groups to participate in the implementation of a law which affects them very directly.

The board requests that the legislative auditor's report address the issue of representation in its final report.

Processing Applications

The Sunset Evaluation Update found the board to be slow in processing licenses. In fact, a committee composed of 3 board members routinely reviews applications between scheduled board meetings when notified by the executive secretary. The lag between the committee's review of the applications and notification to the individual that the application has been approved is approximately two weeks. Issuing of the actual license number and card is a DCCA function completely independent of the board. Nevertheless, all individuals whose application for license is approved, may practice as soon as the license number is issued -- usually within two weeks of the approval of the application.

The Honorable Clinton T. Tanimura
Page 7
December 1, 1987

The board and DCCA employ one procedure for the review of applications and granting of licenses regardless of whether or not an applicant holds ASHA certification. The board reviews applications within two weeks of being notified by the Executive Secretary. It often takes longer to review applications without the ASHA certificate because more documents must be examined and often additional information must be supplied by the applicant before action can occur. Essentially the same delays would occur if a clerk were processing the applications. In fact, delays could be longer and more frequent if the clerk found it necessary to locate and convene an ad hoc panel of experts to review an applicant's credentials.

The board requests that the Sunset Evaluation Update be revised to reflect the fact that applicants who receive licenses may work as soon as a license number is issued. For individuals holding ASHA certification, notification that the application has been approved is usually received within two weeks of the approval of the application.

Further, the board requests that the report clarify the functions of the board versus those of the DCCA in the licensing process in order to accurately reflect the sources of procedural delays.

Unnecessary Requirements

The board concurs with the legislative auditor's finding that the licensure requirement of "good moral character" should be removed.

Restrictions on Government Employees

The board concurs with the legislative auditor's findings regarding speech pathologists and audiologists who are "deemed in compliance" with chapter 468E, HRS.

Conclusions and Recommendations

The Sunset Evaluation Update concludes that there is no evidence of harm to consumers which justifies continued regulation of speech pathologists and audiologists. Or, should regulation continue, the report concludes that a board is unnecessary.

Based on its conclusions, the legislative auditor recommends that:

1. "Chapter 468E, Hawaii Revised Statutes, be allowed to expire as scheduled on December 31, 1988.
2. If the Legislature should decide to reenact Chapter 468E, HRS, it consider making the following amendments:

Abolish the licensing board and require speech pathologists and audiologists to register with the Department of Commerce and Consumer Affairs by presenting evidence of ASHA certification;

delete the requirement for good moral character; and

allow eligible local and state government practitioners to continue to practice without necessity of a written examination for as long as they remain in government service."

THE BOARD'S RESPONSE

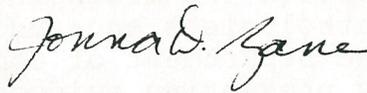
The board believes that the legislative auditor's conclusions are based on incomplete, or, as regards the processing of licenses, erroneous findings. If the auditor revises its findings to include the information submitted by the board the following conclusions are warranted:

1. The practice of speech pathology and audiology may pose significant harm to the public and therefore its practice should continue to be regulated by Chapter 468E, Hawaii Revised Statutes.
2. The licensing board should be continued as provided in the statute as it provides for representation of all interested parties in the implementation of Chapter 468E, Hawaii Revised Statutes.
3. The board is in agreement to delete the requirement for good moral character.

The Honorable Clinton T. Tanimura
Page 9
December 1, 1987

4. Point 3 of recommendation #2 of the Sunset Evaluation Update does not follow from the auditor's stated findings. There is no mention in the auditor's findings of employment of eligible state and local practitioners being contingent on written examination. This conclusion as stated should be deleted.

Sincerely,



JONNA D. ZANE
Chairman

JDZ:rh

ATTACHMENT 3

JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR
COMMISSIONER OF SECURITIES

SUSAN DOYLE
DEPUTY DIRECTOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
1010 RICHARDS STREET
P. O. BOX 541
HONOLULU, HAWAII 96809

December 1, 1987

RECEIVED

The Honorable Clinton T. Tanimura
Legislative Auditor
The Office of the Auditor
465 S. King Street, Room 500
Honolulu, HI 96813

DEC 3 10 08 AM '87
OFFICE OF THE AUDITOR
STATE OF HAWAII

Dear Mr. Tanimura:

Thank you for the opportunity to comment on the Sunset Evaluation Update relating to Speech Pathologists and Audiologists.

The Department supports the recommendation directed at it regarding review of the application and licensing procedures with the objective of reducing the time lag in the granting of licenses. What is within our control can be analyzed to meet the above objective.

Our review of the processing system now in place finds that while the individual may have to wait six to eight weeks to receive a license card, the individual receives much earlier notice (by letter) that it has been approved for licensure and is given its license number. This way the individual is allowed to commence practicing immediately without incurring hardship (financial or otherwise), since the individual has as an interim measure, proof of licensure from the Board. We can of course further review whether this interim measure can be issued out to the individual as soon as board approval is given.

We have also found that processing of an application for Board approval that is complete has taken about 6 weeks. Anything beyond that is usually due to problems with the application which the applicant must resolve. This then could lead to the time lag cited in your report. While six weeks may seem to be "slow" we find that with given resources this is adequate and fair.

The Honorable Clinton T. Tanimura
December 1, 1987
Page 2

Given the above we hope that you will recognize that our application processing time does not create "unnecessary financial hardships on these individuals." It is however, like any other procedure or process open for improvement.

Very truly yours,



ROBERT A. ALM
Director

APPENDIX B

DIGEST

A BILL FOR AN ACT RELATING TO SPEECH PATHOLOGISTS AND AUDIOLOGISTS

Extends expiration date of laws regulating speech pathologists and audiologists to December 31, 1994.

Amends such laws as follows:

- (1) Abolishes the licensing board and requires speech pathologists and audiologists to register with the Department of Commerce and Consumer Affairs by presenting evidence of ASHA certification;
- (2) Deletes the requirement for good moral character; and
- (3) Allows certain eligible county and state government practitioners to continue to practice without the necessity of ASHA certification for as long as they remain in any county or state government service.

A B I L L F O R A N A C T

RELATING TO SPEECH PATHOLOGISTS AND AUDIOLOGISTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

3 "§26H-4 Repeal dates. (a) The following chapters are
4 hereby repealed effective December 31, 1988:

5 (1) Chapter 465 (Board of Psychology)

6 [[2) Chapter 468E (Board of Speech Pathology and Audiology)

7 (3)] (2) Chapter 468K (Travel Agencies)

8 [[4)] (3) Chapter 373 (Commercial Employment Agencies)

9 [[5)] (4) Chapter 442 (Board of Chiropractic Examiners)

10 [[6)] (5) Chapter 448 (Board of Dental Examiners)

11 [[7)] (6) Chapter 436E (Board of Acupuncture)

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

14 (1) Chapter 444 (Contractors License Board)

15 (2) Chapter 448E (Board of Electricians and Plumbers)

1 (3) Chapter 464 (Board of Registration of Professional
2 Engineers, Architects, Surveyors and Landscape
3 Architects)

4 (4) Chapter 466 (Board of Public Accountancy)

5 (5) Chapter 467 (Real Estate Commission)

6 (6) Chapter 439 (Board of Cosmetology)

7 (7) Chapter 454 (Mortgage Brokers and Solicitors)

8 (8) Chapter 454D (Mortgage and Collection Servicing Agents)

9 (c) The following chapters are hereby repealed effective

10 December 31, 1990:

11 (1) Chapter 447 (Dental Hygienists)

12 (2) Chapter 453 (Board of Medical Examiners)

13 (3) Chapter 457 (Board of Nursing)

14 (4) Chapter 458 (Board of Dispensing Opticians)

15 (5) Chapter 460J (Pest Control Board)

16 (6) Chapter 462A (Pilotage)

17 (7) Chapter 438 (Board of Barbers)

18 (d) The following chapters are hereby repealed effective

19 December 31, 1991:

20 (1) Chapter 448H (Elevator Mechanics Licensing Board)

21 (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

22 (3) Chapter 457B (Board of Examiners of Nursing Home
23
24

Administrators)

(4) Chapter 460 (Board of Osteopathic Examiners)

(5) Chapter 461 (Board of Pharmacy)

(6) Chapter 461J (Board of Physical Therapy)

(7) Chapter 463E (Podiatry)

(e) The following chapters are hereby repealed effective
December 31, 1992:

(1) Chapter 437 (Motor Vehicle Industry Licensing Board)

(2) Chapter 437B (Motor Vehicle Repair Industry Board)

(3) Chapter 440 (Boxing Commission)

(f) The following chapters are hereby repealed effective
December 31, 1993:

(1) Chapter 441 (Cemetery and Funeral Trusts)

(2) Chapter 443B (Collection Agencies)

(3) Chapter 452 (Board of Massage)

(4) Chapter 455 (Board of Examiners in Naturopathy)

(5) Chapter 459 (Board of Examiners in Optometry)

(g) The following chapter is hereby repealed effective
December 31, 1994:

(1) Chapter 468E (Speech Pathology and Audiology)

[(g)] (h) The following chapters are hereby repealed
effective December 31, 1997:

1 (1) Chapter 463 (Board of Private Detectives and Guards)

2 (2) Chapter 471 (Board of Veterinary Examiners)."

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

5 "[[]§468E-1[[]] Purpose. It is the policy and the purpose
6 of this chapter to insure that [the highest quality of speech
7 pathology and audiology services are available to the people of
8 this State. The public health and welfare requires that persons
9 offering speech pathology and audiology services be in fact
10 qualified in such fields; that a public authority competent to
11 assess and prescribe the qualifications of speech pathologists
12 and audiologists be established and continued; that] only
13 qualified persons be allowed to practice in the fields of speech
14 pathology and audiology."

15 SECTION 3. Section 468E-2, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding a new definition to be appropriately inserted
18 and to read as follows:

19 "Department" means the department of commerce and consumer
20 affairs."

21 2. By deleting the definition "board".

22 ["Board" means the state board of speech pathology and
23
24

1 audiology, established under section 468E-6.]"

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

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

6 (1) A physician or surgeon from engaging in the practice
7 of medicine in this State; or

8 (2) A licensed hearing aid dealer from engaging in the
9 practices of fitting and selling hearing aids in this
10 State; or

11 (3) Any person licensed in this State by any other law
12 from engaging in the profession or occupation for
13 which the person is licensed; or

14 (4) Any person employed by any federal government agency
15 whose speech pathologist [and/or], or audiologist, or
16 both, must qualify for employment under government
17 certification or under civil service regulations but
18 only at those times when that person is carrying out
19 the functions of such governmental employment.

20 However, such person [may], without obtaining a
21 license under this chapter, may consult with or
22 disseminate the person's research findings and other
23
24

1 scientific information to speech pathologists and
2 audiologists outside the jurisdiction of the
3 organization by which the person is employed. Such
4 person may additionally elect to be subject to this
5 chapter; or

6 (5) The activities and services of persons pursuing a
7 course of study leading to a degree in speech
8 pathology at a college or university, if such
9 activities and services constitute a part of a
10 supervised course of study and such person is
11 designated "speech pathology intern," "speech
12 pathology trainee," or by other such titles clearly
13 indicating the training status appropriate to the
14 person's level of training; or

15 (6) The activities and services of a person pursuing a
16 course of study leading to a degree in audiology at a
17 college or university, if such activities and services
18 constitute a part of a supervised course of study and
19 such person is designated "audiology intern,"
20 "audiology trainee," or by any other such titles
21 clearly indicating the training status appropriate to
22 the person's level of training; or
23

1 (7) The activities and services of a person fulfilling the
2 clinical experience requirements or the clinical
3 fellowship year leading to the [American Speech and
4 Hearing Association] ASHA certificate of clinical
5 competence; or

6 (8) The performance of speech pathology or audiology
7 services in this State by any person not a resident of
8 this State who is not licensed under this chapter, if
9 such services are performed for no more than five days
10 in any calendar year and in cooperation with a speech
11 pathologist or audiologist licensed under this
12 chapter, and if such person meets the qualifications
13 and requirements for application for licensure
14 described in [paragraphs (1) to (3) of] section
15 468E-5. However, a person not a resident of this
16 State who is not licensed under this chapter, but who
17 is licensed under the law of another state which has
18 established licensure requirements at least equivalent
19 to those established by section 468E-5, or who is the
20 holder of the ASHA Certificate of Clinical Competence
21 in Speech Pathology or Audiology or its equivalent,
22 may offer speech pathology or audiology services in
23
24

1 this State for no more than thirty days in any
2 calendar year, if such services are performed in
3 cooperation with a speech pathologist or audiologist
4 licensed under this chapter."

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

7 "§468E-5 Eligibility for licensure. To be eligible for
8 licensure [by the board] as a speech pathologist or audiologist,
9 a person shall[:

- 10 (1) Be of good moral character;
11 (2) Possess at least a master's degree or its equivalent
12 in the area of speech pathology or audiology, as the
13 case may be, from an educational institution
14 recognized by the board;
15 (3) Submit to the board evidence of eligibility for
16 meeting the requirements of the American Speech and
17 Hearing Association for the certificate of clinical
18 competence in speech pathology and/or audiology;
19 (4) Pass a written examination approved by the board.]

20 submit to the department evidence that the person is a holder of
21 the ASHA Certificate of Clinical Competence in Speech Pathology,
22 or Audiology, or both."
23

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

3 "(a) [On and after January 1, 1975,] After December 31,
4 1988, no person shall engage in the practice of speech pathology
5 or audiology unless the person is licensed in accordance with
6 [the provisions of] this chapter or as otherwise provided in
7 this chapter.

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

12 (1) Any person engaged in the practice of speech pathology
13 or audiology on or before October 1, 1981, as an
14 employee of or under contract to a [local] county or
15 state government agency shall be deemed in compliance
16 with the licensure requirements without the necessity
17 of [the written examination] holding an ASHA
18 certificate and may continue to practice speech
19 pathology or audiology, as the case may be, [after
20 October 1, 1981, for the government agency] for as
21 long as the person remains continuously employed [from
22 such date by the] in any county or state government
23
24

1 agency for that purpose; [provided further that the]
2 and

3 (2) The records of the [board of speech pathology and
4 audiology] department shall distinguish between those
5 employees practicing speech pathology and audiology
6 who are licensed in accordance with [the provisions
7 of] this chapter, and those who are deemed to be in
8 compliance with the licensure requirements in
9 accordance with this subsection."

10 SECTION 7. Section 468E-9, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[[]§468E-9[[]] Application for [examination.] licensure.

13 (a) A person eligible for licensure under section 468E-5 and
14 desirous of licensure shall [make application for examination to
15 the board at least thirty days prior to the date of
16 examination,] register with the department upon a form and in
17 such a manner as the [board] department shall prescribe.

18 (b) Any application shall be accompanied by the fee
19 prescribed by section 468E-15, which fee shall in no case be
20 refunded.

21 [(c) A person who fails an examination may make
22 application for reexamination if the person again meets the
23
24

1 requirements of subsections (a) and (b) of this section.]"

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

4 "[[]§468E-11[]] Waiver of examination or parts thereof.

5 [(a) The board shall waive the requirements of paragraphs (2)
6 through (4) of section 468E-5 for applicants for licensure who,
7 on the effective date of this chapter, are actually engaged in
8 this State in the practice of speech pathology or audiology,
9 upon proof of bona fide practice presented to the board in a
10 manner prescribed by regulations promulgated by the board.

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

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

19 "[[]§468E-12[]] Issuance of license. The [board]
20 department shall issue a license to any person who meets the
21 requirements of this chapter and who pays to the [board]
22 department the initial license fee prescribed in section 468E-15
23
24

1 [of this chapter]."

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

4 "§468E-13 Disciplinary action. (a) The [board]
5 department may take disciplinary action against any licensee,
6 including but not limited to revocation, suspension, fine, or a
7 combination thereof, or refuse to issue or renew a license for
8 any of the following causes:

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

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

22 SECTION 11. Section 468E-14, Hawaii Revised Statutes, is
23
24

1 amended by amending subsection (b) to read as follows:

2 "(b) Every person licensed under this chapter [shall], on
3 or before December 31, 1975, and each odd-numbered year
4 thereafter, shall pay a fee for renewal of the person's license
5 to the [board.] department. The [board may,] department, in the
6 event payment of the renewal fee is rendered after December 31
7 of any odd-numbered year, may renew a license upon payment of
8 the renewal of license fee plus a late renewal payment penalty,
9 which penalty shall equal the amount prescribed by the [board]
10 department according to the authority vested in it by section
11 468E-15 [of this chapter], multiplied by the number of full
12 months which have elapsed since expiration of the license. No
13 person who requests renewal of license, whose license has
14 expired, shall be required to submit to examination as a
15 condition to renewal, if such renewal application is made within
16 two years from the date of such expiration."

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

19 "§468E-15 Fees. (a) The director of commerce and
20 consumer affairs shall prescribe fees by rules adopted [pursuant
21 to] under chapter 91 for the following purposes:

- 22 (1) Application for license;

1 (2) Initial licensing;

2 (3) Renewal of licensing; and

3 (4) Late renewal payment monthly penalty.

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

12 (c) All fees received by the [board] department and moneys
13 collected under this chapter shall be deposited by the director
14 of commerce and consumer affairs with the director of finance to
15 the credit of the general fund."

16 SECTION 13. Section 468E-6, Hawaii Revised Statutes, is
17 repealed.

18 ["§468E-6 Board of speech pathology and audiology. (a)
19 There is hereby established within the department of commerce
20 and consumer affairs a state board of speech pathology and
21 audiology consisting of seven members who shall be appointed by
22 the governor in a manner prescribed in section 26-34.
23
24

1 (b) The membership of the board shall include two speech
2 pathologists, two audiologists, and three public members, one of
3 whom shall be licensed to practice medicine in the State and
4 hold a certificate of qualification from the American Board of
5 Otorhinolaryngology. For purposes of the initial appointments
6 to the board, the original speech pathologists and audiologists
7 appointed shall meet all requirements of section 468E-5 except
8 those relating to examination. Subsequent appointees shall be
9 fully licensed speech pathologists or audiologists.

10 All members of the board shall be residents of the State.

11 (c) Members shall serve for a term of three years. Terms
12 shall begin on the first day of the fiscal year and end on the
13 last day of the fiscal year.

14 (d) The board shall meet during the first month of each
15 fiscal year to select a chairman and for other appropriate
16 purposes. At least one additional meeting shall be held before
17 the end of each fiscal year. Further meetings may be convened
18 at the call of the chairman or the written request of any two
19 board members. The board shall conduct its meetings and keep
20 records of its proceedings in accordance with the provisions of
21 chapter 92.

22 (e) Members of the board shall not receive any
23
24

1 compensation for performance of the duties imposed upon them by
2 this chapter, but shall be entitled to necessary traveling
3 expenses.

4 (f) The director of commerce and consumer affairs shall
5 employ clerks, proctors, examiners and other personnel under the
6 provisions of chapters 76 and 77 to assist the board in the
7 performance of its duties.

8 (g) Four members of the board shall constitute a quorum
9 for all purposes, but in no instance shall a meeting of the two
10 speech pathologist members and two audiologist members alone be
11 considered a quorum."]

12 SECTION 14. Section 468E-7, Hawaii Revised Statutes, is
13 repealed.

14 ["[§468E-7] Functions and powers of the board. (a) The
15 board shall, in accordance with the provisions of chapters 91
16 and 92, administer, coordinate, and enforce the provisions of
17 this chapter.

18 (b) The board shall, in accordance with the provisions of
19 chapter 91, adopt rules and regulations relating to professional
20 conduct to effectuate the policy of this chapter, including but
21 not limited to regulations which establish ethical standards of
22 practice, and for other purposes, and may amend or repeal the
23

1 same."]

2 SECTION 15. Section 468E-10, Hawaii Revised Statutes, is
3 repealed.

4 ["[§468E-10] Examination for license. (a) Each applicant
5 for licensure under this chapter shall take a written
6 examination in accordance with procedures prescribed by the
7 board. Standards for acceptable performance shall be
8 established by the board.

9 (b) Applicants for licensure shall be examined at a time
10 and place and under such supervision as the board may determine.

11 (c) The board may examine in whatever theoretical or
12 applied fields of speech pathology or audiology it considers
13 appropriate and may examine with regard to a person's
14 professional skills and judgment in the utilization of speech
15 pathology or audiology techniques and methods.

16 (d) The board shall maintain a permanent record of all
17 examination scores."]

18 SECTION 16. Statutory material to be repealed is
19 bracketed. New statutory material is underscored.

20 SECTION 17. This Act shall take effect upon its approval;
21 provided that this Act shall not affect any rights or duties
22
23
24

1 that matured, penalties that were incurred, or proceedings that
2 were begun before its effective date.

3
4 INTRODUCED BY: _____
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24