

1 House BILL NO. 154  
2 INTRODUCED BY Boulanger, Mervin Bradley

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
5 LICENSING AND REGULATIONS OF PERSONS IN MONTANA REPRESENTING  
6 THEMSELVES AS SPEECH PATHOLOGISTS, AUDIOLOGISTS, SPEECH  
7 PATHOLOGY OR AUDIOLOGY AIDES, AND PROVISIONALLY CERTIFIED  
8 SPEECH PATHOLOGISTS OR AUDIOLOGISTS, AND CREATING A BOARD OF  
9 SPEECH PATHOLOGY AND AUDIOLOGY, PRESCRIBING ITS POWERS AND  
10 DUTIES; PROVIDING PENALTIES FOR VIOLATIONS; AND AMENDING  
11 SECTION 93-701-4, R.C.M. 1947."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Purpose. The legislature of the state of  
15 Montana declares it to be a policy of this state that in  
16 order to safeguard the public health, safety, and welfare,  
17 and to protect the public from being misled by incompetent,  
18 unscrupulous, and unauthorized persons, and to protect the  
19 public from unprofessional conduct by qualified speech  
20 pathologists and audiologists, and to help assure the  
21 availability of the highest possible quality speech  
22 pathology and audiology services to the communicatively  
23 handicapped people of this state, it is necessary to provide  
24 regulatory authority over persons offering speech pathology  
25 or audiology services to the public.

1 Section 2. Definitions. As used in this act:

2 (1) "Board" means the board of speech pathologists and  
3 audiologists.

4 (2) "Department" means the department of professional  
5 and occupational licensing.

6 (3) "Speech pathologist" means one who practices  
7 speech pathology and who presents himself to the public by  
8 any title or description of services incorporating the words  
9 "speech pathologist", "speech correctionist", "speech  
10 therapist", "speech clinician", "language pathologist",  
11 "language therapist", "language clinician", or any similar  
12 title or description of services.

13 (4) "Speech pathology aide" means any person meeting  
14 the minimum requirements established by the board of speech  
15 pathology and audiology who works directly under the  
16 supervision of a licensed speech pathologist.

17 (5) "Audiologist" means a person who practices  
18 audiology and who presents himself to the public by any  
19 title or description of services incorporating the words  
20 "audiologist", "hearing clinician", "hearing therapist", or  
21 any similar title or description of service.

22 (6) "Audiology aide" means any person, meeting the  
23 minimum requirements established by the board of speech  
24 pathology and audiology who works directly under the  
25 supervision of a licensed audiologist.

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1 (7) "Practice of speech pathology" means the  
 2 application of principles, methods and procedures for the  
 3 measurement, testing, evaluation, prediction, counseling or  
 4 instruction related to the development and disorders of  
 5 speech, voice, or language for the purpose of evaluation,  
 6 preventing, habilitating, rehabilitating, or modifying such  
 7 disorders and conditions in individuals or groups of  
 8 individuals.

9 (8) "Practice of audiology" means the application of  
 10 principles, methods and procedures of measurement, testing,  
 11 appraisal, prediction, consultation, counseling, and  
 12 instruction related to hearing and hearing impairment for  
 13 the purpose of modifying communicative disorders involving  
 14 speech, language, auditory function, including auditory  
 15 behavior related to hearing impairment.

16 (9) "Association" means the Montana speech and hearing  
 17 association.

18 (10) "ASHA" means the American Speech and Hearing  
 19 Association.

20 (11) "Unethical conduct" means:

21 (a) the obtaining of any fee by fraud or  
 22 misrepresentation;

23 (b) employing directly or indirectly any suspended or  
 24 unlicensed person to perform any work covered by this act  
 25 unless that person assumes the legal status of a supervised

1 aide;

2 (c) using or causing or promoting the use of any  
 3 advertising matter, promotional literature, testimonial,  
 4 guarantee, warranty, label, brand, insignia, or any other  
 5 representation, however disseminated or published, which is  
 6 misleading, deceiving, improbable or untruthful.

7 (12) "Provisionally licensed speech pathologist or  
 8 audiologist" means those speech pathologists or audiologists  
 9 who are currently practicing the profession in the state of  
 10 Montana, who do not meet the minimum requirements for  
 11 licensure as defined in this act and who are eligible for  
 12 provisional licensure conditioned on biennial evidence of  
 13 satisfactory progress towards meeting the requirements for  
 14 licensure as provided in this act. This provisional  
 15 licensure, as defined in this act, shall exist for no longer  
 16 than six (6) years from the date of enactment of this act  
 17 under any circumstance.

18 Section 3. License required. (1) A license shall be  
 19 issued to qualified persons either in speech pathology or  
 20 audiology. A person may be licensed in both areas if he  
 21 meets the respective qualifications and in such instances  
 22 the license fee shall be as though for one (1) license.

23 (2) No person may practice or represent himself as a  
 24 speech pathologist or audiologist in this state unless he is  
 25 licensed in accordance with the provisions of this act.

1 Section 4. License requirements to practice speech  
2 pathology or audiology -- exempt activities. (1) Nothing  
3 in this act shall prevent a person licensed in this state  
4 under any other law from engaging in the profession or  
5 business for which he is licensed.

6 (2) Nothing in this act shall restrict or prevent  
7 activities of a speech pathology or audiology nature or the  
8 use of the official title of the position for which they  
9 were employed on the part of a speech pathologist or  
10 audiologist employed by federal agencies.

11 (3) Those persons performing activities described in  
12 subsection (2) of this section who are not licensed under  
13 this act must do so solely within the confines of or under  
14 the jurisdiction of the organization in which they are  
15 employed and shall not offer speech pathology or audiology  
16 services to the public for compensation over and above the  
17 salary they receive for performance of their official duties  
18 with organizations by which they are employed. However,  
19 without obtaining a license under this act, such persons may  
20 consult or disseminate their research findings and  
21 scientific information to other such accredited academic  
22 institutions or governmental agencies. They also may offer  
23 lectures to the public for a fee without being licensed  
24 under this act.

25 (4) Nothing in this act shall restrict activities and

1 services of a student in speech pathology or audiology from  
2 pursuing a course of study in speech pathology or audiology  
3 at an accredited or approved college or university or an  
4 approved clinical training facility. However, these  
5 activities and services must constitute a part of his  
6 supervised course of study and no fee shall accrue directly  
7 or indirectly to the student. These persons shall be  
8 designated by the title "speech pathology or audiology  
9 intern", "speech pathology or audiology trainee" or a title  
10 clearly indicating the training status appropriate to his  
11 level of training.

12 (5) Nothing in this act shall restrict a person from  
13 another state from offering speech pathology or audiology  
14 services in this state if such services are performed for no  
15 more than five (5) days in any calendar year and if the  
16 services are performed in cooperation with a speech  
17 pathologist or audiologist licensed under this act. However  
18 a person not a resident of this state who is not licensed  
19 under this act but who is licensed under the law of another  
20 state which has established licensure requirements at least  
21 equivalent to those established by this act, or who is the  
22 holder of the ASHA certificate of clinical competency in  
23 speech pathology or audiology or its equivalent, may offer  
24 speech pathology or audiology services in this state for no  
25 more than thirty (30) days in any calendar year, if such

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1 services are performed in cooperation with a speech  
2 pathologist or audiologist licensed under this act and by  
3 securing a temporary license from the board subject to such  
4 limitations as the board may impose.

5 (6) Nothing in this act shall restrict any person  
6 holding a Class A certificate issued by the conference of  
7 executives of American schools of the deaf from performing  
8 the functions for which he qualifies.

9 (7) Nothing in this act shall restrict any person who  
10 holds a certificate of registration in this state as a  
11 hearing aid dealer from performing those functions for which  
12 he qualifies and which are described in Title 66, chapter  
13 30.

14 Section 5. There is a new R.C.M. section numbered  
15 82A-1602.28 that reads as follows:

16 82A-1602.28. Board of speech pathologists and  
17 audiologists -- appointment -- qualifications.

18 (1) There is a board of speech pathologists and  
19 audiologists.

20 (2) The board consists of five (5) members who shall:

21 (a) be appointed by the governor from names submitted  
22 to him by the association;

23 (b) have been residents of this state for at least one  
24 (1) year immediately preceding their appointment; and

25 (c) have been engaged in rendering services to the

1 public, teaching, or performing research in the field of  
2 speech pathology or audiology for at least five (5) years  
3 immediately preceding their appointment.

4 (3) At least two (2) members of the board shall be  
5 speech pathologists and at least two (2) shall be  
6 audiologists, with the remaining member to be either. All  
7 board members shall at all times be validly licensed in  
8 speech pathology or audiology, except for the five (5)  
9 members first appointed, who shall also fulfill the  
10 licensure requirements of this act and in addition hold the  
11 ASHA certificate of clinical competence in speech pathology  
12 or audiology or its equivalent.

13 (4) Within thirty (30) days following the effective  
14 date of this act the association shall recommend at least  
15 three (3) and no more than five (5) persons for each of the  
16 five (5) board positions created by subsection (2) of this  
17 section. Not less than sixty (60) days before the end of  
18 the board's first full calendar year of existence and,  
19 thereafter, not less than sixty (60) days before the end of  
20 each calendar year, the association shall recommend at least  
21 three (3) and not more than five (5) persons for each  
22 vacancy occurring at the end of the calendar year. In the  
23 event of a vacancy for an unexpired term, the association  
24 shall expeditiously recommend at least two (2) and not more  
25 than three (3) persons to fill the vacancy and the governor

1 shall appoint one of those persons to fill the unexpired  
2 term.

3 (5) The governor shall, within sixty (60) days after  
4 the effective date of this act, appoint one (1) board member  
5 for a term of one (1) year; two (2) for a term of two (2)  
6 years; and two (2) for a term of three (3) years.  
7 Appointments made thereafter shall be for three (3) year  
8 terms with no person eligible to serve more than two (2)  
9 full consecutive terms. Terms begin on the first day of the  
10 calendar year and end on the last day of the calendar year,  
11 except for the first appointed members who shall serve  
12 through the last calendar day of the year in which they are  
13 appointed before commencing the terms defined in this  
14 section.

15 Section 6. Function of the board and department.

16 (1) The board shall meet at least once every year at a  
17 place, day and hour determined by the board. The board  
18 shall also meet at other times and places as the by-laws of  
19 the board may provide or by call of the chairman or a  
20 majority of the members of the board. A quorum of the board  
21 shall consist of the majority of its members, but in no  
22 instance shall a meeting of three (3) board members who are  
23 exclusively speech pathologists or exclusively audiologists  
24 be considered a quorum.

25 (2) Each board member shall receive actual and

1 necessary expenses incidental to board meetings and  
2 business. Mileage shall be as provided in section 59-801.

3 (3) The department may employ persons it deems  
4 necessary to carry out the provisions of this act.

5 (4) All meetings of the board for the consideration of  
6 and action on matters coming before the board are open to  
7 the public, except:

8 (a) matters involving the management of internal  
9 affairs of the board may be considered and acted upon by the  
10 board in executive meetings under rules prescribed by the  
11 board;

12 (b) sessions to prepare, approve, grade or administer  
13 examinations;

14 (c) upon request of a person who has failed the  
15 licensing examinations and who is appearing to appeal the  
16 failure.

17 (5) The board may make all rules which are reasonable  
18 or necessary for the proper performance of its duties and  
19 for the regulation of proceedings before it.

20 (6) The department shall prepare a report to the  
21 governor as required by law.

22 (7) The board shall:

23 (a) administer, coordinate and enforce the provisions  
24 of this act;

25 (b) evaluate the qualifications of each applicant for

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1 a license as issued under this act and supervise the  
2 examination of such applicants;

3 (c) investigate persons engaging in practices which  
4 allegedly violate the provisions of this act;

5 (d) conduct hearings and keep records and minutes as  
6 the board considers necessary to an orderly dispatch of  
7 business;

8 (e) adopt rules including but not limited to those  
9 governing ethical standards of practice under this act;

10 (f) make recommendations to the governor and other  
11 state officials regarding new and revised programs and  
12 legislation related to speech pathology or audiology which  
13 could be beneficial to the citizens of the state of Montana;

14 (g) cause the prosecution and enjoinder of all persons  
15 violating this act, by the complaints of its secretary filed  
16 with the county attorney, in the county where the violation  
17 took place, and incur necessary expenses therefor;

18 (h) adopt a seal by which the board shall authenticate  
19 its proceedings. Copies of the proceedings, records, and  
20 acts of the board, signed by the chairman or secretary of  
21 the board and stamped with the seal shall be prima facie  
22 evidence of the validity of such documents.

23 Section 7. Qualifications and requirements for  
24 licensure. To be eligible for licensing by the board as a  
25 speech pathologist or audiologist, the applicant must:

1 (1) Meet the current academic, supervised clinical  
2 practicum and post classroom sponsored employment  
3 requirements of the ASHA.

4 (2) Pass an examination approved by the board. The  
5 board shall determine the subject and scope of the  
6 examination. Written examinations may be supplemented by  
7 such oral examinations as the board shall determine. An  
8 applicant who fails his examination may be re-examined at a  
9 subsequent examination upon payment of another licensing  
10 fee. An applicant who fails two successive examinations may  
11 apply for re-examination after two years of additional  
12 professional experience or training.

13 Section 8. Licensure issuance -- expiration --  
14 renewal. (1) The board shall grant a license to each  
15 person who meets the requirements for licensure as  
16 prescribed in this act, and the department shall issue the  
17 license.

18 (2) The license shall include the dates of issuance  
19 and expiration, and shall bear a serial number.

20 (3) The license shall be signed by the secretary of  
21 the board under the seal of the board.

22 (4) The department shall notify each person licensed  
23 under this act relative to the date of expiration of his  
24 license and the amount of the renewal fee. This notice shall  
25 be mailed to each licensed speech pathologist or audiologist

1 at least one (1) month before the expiration of the license.

2 (5) Renewal may be made at any time during the sixty  
3 (60) days prior to the expiration date by application  
4 therefor.

5 (6) Failure on the part of any licensed person to pay  
6 the renewal fee by the expiration date does not deprive him  
7 of the right to renew his license, but the fee shall be  
8 increased ten percent (10%) for each month that the payment  
9 of the renewal fee is delayed after the expiration date.  
10 The maximum fee for delayed renewal shall not exceed twice  
11 the normal renewal fee.

12 (7) Application for renewal following a lapse of one  
13 (1) year or more shall be subject to review by the board,  
14 and the applicant may be requested to complete an  
15 examination successfully if the board so determines.

16 (8) Each year the department shall publish a list of  
17 all persons licensed under the act containing their names  
18 and addresses and such other information as the board  
19 considers advisable. The department shall mail a copy of  
20 this list to each person licensed under this act, place a  
21 copy on file in the secretary of state's office, and furnish  
22 copies to the public upon request.

23 (9) The board shall develop standards and methods of  
24 documentation and establish procedures for causing  
25 individuals who have been licensed to demonstrate continued

1 education before renewing any license more than twice.

2 Section 9. Qualifications and requirements for  
3 licensure -- reciprocity and waiver. (1) Application for  
4 examination for licensing a speech pathologist or  
5 audiologist shall be made upon forms prescribed by the  
6 board.

7 (2) Prior to July 1, 1976, the board shall license as  
8 a speech pathologist or audiologist any person who pays the  
9 prescribed fee, and who submits an affidavit that he meets  
10 the current academic, supervised clinical practicum and post  
11 classroom sponsored employment requirements of the ASHA.

12 (3) Prior to July 1, 1976, a provisional license may  
13 be issued to an individual who holds a bachelor's degree  
14 with a major in speech pathology or audiology, who has  
15 accumulated one hundred seventy-five (175) clock hours of  
16 clinical practicum, and who has worked in this state as a  
17 speech pathologist or audiologist for at least one (1)  
18 academic year. The provisionally-licensed speech  
19 pathologist or audiologist must work under the direct  
20 supervision of a licensed or certified speech pathologist or  
21 audiologist. The extent to which direct supervision will be  
22 provided for the provisionally-licensed speech pathologist  
23 or audiologist will be determined by the supervising  
24 clinician. Generally, the supervising speech pathologist or  
25 audiologist shall provide direct assistance to the

1 provisionally-licensed speech pathologist or audiologist at  
 2 least four (4) days per month. Most of the contacts by the  
 3 supervising speech pathologist or audiologist shall be in  
 4 person, but other avenues of contact may be made. Those  
 5 persons granted provisional licensure shall complete the  
 6 academic, clinical practicum and examination requirements  
 7 for licensure within six (6) years after the effective date  
 8 of this act. Twelve (12) quarter-hour credits of additional  
 9 professional training towards licensure qualifications or  
 10 any other proposed educational plan that leads to the same  
 11 goal as presented to and approved by the board, must be  
 12 obtained every two (2) years for renewal of provisional  
 13 licensure. Provisionally-licensed speech pathologists or  
 14 audiologists who have not attained appropriate eligibility  
 15 status within six (6) years of the date of enactment, will  
 16 no longer be eligible to practice speech pathology or  
 17 audiology in the state of Montana, except for those persons  
 18 granted certification under subsection (8) of this section,  
 19 but may work as a speech pathology or audiology aide as  
 20 defined in this act.

21 (4) After July 1, 1976, all applicants must meet all  
 22 the requirements set forth in this act.

23 (5) The board may waive the examination described in  
 24 this act for those qualified applicants who, on the  
 25 effective date of this act, are actively engaged in the

1 practice of speech pathology or audiology in this state,  
 2 providing that they file a license application within one  
 3 (1) year of the effective date of this act.

4 (6) The board shall waive the examination and grant a  
 5 license to applicants who present proof of a current license  
 6 in a state which has standards equivalent to or greater than  
 7 those of this state.

8 (7) The board shall waive the examination and grant a  
 9 license to those who hold the certificate of clinical  
 10 competence of the American Speech and Hearing Association in  
 11 the area for which they are applying for a license.

12 (8) The board shall, on presentation and documentation  
 13 in writing by a petitioner have the prerogative of granting  
 14 licensure to an individual who does not have all the formal  
 15 requirements specified in this act. This prerogative shall  
 16 be used only for unusual or special circumstances and shall  
 17 be determined by the board in each individual case.

18 Section 10. Examination. (1) Except as otherwise  
 19 provided in this act, an applicant shall be examined for  
 20 speech pathology or audiology by the board, and shall pay to  
 21 the board, at least thirty (30) days prior to the date of  
 22 the examination, the examination fee for each examination as  
 23 prescribed by this act.

24 (2) The board shall examine by written examination  
 25 given at least twice a year at a time and place and under



1 such supervision as the board may determine. In addition an  
2 oral examination may be required by the board. Standards  
3 for acceptable performance shall be determined by the board.

4 (3) The board may waive the written examination for  
5 certification if the applicant has successfully passed the  
6 National Examination in Speech Pathology or Audiology.

7 (4) The board may examine or direct the applicant to  
8 be examined for knowledge in whatever theoretical or applied  
9 fields of speech pathology or audiology as it considers  
10 appropriate. It may also examine the candidate with regard  
11 to his professional skills and his judgement in the  
12 utilization of speech pathology or audiology techniques and  
13 methods.

14 (5) The department shall maintain a permanent record  
15 of all examination scores.

16 (6) The board shall keep an accurate transcript of the  
17 oral examination if any. Transcripts of oral examinations  
18 shall be retained by the board for at least one (1) year  
19 following the date of examination.

20 (7) A speech pathologist or audiologist who holds ASHA  
21 certification or equivalent or is licensed in another state  
22 and who has made application to the board for a license in  
23 this state, may perform activities and services of a speech  
24 pathology or audiology nature without a valid license  
25 pending disposition of application.

1 Section 11. Licensing. (1) The amount of fees  
2 prescribed in connection with a license as a speech  
3 pathologist or audiologist shall be as follows, the exact  
4 fee to be determined by the board each year based on costs  
5 and predicted expenditures:

6 (a) application and examination fee for a license, no  
7 less than \$50 nor more than \$100;

8 (b) license fee, and renewal thereof, no less than \$25  
9 nor more than \$100.

10 (2) All moneys received by the department shall be  
11 deposited in the state treasury to the credit of the  
12 earmarked revenue fund for the use of the board and subject  
13 to section 82A-1603(6).

14 (3) Each licensed speech pathologist or audiologist  
15 shall on or before July 31 of the year of expiration of his  
16 license pay to the board the fee for the renewal of his  
17 license.

18 (4) Renewal will be every two years beginning on July  
19 1 of the appropriate year.

20 (5) A suspended license is subject to expiration and  
21 may be renewed as provided in this section, but such renewal  
22 does not entitle the licensee while the license remains  
23 suspended to engage in the licensed activity, or in any  
24 other activity or conduct which violates the order or  
25 judgment by which the license was suspended.

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1 (6) A license revoked on disciplinary grounds is  
 2 subject to expiration, and it may not be renewed. If it is  
 3 reinstated after its expiration, the licensee, as a  
 4 condition of reinstatement, shall pay a reinstatement fee in  
 5 an amount equal to the renewal fee in effect on the last  
 6 preceding regular renewal date before the date on which it  
 7 is reinstated, plus the delinquency fee, if any, accrued at  
 8 the time of its revocation.

9 (7) A person who fails to renew his license within the  
 10 four (4) years after its expiration may not renew it, and it  
 11 may not be restored, reissued or reinstated thereafter; but  
 12 such a person may reapply for and obtain a new license if he  
 13 meets the requirements of the act.

14 (8) No license tax shall be imposed upon speech  
 15 pathologists or audiologists by a municipality or any other  
 16 subdivision of the state.

17 Section 12. Powers of board over licensees --  
 18 unprofessional conduct defined. (1) The board may refuse  
 19 to issue or renew a license, or may suspend or revoke the  
 20 license of any licensee if he has been guilty of  
 21 unprofessional conduct which has endangered or is likely to  
 22 endanger the health, welfare, or safety of the public. Such  
 23 unprofessional conduct includes, but is not limited to:

24 (a) obtaining a license by means of fraud,  
 25 misrepresentation, or concealment of material facts;

1 (b) being found guilty of unprofessional conduct, or  
 2 having violated ethical standards of practice established  
 3 pursuant to this act;

4 (c) violating any lawful order or rule of the board;  
 5 (d) violating any provision of this act.

6 (2) Denial, suspension or revocation of a license is  
 7 permissible only after a hearing and procedures which comply  
 8 with all applicable requirements of the Montana  
 9 Administrative Procedure Act.

10 (3) One year after denial, suspension, or revocation  
 11 of a license, a person may reapply for a license. The board  
 12 may in its discretion require an examination for  
 13 reinstatement.

14 (4) Where an applicant or licensee has been convicted  
 15 of a felony or a crime involving moral turpitude, the board  
 16 may suspend or revoke his license, or may decline to issue a  
 17 license when:

18 (a) the time for appeal has elapsed;

19 (b) the judgment of conviction has been affirmed on  
 20 appeal;

21 (c) an order granting probation is made suspending the  
 22 imposition of sentence.

23 Section 13. Penalty. A person convicted of violating  
 24 this act shall be fined not to exceed five hundred dollars  
 25 (\$500) or be imprisoned in the county jail for any term not

1 to exceed six (6) months, or both.

2 Section 14. Injunction of unlawful practice --  
3 restrictions on scope of practice. The practice of speech  
4 pathology or audiology in any way other than as defined in  
5 this act may be enjoined by the district court on petition  
6 by the board.

7 Section 15. Section 93-701-4, R.C.M. 1947, is amended  
8 to read as follows:

9 "93-701-4. Persons in certain relations cannot be  
10 examined. There are particular relations in which it is the  
11 policy of the law to encourage confidence and to preserve it  
12 inviolate; therefore, a person cannot be examined as a  
13 witness in the following cases:

14 1. A husband cannot be examined for or against his wife  
15 without her consent; nor a wife for or against her husband  
16 without his consent; nor can either, during the marriage or  
17 afterward, be, without the consent of the other, examined as  
18 to any communication made by one to the other during the  
19 marriage; but this exception does not apply to a civil  
20 action or proceeding by one against the other, nor to a  
21 criminal action or proceeding for a crime committed by one  
22 against the other.

23 2. An attorney cannot, without the consent of his  
24 client, be examined as to any communication made by the  
25 client to him, or his advice given thereon in the course of

1 professional employment.

2 3. A clergyman or priest cannot, without the consent of  
3 the person making the confession, be examined as to any  
4 confession made to him in his professional character in the  
5 course of discipline enjoined by the church to which he  
6 belongs.

7 4. A licensed physician or surgeon cannot, without the  
8 consent of his patient, be examined in a civil action as to  
9 any information acquired in attending the patient, which was  
10 necessary to enable him to prescribe or act for the patient.

11 5. A public officer cannot be examined as to  
12 communications made to him in official confidence, when the  
13 public interests would suffer by the disclosure.

14 6. Any person engaged in teaching psychology in any  
15 school, or who acting as such is engaged in the study and  
16 observation of child mentality, shall not without the  
17 consent of the parent or guardian of such child being so  
18 taught or observed testify in any civil action as to any  
19 information so obtained.

20 7. A counselor, psychologist, nurse, or teacher,  
21 employed by any educational institution, cannot be examined  
22 as to communications made to him in confidence by a duly  
23 registered student of such institution, provided however,  
24 that this provision shall not apply where consent has been  
25 given by the student, if not a minor, or if he is a minor,

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1 by the student and his parent or legal guardian.

2 8. A publisher, editor, reporter or other person  
3 connected with or employed upon a newspaper, or by a press  
4 association or wire service, or any person who has been so  
5 connected or employed, cannot without his consent be  
6 examined as to any communication made to him in confidence  
7 for the purpose of proper publication nor shall he be  
8 adjudged in contempt by a court, the legislature or any  
9 administrative body for refusing to disclose the source of  
10 any information procured while so connected or employed for  
11 publication and published in a newspaper.

12 Nor can a radio or television news reporter or other  
13 person connected with or employed by a radio or television  
14 station, or any person who has been so connected or  
15 employed, without his consent be examined as to any  
16 communication made to him in confidence for the purpose of  
17 proper publication nor shall he be so adjudged in contempt  
18 for refusing to disclose the source of any information  
19 procured while so connected or employed for news or news  
20 commentary purposes on radio or television.

21 9. A speech pathologist or audiologist cannot, without  
22 the consent of his client, be examined as to any  
23 communication made by the client to him."

-End-

Approved by Committee  
on Public Health, Welfare  
& Safety

HOUSE BILL NO. 154

INTRODUCED BY BARDANOUVE, MERCER, BRADLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSING AND REGULATIONS OF PERSONS IN MONTANA REPRESENTING THEMSELVES AS SPEECH PATHOLOGISTS, AUDIOLOGISTS, SPEECH PATHOLOGY OR AUDIOLOGY AIDES, AND PROVISIONALLY CERTIFIED SPEECH PATHOLOGISTS OR AUDIOLOGISTS, AND CREATING A BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY, PRESCRIBING ITS POWERS AND DUTIES; PROVIDING PENALTIES FOR VIOLATIONS; AND AMENDING SECTION 93-701-4, R.C.M. 1947."

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

Section 1. Purpose. The legislature of the state of Montana declares it to be a policy of this state that in order to safeguard the public health, safety, and welfare, and to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons, and to protect the public from unprofessional conduct by qualified speech pathologists and audiologists, and to help assure the availability of the highest possible quality speech pathology and audiology services to the communicatively handicapped people of this state, it is necessary to provide regulatory authority over persons offering speech pathology or audiology services to the public.

Section 2. Definitions. As used in this act:

(1) "Board" means the board of speech pathologists and audiologists.

(2) "Department" means the department of professional and occupational licensing.

(3) "Speech pathologist" means one who practices speech pathology and who presents himself to the public by any title or description of services incorporating the words "speech pathologist", "speech correctionist", "speech therapist", "speech clinician", "language pathologist", "language therapist", "language clinician", or any similar title or description of services.

(4) "Speech pathology aide" means any person meeting the minimum requirements established by the board of speech pathology and audiology who works directly under the supervision of a licensed speech pathologist.

(5) "Audiologist" means a person who practices audiology and who presents himself to the public by any title or description of services incorporating the words "audiologist", "hearing clinician", "hearing therapist", or any similar title or description of service.

(6) "Audiology aide" means any person, meeting the minimum requirements established by the board of speech pathology and audiology who works directly under the supervision of a licensed audiologist.

1 (7) "Practice of speech pathology" means the  
 2 application of principles, methods and procedures for the  
 3 measurement, testing, evaluation, prediction, counseling or  
 4 instruction related to the development and disorders of  
 5 speech, voice, or language for the purpose of evaluation,  
 6 preventing, habilitating, rehabilitating, or modifying such  
 7 disorders and conditions in individuals or groups of  
 8 individuals.

9 (8) "Practice of audiology" means the application of  
 10 principles, methods and procedures of measurement, testing,  
 11 appraisal, prediction, consultation, counseling, and  
 12 instruction related to hearing and hearing impairment for  
 13 the purpose of modifying communicative disorders involving  
 14 speech, language, auditory function, including auditory  
 15 behavior related to hearing impairment.

16 (9) "Association" means the Montana speech and hearing  
 17 association.

18 (10) "ASHA" means the American Speech and Hearing  
 19 Association.

20 (11) "Unethical conduct" means:

21 (a) the obtaining of any fee by fraud or  
 22 misrepresentation;

23 (b) employing directly or indirectly any suspended or  
 24 unlicensed person to perform any work covered by this act  
 25 unless that person assumes the legal status of a supervised

1 aide;

2 (c) using or causing or promoting the use of any  
 3 advertising matter, promotional literature, testimonial,  
 4 guarantee, warranty, label, brand, insignia, or any other  
 5 representation, however disseminated or published, which is  
 6 misleading, deceiving, improbable or untruthful.

7 (12) "Provisionally licensed speech pathologist or  
 8 audiologist" means those speech pathologists or audiologists  
 9 who are currently practicing the profession in the state of  
 10 Montana, who do not meet the minimum requirements for  
 11 licensure as defined in this act and who are eligible for  
 12 provisional licensure conditioned on biennial evidence of  
 13 satisfactory progress towards meeting the requirements for  
 14 licensure as provided in this act. This provisional  
 15 licensure, as defined in this act, shall exist for no longer  
 16 than six (6) years from the date of enactment of this act  
 17 under any circumstance.

18 Section 3. License required. (1) A license shall be  
 19 issued to qualified persons either in speech pathology or  
 20 audiology. A person may be licensed in both areas if he  
 21 meets the respective qualifications and in such instances  
 22 the license fee shall be as though for one (1) license.

23 (2) No person may practice or represent himself as a  
 24 speech pathologist or audiologist in this state unless he is  
 25 licensed in accordance with the provisions of this act.

1 Section 4. License requirements to practice speech  
2 pathology or audiology -- exempt activities. (1) Nothing  
3 in this act shall prevent a person licensed in this state  
4 under any other law from engaging in the profession or  
5 business for which he is licensed.

6 (2) Nothing in this act shall restrict or prevent  
7 activities of a speech pathology or audiology nature or the  
8 use of the official title of the position for which they  
9 were employed on the part of a speech pathologist or  
10 audiologist employed by federal agencies.

11 (3) Those persons performing activities described in  
12 subsection (2) of this section who are not licensed under  
13 this act must do so solely within the confines of or under  
14 the jurisdiction of the organization in which they are  
15 employed and shall not offer speech pathology or audiology  
16 services to the public for compensation over and above the  
17 salary they receive for performance of their official duties  
18 with organizations by which they are employed. However,  
19 without obtaining a license under this act, such persons may  
20 consult or disseminate their research findings and  
21 scientific information to other such accredited academic  
22 institutions or governmental agencies. They also may offer  
23 lectures to the public for a fee without being licensed  
24 under this act.

25 (4) Nothing in this act shall restrict activities and

1 services of a student in speech pathology or audiology from  
2 pursuing a course of study in speech pathology or audiology  
3 at an accredited or approved college or university or an  
4 approved clinical training facility. However, these  
5 activities and services must constitute a part of his  
6 supervised course of study and no fee shall accrue directly  
7 or indirectly to the student. These persons shall be  
8 designated by the title "speech pathology or audiology  
9 intern", "speech pathology or audiology trainee" or a title  
10 clearly indicating the training status appropriate to his  
11 level of training.

12 (5) Nothing in this act shall restrict a person from  
13 another state from offering speech pathology or audiology  
14 services in this state if such services are performed for no  
15 more than five (5) days in any calendar year and if the  
16 services are performed in cooperation with a speech  
17 pathologist or audiologist licensed under this act. However  
18 a person not a resident of this state who is not licensed  
19 under this act but who is licensed under the law of another  
20 state which has established licensure requirements at least  
21 equivalent to those established by this act, or who is the  
22 holder of the ASHA certificate of clinical competency in  
23 speech pathology or audiology or its equivalent, may offer  
24 speech pathology or audiology services in this state for no  
25 more than thirty (30) days in any calendar year, if such

1 services are performed in cooperation with a speech  
 2 pathologist or audiologist licensed under this act and by  
 3 securing a temporary license from the board subject to such  
 4 limitations as the board may impose.

5 (6) Nothing in this act shall restrict any person  
 6 holding a Class A certificate issued by the conference of  
 7 executives of American schools of the deaf from performing  
 8 the functions for which he qualifies.

9 (7) Nothing in this act shall restrict any person who  
 10 holds a certificate of registration in this state as a  
 11 hearing aid dealer from performing those functions for which  
 12 he qualifies and which are described in Title 66, chapter  
 13 30.

14 Section 1. There is a new R.C.M. section numbered  
 15 32A-1502.23 that reads as follows:

16 32A-1502.23. Board of speech pathologists and  
 17 audiologists -- appointment -- qualifications.

18 (1) There is a board of speech pathologists and  
 19 audiologists.

20 (2) The board consists of five (5) members, who FOUR

21 (4) OF WHOM shall:

22 (a) be appointed by the governor from names submitted  
 23 to him by the association;

24 (b) have been residents of this state for at least one

25 (1) year immediately preceding their appointment; and

1 (c) have been engaged in rendering services to the  
 2 public, teaching, or performing research in the field of  
 3 speech pathology or audiology for at least five (5) years  
 4 immediately preceding their appointment.

5 (3) At least two (2) members of the board shall be  
 6 speech pathologists and at least two (2) shall be  
 7 audiologists, with the remaining member to be ~~either~~ A  
 8 PUBLIC MEMBER WHO IS A CONSUMER OF SPEECH PATHOLOGY OR  
 9 AUDIOLOGY SERVICES AND WHO IS NOT A LICENTIATE OF THE BOARD  
 10 OR OF ANY OTHER BOARD WITHIN THE DEPARTMENT. All board  
 11 members shall at all times be validly licensed in speech  
 12 pathology or audiology, except for the five (5) members  
 13 first appointed, who shall also fulfill the licensure  
 14 requirements of this act and in addition hold the ASHA  
 15 certificate of clinical competence in speech pathology or  
 16 audiology or its equivalent.

17 (4) Within thirty (30) days following the effective  
 18 date of this act the association shall recommend at least  
 19 three (3) and no more than five (5) persons for each of the  
 20 five (5) board positions created by subsection (2) of this  
 21 section. Not less than sixty (60) days before the end of  
 22 the board's first full calendar year of existence and,  
 23 thereafter, not less than sixty (60) days before the end of  
 24 each calendar year, the association shall recommend at least  
 25 three (3) and not more than five (5) persons for each



1 vacancy occurring at the end of the calendar year. In the  
 2 event of a vacancy for an unexpired term, the association  
 3 shall expeditiously recommend at least two (2) and not more  
 4 than three (3) persons to fill the vacancy and the governor  
 5 shall appoint one of those persons to fill the unexpired  
 6 term.

7 (5) The governor shall, within sixty (60) days after  
 8 the effective date of this act, appoint one (1) board member  
 9 for a term of one (1) year; two (2) for a term of two (2)  
 10 years; and two (2) for a term of three (3) years.  
 11 Appointments made thereafter shall be for three (3) year  
 12 terms with no person eligible to serve more than two (2)  
 13 full consecutive terms. Terms begin on the first day of the  
 14 calendar year and end on the last day of the calendar year,  
 15 except for the first appointed members who shall serve  
 16 through the last calendar day of the year in which they are  
 17 appointed before commencing the terms defined in this  
 18 section.

19 Section 6. Function of the board and department.

20 (1) The board shall meet at least once every year at a  
 21 place, day and hour determined by the board. The board  
 22 shall also meet at other times and places as the by-laws of  
 23 the board may provide or by call of the chairman or a  
 24 majority of the members of the board. A quorum of the board  
 25 shall consist of the majority of its members, but in no

1 instance shall a meeting of three (3) board members who are  
 2 exclusively speech pathologists or exclusively audiologists  
 3 be considered a quorum.

4 (2) Each board member shall receive actual and  
 5 necessary expenses incidental to board meetings and  
 6 business. Mileage shall be as provided in section 59-801.

7 (3) The department may employ persons it deems  
 8 necessary to carry out the provisions of this act.

9 (4) All meetings of the board for the consideration of  
 10 and action on matters coming before the board are open to  
 11 the public, except:

12 (a) matters involving the management of internal  
 13 affairs of the board may be considered and acted upon by the  
 14 board in executive meetings under rules prescribed by the  
 15 board;

16 (b) sessions to prepare, approve, grade or administer  
 17 examinations;

18 (c) upon request of a person who has failed the  
 19 licensing examinations and who is appearing to appeal the  
 20 failure.

21 (5) The board may make all rules which are reasonable  
 22 or necessary for the proper performance of its duties and  
 23 for the regulation of proceedings before it.

24 (6) The department shall prepare a report to the  
 25 governor as required by law.

1 (7) The board shall:

2 (a) administer, coordinate and enforce the provisions

3 of this act;

4 (b) evaluate the qualifications of each applicant for

5 a license as issued under this act and supervise the

6 examination of such applicants;

7 (c) investigate persons engaging in practices which

8 allegedly violate the provisions of this act;

9 (d) conduct hearings and keep records and minutes as

10 the board considers necessary to an orderly dispatch of

11 business;

12 (e) adopt rules including but not limited to those

13 governing ethical standards of practice under this act;

14 (f) make recommendations to the governor and other

15 state officials regarding new and revised programs and

16 legislation related to speech pathology or audiology which

17 could be beneficial to the citizens of the state of Montana;

18 (g) cause the prosecution and enjoinder of all persons

19 violating this act, by the complaints of its secretary filed

20 with the county attorney, in the county where the violation

21 took place, and incur necessary expenses therefor;

22 (h) adopt a seal by which the board shall authenticate

23 its proceedings. Copies of the proceedings, records, and

24 acts of the board, signed by the chairman or secretary of

25 the board and stamped with the seal shall be prima facie

1 evidence of the validity of such documents.

2 Section 7. Qualifications and requirements for

3 licensure. To be eligible for licensing by the board as a

4 speech pathologist or audiologist, the applicant must:

5 (1) Meet the current academic, supervised clinical

6 practicum and post classroom sponsored employment

7 requirements of the ASHA.

8 (2) Pass an examination approved by the board. The

9 board shall determine the subject and scope of the

10 examination. Written examinations may be supplemented by

11 such oral examinations as the board shall determine. An

12 applicant who fails his examination may be re-examined at a

13 subsequent examination upon payment of another licensing

14 fee. An applicant who fails two successive examinations may

15 apply for re-examination after two years of additional

16 professional experience or training.

17 Section 8. Licensure issuance -- expiration --

18 renewal. (1) The board shall grant a license to each

19 person who meets the requirements for licensure as

20 prescribed in this act, and the department shall issue the

21 license.

22 (2) The license shall include the dates of issuance

23 and expiration, and shall bear a serial number.

24 (3) The license shall be signed by the secretary of

25 the board under the seal of the board.

1 (4) The department shall notify each person licensed  
 2 under this act relative to the date of expiration of his  
 3 license and the amount of the renewal fee. This notice shall  
 4 be mailed to each licensed speech pathologist or audiologist  
 5 at least one (1) month before the expiration of the license.

6 (5) Renewal may be made at any time during the sixty  
 7 (60) days prior to the expiration date by application  
 8 therefor.

9 (6) Failure on the part of any licensed person to pay  
 10 the renewal fee by the expiration date does not deprive him  
 11 of the right to renew his license, but the fee shall be  
 12 increased ten percent (10%) for each month that the payment  
 13 of the renewal fee is delayed after the expiration date.  
 14 The maximum fee for delayed renewal shall not exceed twice  
 15 the normal renewal fee.

16 (7) Application for renewal following a lapse of one  
 17 (1) year or more shall be subject to review by the board,  
 18 and the applicant may be requested to complete an  
 19 examination successfully if the board so determines.

20 (8) Each year the department shall publish a list of  
 21 all persons licensed under the act containing their names  
 22 and addresses and such other information as the board  
 23 considers advisable. The department shall mail a copy of  
 24 this list to each person licensed under this act, place a  
 25 copy on file in the secretary of state's office, and furnish

1 copies to the public upon request.

2 (9) The board shall develop standards and methods of  
 3 documentation and establish procedures for causing  
 4 individuals who have been licensed to demonstrate continued  
 5 education before renewing any license more than twice.

6 Section 9. Qualifications and requirements for  
 7 licensure -- reciprocity and waiver. (1) Application for  
 8 examination for licensing a speech pathologist or  
 9 audiologist shall be made upon forms prescribed by the  
 10 board.

11 (2) Prior to July 1, 1976, the board shall license as  
 12 a speech pathologist or audiologist any person who pays the  
 13 prescribed fee, and who submits an affidavit that he meets  
 14 the current academic, supervised clinical practicum and post  
 15 classroom sponsored employment requirements of the ASHA.

16 (3) Prior to July 1, 1976, a provisional license may  
 17 be issued to an individual who holds a bachelor's degree  
 18 with a major in speech pathology or audiology, who has  
 19 accumulated one hundred seventy-five (175) clock hours of  
 20 clinical practicum, and who has worked in this state as a  
 21 speech pathologist or audiologist for at least one (1)  
 22 academic year. The provisionally-licensed speech  
 23 pathologist or audiologist must work under the direct  
 24 supervision of a licensed or certified speech pathologist or  
 25 audiologist. The extent to which direct supervision will be

1 provided for the provisionally-licensed speech pathologist  
 2 or audiologist will be determined by the supervising  
 3 clinician. Generally, the supervising speech pathologist or  
 4 audiologist shall provide direct assistance to the  
 5 provisionally-licensed speech pathologist or audiologist at  
 6 least four (4) days per month. Most of the contacts by the  
 7 supervising speech pathologist or audiologist shall be in  
 8 person, but other avenues of contact may be made. Those  
 9 persons granted provisional licensure shall complete the  
 10 academic, clinical practicum and examination requirements  
 11 for licensure within six (6) years after the effective date  
 12 of this act. Twelve (12) quarter-hour credits of additional  
 13 professional training towards licensure qualifications or  
 14 any other proposed educational plan that leads to the same  
 15 goal as presented to and approved by the board, must be  
 16 obtained every two (2) years for renewal of provisional  
 17 licensure. Provisionally-licensed speech pathologists or  
 18 audiologists who have not attained appropriate eligibility  
 19 status within six (6) years of the date of enactment, will  
 20 no longer be eligible to practice speech pathology or  
 21 audiology in the state of Montana, except for those persons  
 22 granted certification under subsection (8) of this section,  
 23 but may work as a speech pathology or audiology aide as  
 24 defined in this act.

25 (4) After July 1, 1976, all applicants must meet all

1 the requirements set forth in this act.

2 (5) The board may waive the examination described in  
 3 this act for those qualified applicants who, on the  
 4 effective date of this act, are actively engaged in the  
 5 practice of speech pathology or audiology in this state,  
 6 providing that they file a license application within one  
 7 (1) year of the effective date of this act.

8 (6) The board shall waive the examination and grant a  
 9 license to applicants who present proof of a current license  
 10 in a state which has standards equivalent to or greater than  
 11 those of this state.

12 (7) The board shall waive the examination and grant a  
 13 license to those who hold the certificate of clinical  
 14 competence of the American Speech and Hearing Association in  
 15 the area for which they are applying for a license.

16 (8) The board shall, on presentation and documentation  
 17 in writing by a petitioner have the prerogative of granting  
 18 licensure to an individual who does not have all the formal  
 19 requirements specified in this act. This prerogative shall  
 20 be used only for unusual or special circumstances and shall  
 21 be determined by the board in each individual case.

22 Section 10. Examination. (1) Except as otherwise  
 23 provided in this act, an applicant shall be examined for  
 24 speech pathology or audiology by the board, and shall pay to  
 25 the board, at least thirty (30) days prior to the date of

1 the examination, the examination fee for each examination as  
2 prescribed by this act.

3 (2) The board shall examine by written examination  
4 given at least twice a year at a time and place and under  
5 such supervision as the board may determine. In addition an  
6 oral examination may be required by the board. Standards  
7 for acceptable performance shall be determined by the board.

8 (3) The board may waive the written examination for  
9 certification if the applicant has successfully passed the  
10 National Examination in Speech Pathology or Audiology.

11 (4) The board may examine or direct the applicant to  
12 be examined for knowledge in whatever theoretical or applied  
13 fields of speech pathology or audiology as it considers  
14 appropriate. It may also examine the candidate with regard  
15 to his professional skills and his judgement in the  
16 utilization of speech pathology or audiology techniques and  
17 methods.

18 (5) The department shall maintain a permanent record  
19 of all examination scores.

20 (6) The board shall keep an accurate transcript of the  
21 oral examination if any. Transcripts of oral examinations  
22 shall be retained by the board for at least one (1) year  
23 following the date of examination.

24 (7) A speech pathologist or audiologist who holds ASHA  
25 certification or equivalent or is licensed in another state

1 and who has made application to the board for a license in  
2 this state, may perform activities and services of a speech  
3 pathology or audiology nature without a valid license  
4 pending disposition of application.

5 Section 11. Licensing. (1) The amount of fees  
6 prescribed in connection with a license as a speech  
7 pathologist or audiologist shall be as follows, the exact  
8 fee to be determined by the board each year based on costs  
9 and predicted expenditures:

10 (a) application and examination fee for a license, no  
11 less than \$50 nor more than \$100;

12 (b) license fee, and renewal thereof, no less than \$25  
13 nor more than \$100.

14 (2) All moneys received by the department shall be  
15 deposited in the state treasury to the credit of the  
16 earmarked revenue fund for the use of the board and subject  
17 to section 82A-1603(6).

18 (3) Each licensed speech pathologist or audiologist  
19 shall on or before July 31 of the year of expiration of his  
20 license pay to the board the fee for the renewal of his  
21 license.

22 (4) Renewal will be every two years beginning on July  
23 1 of the appropriate year.

24 (5) A suspended license is subject to expiration and  
25 may be renewed as provided in this section, but such renewal

1 does not entitle the licensee while the license remains  
 2 suspended to engage in the licensed activity, or in any  
 3 other activity or conduct which violates the order or  
 4 judgment by which the license was suspended.

5 (6) A license revoked on disciplinary grounds is  
 6 subject to expiration, and it may not be renewed. If it is  
 7 reinstated after its expiration, the licensee, as a  
 8 condition of reinstatement, shall pay a reinstatement fee in  
 9 an amount equal to the renewal fee in effect on the last  
 10 preceding regular renewal date before the date on which it  
 11 is reinstated, plus the delinquency fee, if any, accrued at  
 12 the time of its revocation.

13 (7) A person who fails to renew his license within the  
 14 four (4) years after its expiration may not renew it, and it  
 15 may not be restored, reissued or reinstated thereafter; but  
 16 such a person may reapply for and obtain a new license if he  
 17 meets the requirements of the act.

18 (8) No license tax shall be imposed upon speech  
 19 pathologists or audiologists by a municipality or any other  
 20 subdivision of the state.

21 Section 12. Powers of board over licensees --  
 22 unprofessional conduct defined. (1) The board may refuse  
 23 to issue or renew a license, or may suspend or revoke the  
 24 license of any licensee if he has been guilty of  
 25 unprofessional conduct which has endangered or is likely to

1 endanger the health, welfare, or safety of the public. Such  
 2 unprofessional conduct includes, but is not limited to:

- 3 (a) obtaining a license by means of fraud,
- 4 misrepresentation, or concealment of material facts;
- 5 (b) being found guilty of unprofessional conduct, or
- 6 having violated ethical standards of practice established
- 7 pursuant to this act;
- 8 (c) violating any lawful order or rule of the board;
- 9 (d) violating any provision of this act.

10 (2) Denial, suspension or revocation of a license is  
 11 permissible only after a hearing and procedures which comply  
 12 with all applicable requirements of the Montana  
 13 Administrative Procedure Act.

14 (3) One year after denial, suspension, or revocation  
 15 of a license, a person may reapply for a license. The board  
 16 may in its discretion require an examination for  
 17 reinstatement.

18 (4) Where an applicant or licensee has been convicted  
 19 of a felony or a crime involving moral turpitude, the board  
 20 may suspend or revoke his license, or may decline to issue a  
 21 license when:

- 22 (a) the time for appeal has elapsed;
- 23 (b) the judgment of conviction has been affirmed on
- 24 appeal;
- 25 (c) an order granting probation is made suspending the

1 imposition of sentence.

2 Section 13. Penalty. A person convicted of violating  
3 this act shall be fined not to exceed five hundred dollars  
4 (\$500) or be imprisoned in the county jail for any term not  
5 to exceed six (6) months, or both.

6 Section 14. Injunction of unlawful practice --  
7 restrictions on scope of practice. The practice of speech  
8 pathology or audiology in any way other than as defined in  
9 this act may be enjoined by the district court on petition  
10 by the board.

11 Section 15. Section 93-701-4, R.C.M. 1947, is amended  
12 to read as follows:

13 "93-701-4. Persons in certain relations cannot be  
14 examined. There are particular relations in which it is the  
15 policy of the law to encourage confidence and to preserve it  
16 inviolate; therefore, a person cannot be examined as a  
17 witness in the following cases:

18 1. A husband cannot be examined for or against his wife  
19 without her consent; nor a wife for or against her husband  
20 without his consent; nor can either, during the marriage or  
21 afterward, be, without the consent of the other, examined as  
22 to any communication made by one to the other during the  
23 marriage; but this exception does not apply to a civil  
24 action or proceeding by one against the other, nor to a  
25 criminal action or proceeding for a crime committed by one

1 against the other.

2 2. An attorney cannot, without the consent of his  
3 client, be examined as to any communication made by the  
4 client to him, or his advice given thereon in the course of  
5 professional employment.

6 3. A clergyman or priest cannot, without the consent of  
7 the person making the confession, be examined as to any  
8 confession made to him in his professional character in the  
9 course of discipline enjoined by the church to which he  
10 belongs.

11 4. A licensed physician or surgeon cannot, without the  
12 consent of his patient, be examined in a civil action as to  
13 any information acquired in attending the patient, which was  
14 necessary to enable him to prescribe or act for the patient.

15 5. A public officer cannot be examined as to  
16 communications made to him in official confidence, when the  
17 public interests would suffer by the disclosure.

18 6. Any person engaged in teaching psychology in any  
19 school, or who acting as such is engaged in the study and  
20 observation of child mentality, shall not without the  
21 consent of the parent or guardian of such child being so  
22 taught or observed testify in any civil action as to any  
23 information so obtained.

24 7. A counselor, psychologist, nurse, or teacher,  
25 employed by any educational institution, cannot be examined

1 as to communications made to him in confidence by a duly  
2 registered student of such institution, provided however,  
3 that this provision shall not apply where consent has been  
4 given by the student, if not a minor, or if he is a minor,  
5 by the student and his parent or legal guardian.

6 8. A publisher, editor, reporter or other person  
7 connected with or employed upon a newspaper, or by a press  
8 association or wire service, or any person who has been so  
9 connected or employed, cannot without his consent be  
10 examined as to any communication made to him in confidence  
11 for the purpose of proper publication nor shall he be  
12 adjudged in contempt by a court, the legislature or any  
13 administrative body for refusing to disclose the source of  
14 any information procured while so connected or employed for  
15 publication and published in a newspaper.

16 Nor can a radio or television news reporter or other  
17 person connected with or employed by a radio or television  
18 station, or any person who has been so connected or  
19 employed, without his consent be examined as to any  
20 communication made to him in confidence for the purpose of  
21 proper publication nor shall he be so adjudged in contempt  
22 for refusing to disclose the source of any information  
23 procured while so connected or employed for news or news  
24 commentary purposes on radio or television.

25 9. A speech pathologist or audiologist cannot, without

1 the consent of his client, be examined IN A CIVIL ACTION 23  
2 to any communication made by the client to him."

-End-



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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSING AND REGULATION OF PERSONS IN MONTANA REPRESENTING THEMSELVES AS SPEECH PATHOLOGISTS, AUDIOLOGISTS, SPEECH PATHOLOGY OR AUDIOLOGY AIDES, AND PROVISIONALLY CERTIFIED SPEECH PATHOLOGISTS OR AUDIOLOGISTS, AND CREATING A BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY, PRESCRIBING ITS POWERS AND DUTIES; PROVIDING PENALTIES FOR VIOLATIONS; AND AMENDING SECTION 93-701-4, R.C.M. 1947."

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

Section 1. Purpose. The legislature of the state of Montana declares it to be a policy of this state that in order to safeguard the public health, safety, and welfare, and to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons, and to protect the public from unprofessional conduct by qualified speech pathologists and audiologists, and to help assure the availability of the highest possible quality speech pathology and audiology services to the communicatively handicapped people of this state, it is necessary to provide regulatory authority over persons offering speech pathology or audiology services to the public.

THIRD READING

HB 154 was not run in its entirety. The amended page 7 is printed, please refer to yellow copy for complete text.

services are performed in cooperation with a speech pathologist or audiologist licensed under this act and by securing a temporary license from the board subject to such limitations as the board may impose.

(6) Nothing in this act shall restrict any person holding a Class A certificate issued by the conference of executives of American schools of the deaf from performing the functions for which he qualifies.

(7) Nothing in this act shall restrict any person who holds a certificate of registration in this state as a hearing aid dealer from performing those functions for which he qualifies and which are described in Title 66, chapter 30.

Section 4. 5. There is a new R.C.M. section numbered 82A-1602.28 that reads as follows:

82A-1602.28. Board of speech pathologists and audiologists -- appointment -- qualifications.

(1) There is a board of speech pathologists and audiologists.

(2) The board consists of five (5) members, who FOUR

(4) OF WHOM shall:

(a) be appointed by the governor from names submitted to him by the association;

(b) have been residents of this state for at least one (1) year immediately preceding their appointment; and

*corrected*  
*3/17/75*

March 14, 1975

SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

AMENDMENTS TO HOUSE BILL NO. 154

That House Bill No. 154, third reading, be amended as follows:

1. Amend page 7, section 7, lines 9 through 13.

Following: "(7)"

Strike: lines 9 through 13 in their entirety

Insert: "Nothing in this act shall prevent a person licensed under Title 66, chapter 30, R.C.M. 1947, as a hearing aid dispenser from engaging in the practice of measuring, testing, appraisal, prediction, counseling, and instructions related to fitting, usage, and dispensing of hearing aids."

*corrected*  
*3/17/75*

HOUSE BILL NO. 154

INTRODUCED BY BARDANOUVE, MERCER, BRADLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSING AND REGULATION OF PERSONS IN MONTANA REPRESENTING THEMSELVES AS SPEECH PATHOLOGISTS, AUDIOLOGISTS, SPEECH PATHOLOGY OR AUDIOLOGY AIDES, AND PROVISIONALLY CERTIFIED SPEECH PATHOLOGISTS OR AUDIOLOGISTS, AND CREATING A BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY, PRESCRIBING ITS POWERS AND DUTIES; PROVIDING PENALTIES FOR VIOLATIONS; AND AMENDING SECTION 93-701-4, R.C.M. 1947."

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

Section 1. Purpose. The legislature of the state of Montana declares it to be a policy of this state that in order to safeguard the public health, safety, and welfare, and to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons, and to protect the public from unprofessional conduct by qualified speech pathologists and audiologists, and to help assure the availability of the highest possible quality speech pathology and audiology services to the communicatively handicapped people of this state, it is necessary to provide regulatory authority over persons offering speech pathology or audiology services to the public.

Section 2. Definitions. As used in this act:

(1) "Board" means the board of speech pathologists and audiologists.

(2) "Department" means the department of professional and occupational licensing.

(3) "Speech pathologist" means one who practices speech pathology and who presents himself to the public by any title or description of services incorporating the words "speech pathologist", "speech correctionist", "speech therapist", "speech clinician", "language pathologist", "language therapist", "language clinician", or any similar title or description of services.

(4) "Speech pathology aide" means any person meeting the minimum requirements established by the board of speech pathology and audiology who works directly under the supervision of a licensed speech pathologist.

(5) "Audiologist" means a person who practices audiology and who presents himself to the public by any title or description of services incorporating the words "audiologist", "hearing clinician", "hearing therapist", or any similar title or description of service.

(6) "Audiology aide" means any person, meeting the minimum requirements established by the board of speech pathology and audiology who works directly under the supervision of a licensed audiologist.

4/15/75

1 (7) "Practice of speech pathology" means the  
 2 application of principles, methods and procedures for the  
 3 measurement, testing, evaluation, prediction, counseling or  
 4 instruction related to the development and disorders of  
 5 speech, voice, or language for the purpose of evaluation,  
 6 preventing, habilitating, rehabilitating, or modifying such  
 7 disorders and conditions in individuals or groups of  
 8 individuals.

9 (8) "Practice of audiology" means the application of  
 10 principles, methods and procedures of measurement, testing,  
 11 appraisal, prediction, consultation, counseling, and  
 12 instruction related to hearing and hearing impairment for  
 13 the purpose of modifying communicative disorders involving  
 14 speech, language, auditory function, including auditory  
 15 behavior related to hearing impairment.

16 (9) "Association" means the Montana speech and hearing  
 17 association.

18 (10) "ASHA" means the American speech and hearing  
 19 association.

20 (11) "Unethical conduct" means:

21 (a) the obtaining of any fee by fraud or  
 22 misrepresentation;

23 (b) employing directly or indirectly any suspended or  
 24 unlicensed person to perform any work covered by this act  
 25 unless that person assumes the legal status of a supervised

1 aide;

2 (c) using or causing or promoting the use of any  
 3 advertising matter, promotional literature, testimonial,  
 4 guarantee, warranty, label, brand, insignia, or any other  
 5 representation, however disseminated or published, which is  
 6 misleading, deceiving, improbable or untruthful.

7 (12) "Provisionally licensed speech pathologist or  
 8 audiologist" means those speech pathologists or audiologists  
 9 who are currently practicing the profession in the state of  
 10 Montana, who do not meet the minimum requirements for  
 11 licensure as defined in this act and who are eligible for  
 12 provisional licensure conditioned on biennial evidence of  
 13 satisfactory progress towards meeting the requirements for  
 14 licensure as provided in this act. This provisional  
 15 licensure, as defined in this act, shall exist for no longer  
 16 than six (6) years from the date of enactment of this act  
 17 under any circumstance.

18 Section 3. License required. (1) A license shall be  
 19 issued to qualified persons either in speech pathology or  
 20 audiology. A person may be licensed in both areas if he  
 21 meets the respective qualifications and in such instances  
 22 the license fee shall be as though for one (1) license.

23 (2) No person may practice or represent himself as a  
 24 speech pathologist or audiologist in this state unless he is  
 25 licensed in accordance with the provisions of this act.

1 Section 4. License requirements to practice speech  
2 pathology or audiology — exempt activities. (1) Nothing  
3 in this act shall prevent a person licensed in this state  
4 under any other law from engaging in the profession or  
5 business for which he is licensed.

6 (2) Nothing in this act shall restrict or prevent  
7 activities of a speech pathology or audiology nature or the  
8 use of the official title of the position for which they  
9 were employed on the part of a speech pathologist or  
10 audiologist employed by federal agencies.

11 (3) Those persons performing activities described in  
12 subsection (2) of this section who are not licensed under  
13 this act must do so solely within the confines of or under  
14 the jurisdiction of the organization in which they are  
15 employed and shall not offer speech pathology or audiology  
16 services to the public for compensation over and above the  
17 salary they receive for performance of their official duties  
18 with organizations by which they are employed. However,  
19 without obtaining a license under this act, such persons may  
20 consult or disseminate their research findings and  
21 scientific information to other such accredited academic  
22 institutions or governmental agencies. They also may offer  
23 lectures to the public for a fee without being licensed  
24 under this act.

25 (4) Nothing in this act shall restrict activities and

1 services of a student in speech pathology or audiology from  
2 pursuing a course of study in speech pathology or audiology  
3 at an accredited or approved college or university or an  
4 approved clinical training facility. However, these  
5 activities and services must constitute a part of his  
6 supervised course of study and no fee shall accrue directly  
7 or indirectly to the student. These persons shall be  
8 designated by the title "speech pathology or audiology  
9 intern", "speech pathology or audiology trainee" or a title  
10 clearly indicating the training status appropriate to his  
11 level of training.

12 (5) Nothing in this act shall restrict a person from  
13 another state from offering speech pathology or audiology  
14 services in this state if such services are performed for no  
15 more than five (5) days in any calendar year and if the  
16 services are performed in cooperation with a speech  
17 pathologist or audiologist licensed under this act. However  
18 a person not a resident of this state who is not licensed  
19 under this act but who is licensed under the law of another  
20 state which has established licensure requirements at least  
21 equivalent to those established by this act, or who is the  
22 holder of the ASHA certificate of clinical competency in  
23 speech pathology or audiology or its equivalent, may offer  
24 speech pathology or audiology services in this state for no  
25 more than thirty (30) days in any calendar year, if such

1 services are performed in cooperation with a speech  
2 pathologist or audiologist licensed under this act and by  
3 securing a temporary license from the board subject to such  
4 limitations as the board may impose.

5 (6) Nothing in this act shall restrict any person  
6 holding a Class A certificate issued by the conference of  
7 executives of American schools of the deaf from performing  
8 the functions for which he qualifies.

9 ~~(7) Nothing in this act shall restrict any person who  
10 holds a certificate of registration in this state as a  
11 hearing aid dealer from performing those functions for which  
12 he qualifies and which are described in Title 66, Chapter  
13 307. NOTHING IN THIS ACT SHALL PREVENT A PERSON LICENSED  
14 UNDER TITLE 66, CHAPTER 307, R.C.M. 1947, AS A HEARING AID  
15 DISPENSER FROM ENGAGING IN THE PRACTICE OF MEASURING,  
16 TESTING, APPRAISAL, PREDICTION, COUNSELING, AND INSTRUCTIONS  
17 RELATED TO FITTING, USAGE, AND DISPENSING OF HEARING AIDS.~~  
18 NOTHING IN THIS ACT SHALL RESTRICT ANY PERSON WHO HOLDS A  
19 CERTIFICATE OF REGISTRATION IN THIS STATE AS A HEARING AID  
20 DEALER FROM PERFORMING THOSE FUNCTIONS FOR WHICH HE  
21 QUALIFIES AND WHICH ARE DESCRIBED IN TITLE 66, CHAPTER 30.

22 Section ~~4~~-5. There is a new R.C.M. section numbered  
23 82A-1602.28 that reads as follows:

24 82A-1602.28. Board of speech pathologists and  
25 audiologists -- appointment -- qualifications.

1 (1) There is a board of speech pathologists and  
2 audiologists.

3 (2) The board consists of five (5) members, ~~who~~ FOUR  
4 (4) OF WHOM shall:

5 (a) be appointed by the governor from names submitted  
6 to him by the association;

7 (b) have been residents of this state for at least one  
8 (1) year immediately preceding their appointment; and

9 (c) have been engaged in rendering services to the  
10 public, teaching, or performing research in the field of  
11 speech pathology or audiology for at least five (5) years  
12 immediately preceding their appointment.

13 (3) At least two (2) members of the board shall be  
14 speech pathologists and at least two (2) shall be  
15 audiologists, with the remaining member to be either A  
16 PUBLIC MEMBER WHO IS A CONSUMER OF SPEECH PATHOLOGY OR  
17 AUDIOLOGY SERVICES AND WHO IS NOT A LICENSEE OF THE BOARD  
18 OR OF ANY OTHER BOARD WITHIN THE DEPARTMENT. All board  
19 members shall at all times be validly licensed in speech  
20 pathology or audiology, except for the five (5) members  
21 first appointed, who shall also fulfill the licensure  
22 requirements of this act and in addition hold the ASHA  
23 certificate of clinical competence in speech pathology or  
24 audiology or its equivalent.

25 (4) Within thirty (30) days following the effective

1 date of this act the association shall recommend at least  
 2 three (3) and no more than five (5) persons for each of the  
 3 five (5) board positions created by subsection (2) of this  
 4 section. Not less than sixty (60) days before the end of  
 5 the board's first full calendar year of existence and,  
 6 thereafter, not less than sixty (60) days before the end of  
 7 each calendar year, the association shall recommend at least  
 8 three (3) and not more than five (5) persons for each  
 9 vacancy occurring at the end of the calendar year. In the  
 10 event of a vacancy for an unexpired term, the association  
 11 shall expeditiously recommend at least two (2) and not more  
 12 than three (3) persons to fill the vacancy and the governor  
 13 shall appoint one of those persons to fill the unexpired  
 14 term.

15 (5) The governor shall, within sixty (60) days after  
 16 the effective date of this act, appoint one (1) board member  
 17 for a term of one (1) year; two (2) for a term of two (2)  
 18 years; and two (2) for a term of three (3) years.  
 19 Appointments made thereafter shall be for three (3) year  
 20 terms with no person eligible to serve more than two (2)  
 21 full consecutive terms. Terms begin on the first day of the  
 22 calendar year and end on the last day of the calendar year,  
 23 except for the first appointed members who shall serve  
 24 through the last calendar day of the year in which they are  
 25 appointed before commencing the terms defined in this

1 section.

2 Section 6. Function of the board and department.

3 (1) The board shall meet at least once every year at a  
 4 place, day and hour determined by the board. The board  
 5 shall also meet at other times and places as the bylaws of  
 6 the board may provide or by call of the chairman or a  
 7 majority of the members of the board. A quorum of the board  
 8 shall consist of the majority of its members, but in no  
 9 instance shall a meeting of three (3) board members who are  
 10 exclusively speech pathologists or exclusively audiologists  
 11 be considered a quorum.

12 (2) Each board member shall receive actual and  
 13 necessary expenses incidental to board meetings and  
 14 business. Mileage shall be as provided in section 59-801.

15 (3) The department may employ persons it deems  
 16 necessary to carry out the provisions of this act.

17 (4) All meetings of the board for the consideration of  
 18 and action on matters coming before the board are open to  
 19 the public, except:

20 (a) matters involving the management of internal  
 21 affairs of the board may be considered and acted upon by the  
 22 board in executive meetings under rules prescribed by the  
 23 board;

24 (b) sessions to prepare, approve, grade or administer  
 25 examinations;

1 (c) upon request of a person who has failed the  
 2 licensing examinations and who is appearing to appeal the  
 3 failure.

4 (5) The board may make all rules which are reasonable  
 5 or necessary for the proper performance of its duties and  
 6 for the regulation of proceedings before it.

7 (6) The department shall prepare a report to the  
 8 governor as required by law.

9 (7) The board shall:

10 (a) administer, coordinate and enforce the provisions  
 11 of this act;

12 (b) evaluate the qualifications of each applicant for  
 13 a license as issued under this act and supervise the  
 14 examination of such applicants;

15 (c) investigate persons engaging in practices which  
 16 allegedly violate the provisions of this act;

17 (d) conduct hearings and keep records and minutes as  
 18 the board considers necessary to an orderly dispatch of  
 19 business;

20 (e) adopt rules including but not limited to those  
 21 governing ethical standards of practice under this act;

22 (f) make recommendations to the governor and other  
 23 state officials regarding new and revised programs and  
 24 legislation related to speech pathology or audiology which  
 25 could be beneficial to the citizens of the state of Montana;

1 (g) cause the prosecution and enjoinder of all persons  
 2 violating this act, by the complaints of its secretary filed  
 3 with the county attorney, in the county where the violation  
 4 took place, and incur necessary expenses therefor;

5 (h) adopt a seal by which the board shall authenticate  
 6 its proceedings. Copies of the proceedings, records, and  
 7 acts of the board, signed by the chairman or secretary of  
 8 the board and stamped with the seal shall be prima facie  
 9 evidence of the validity of such documents.

10 Section 7. Qualifications and requirements for  
 11 licensure. To be eligible for licensing by the board as a  
 12 speech pathologist or audiologist, the applicant must:

13 (1) meet the current academic, supervised clinical  
 14 practicum and post classroom sponsored employment  
 15 requirements of the ASHA;

16 (2) pass an examination approved by the board. The  
 17 board shall determine the subject and scope of the  
 18 examination. Written examinations may be supplemented by  
 19 such oral examinations as the board shall determine. An  
 20 applicant who fails his examination may be reexamined at a  
 21 subsequent examination upon payment of another licensing  
 22 fee. An applicant who fails two successive examinations may  
 23 apply for reexamination after two years of additional  
 24 professional experience or training.

25 Section 8. Licensure issuance — expiration —



1 renewal. (1) The board shall grant a license to each  
 2 person who meets the requirements for licensure as  
 3 prescribed in this act, and the department shall issue the  
 4 license.

5 (2) The license shall include the dates of issuance  
 6 and expiration, and shall bear a serial number.

7 (3) The license shall be signed by the secretary of  
 8 the board under the seal of the board.

9 (4) The department shall notify each person licensed  
 10 under this act relative to the date of expiration of his  
 11 license and the amount of the renewal fee. This notice shall  
 12 be mailed to each licensed speech pathologist or audiologist  
 13 at least one (1) month before the expiration of the license.

14 (5) Renewal may be made at any time during the sixty  
 15 (60) days prior to the expiration date by application  
 16 therefor.

17 (6) Failure on the part of any licensed person to pay  
 18 the renewal fee by the expiration date does not deprive him  
 19 of the right to renew his license, but the fee shall be  
 20 increased ten percent (10%) for each month that the payment  
 21 of the renewal fee is delayed after the expiration date.  
 22 The maximum fee for delayed renewal shall not exceed twice  
 23 the normal renewal fee.

24 (7) Application for renewal following a lapse of one  
 25 (1) year or more shall be subject to review by the board,

1 and the applicant may be requested to complete an  
 2 examination successfully if the board so determines.

3 (8) Each year the department shall publish a list of  
 4 all persons licensed under the act containing their names  
 5 and addresses and such other information as the board  
 6 considers advisable. The department shall mail a copy of  
 7 this list to each person licensed under this act, place a  
 8 copy on file in the secretary of state's office, and furnish  
 9 copies to the public upon request.

10 (9) The board shall develop standards and methods of  
 11 documentation and establish procedures for causing  
 12 individuals who have been licensed to demonstrate continued  
 13 education before renewing any license more than twice.

14 Section 9. Qualifications and requirements for  
 15 licensure — reciprocity and waiver. (1) Application for  
 16 examination for licensing a speech pathologist or  
 17 audiologist shall be made upon forms prescribed by the  
 18 board.

19 (2) Prior to July 1, 1976, the board shall license as  
 20 a speech pathologist or audiologist any person who pays the  
 21 prescribed fee, and who submits an affidavit that he meets  
 22 the current academic, supervised clinical practicum and post  
 23 classroom sponsored employment requirements of the ASHA.

24 (3) Prior to July 1, 1976, a provisional license may  
 25 be issued to an individual who holds a bachelor's degree

1 with a major in speech pathology or audiology, who has  
 2 accumulated one hundred seventy-five (175) clock hours of  
 3 clinical practicum, and who has worked in this state as a  
 4 speech pathologist or audiologist for at least one (1)  
 5 academic year. The provisionally-licensed speech  
 6 pathologist or audiologist must work under the direct  
 7 supervision of a licensed or certified speech pathologist or  
 8 audiologist. The extent to which direct supervision will be  
 9 provided for the provisionally-licensed speech pathologist  
 10 or audiologist will be determined by the supervising  
 11 clinician. Generally, the supervising speech pathologist or  
 12 audiologist shall provide direct assistance to the  
 13 provisionally-licensed speech pathologist or audiologist at  
 14 least four (4) days per month. Most of the contacts by the  
 15 supervising speech pathologist or audiologist shall be in  
 16 person, but other avenues of contact may be made. Those  
 17 persons granted provisional licensure shall complete the  
 18 academic, clinical practicum and examination requirements  
 19 for licensure within six (6) years after the effective date  
 20 of this act. Twelve (12) quarter-hour credits of additional  
 21 professional training towards licensure qualifications or  
 22 any other proposed educational plan that leads to the same  
 23 goal as presented to and approved by the board, must be  
 24 obtained every two (2) years for renewal of provisional  
 25 licensure. Provisionally-licensed speech pathologists or

1 audiologists who have not attained appropriate eligibility  
 2 status within six (6) years of the date of enactment, will  
 3 no longer be eligible to practice speech pathology or  
 4 audiology in the state of Montana, except for those persons  
 5 granted certification under subsection (8) of this section,  
 6 but may work as a speech pathology or audiology aide as  
 7 defined in this act.

8 (4) After July 1, 1976, all applicants must meet all  
 9 the requirements set forth in this act.

10 (5) The board may waive the examination described in  
 11 this act for those qualified applicants who, on the  
 12 effective date of this act, are actively engaged in the  
 13 practice of speech pathology or audiology in this state,  
 14 providing that they file a license application within one  
 15 (1) year of the effective date of this act.

16 (6) The board shall waive the examination and grant a  
 17 license to applicants who present proof of a current license  
 18 in a state which has standards equivalent to or greater than  
 19 those of this state.

20 (7) The board shall waive the examination and grant a  
 21 license to those who hold the certificate of clinical  
 22 competence of the American speech and hearing association in  
 23 the area for which they are applying for a license.

24 (8) The board shall, on presentation and documentation  
 25 in writing by a petitioner have the prerogative of granting

1 licensure to an individual who does not have all the formal  
 2 requirements specified in this act. This prerogative shall  
 3 be used only for unusual or special circumstances and shall  
 4 be determined by the board in each individual case.

5 Section 10. Examination. (1) Except as otherwise  
 6 provided in this act, an applicant shall be examined for  
 7 speech pathology or audiology by the board, and shall pay to  
 8 the board, at least thirty (30) days prior to the date of  
 9 the examination, the examination fee for each examination as  
 10 prescribed by this act.

11 (2) The board shall examine by written examination  
 12 given at least twice a year at a time and place and under  
 13 such supervision as the board may determine. In addition an  
 14 oral examination may be required by the board. Standards  
 15 for acceptable performance shall be determined by the board.

16 (3) The board may waive the written examination for  
 17 certification if the applicant has successfully passed the  
 18 national examination in speech pathology or audiology.

19 (4) The board may examine or direct the applicant to  
 20 be examined for knowledge in whatever theoretical or applied  
 21 fields of speech pathology or audiology as it considers  
 22 appropriate. It may also examine the candidate with regard  
 23 to his professional skills and his judgment in the  
 24 utilization of speech pathology or audiology techniques and  
 25 methods.

1 (5) The department shall maintain a permanent record  
 2 of all examination scores.

3 (6) The board shall keep an accurate transcript of the  
 4 oral examination if any. Transcripts of oral examinations  
 5 shall be retained by the board for at least one (1) year  
 6 following the date of examination.

7 (7) A speech pathologist or audiologist who holds ASHA  
 8 certification or equivalent or is licensed in another state  
 9 and who has made application to the board for a license in  
 10 this state, may perform activities and services of a speech  
 11 pathology or audiology nature without a valid license  
 12 pending disposition of application.

13 Section 11. Licensing. (1) The amount of fees  
 14 prescribed in connection with a license as a speech  
 15 pathologist or audiologist shall be as follows, the exact  
 16 fee to be determined by the board each year based on costs  
 17 and predicted expenditures:

18 (a) application and examination fee for a license, no  
 19 less than fifty dollars (\$50) nor more than one hundred  
 20 dollars (\$100);

21 (b) license fee, and renewal thereof, no less than  
 22 twenty-five dollars (\$25) nor more than one hundred dollars  
 23 (\$100).

24 (2) All moneys received by the department shall be  
 25 deposited in the state treasury to the credit of the

1 earmarked revenue fund for the use of the board and subject  
2 to section 82A-1603(6).

3 (3) Each licensed speech pathologist or audiologist  
4 shall on or before July 31 of the year of expiration of his  
5 license pay to the board the fee for the renewal of his  
6 license.

7 (4) Renewal will be every two years beginning on July  
8 1 of the appropriate year.

9 (5) A suspended license is subject to expiration and  
10 may be renewed as provided in this section, but such renewal  
11 does not entitle the licensee while the license remains  
12 suspended to engage in the licensed activity, or in any  
13 other activity or conduct which violates the order or  
14 judgment by which the license was suspended.

15 (6) A license revoked on disciplinary grounds is  
16 subject to expiration, and it may not be renewed. If it is  
17 reinstated after its expiration, the licensee, as a  
18 condition of reinstatement, shall pay a reinstatement fee in  
19 an amount equal to the renewal fee in effect on the last  
20 preceding regular renewal date before the date on which it  
21 is reinstated, plus the delinquency fee, if any, accrued at  
22 the time of its revocation.

23 (7) A person who fails to renew his license within the  
24 four (4) years after its expiration may not renew it, and it  
25 may not be restored, reissued or reinstated thereafter; but

1 such a person may reapply for and obtain a new license if he  
2 meets the requirements of the act.

3 (8) No license tax shall be imposed upon speech  
4 pathologists or audiologists by a municipality or any other  
5 subdivision of the state.

6 Section 12. Powers of board over licensees —  
7 unprofessional conduct defined. (1) The board may refuse  
8 to issue or renew a license, or may suspend or revoke the  
9 license of any licensee if he has been guilty of  
10 unprofessional conduct which has endangered or is likely to  
11 endanger the health, welfare, or safety of the public. Such  
12 unprofessional conduct includes, but is not limited to:

13 (a) obtaining a license by means of fraud,  
14 misrepresentation, or concealment of material facts;

15 (b) being found guilty of unprofessional conduct, or  
16 having violated ethical standards of practice established  
17 pursuant to this act;

18 (c) violating any lawful order or rule of the board;

19 (d) violating any provision of this act.

20 (2) Denial, suspension or revocation of a license is  
21 permissible only after a hearing and procedures which comply  
22 with all applicable requirements of the Montana  
23 Administrative Procedure Act.

24 (3) One year after denial, suspension, or revocation  
25 of a license, a person may reapply for a license. The board

1 may in its discretion require an examination for  
2 reinstatement.

3 (4) Where an applicant or licensee has been convicted  
4 of a felony or a crime involving moral turpitude, the board  
5 may suspend or revoke his license, or may decline to issue a  
6 license when:

- 7 (a) the time for appeal has elapsed;
- 8 (b) the judgment of conviction has been affirmed on  
9 appeal;
- 10 (c) an order granting probation is made suspending the  
11 imposition of sentence.

12 Section 13. Penalty. A person convicted of violating  
13 this act shall be fined not to exceed five hundred dollars  
14 (\$500) or be imprisoned in the county jail for any term not  
15 to exceed six (6) months, or both.

16 Section 14. Injunction of unlawful practice —  
17 restrictions on scope of practice. The practice of speech  
18 pathology or audiology in any way other than as defined in  
19 this act may be enjoined by the district court on petition  
20 by the board.

21 Section 15. Section 93-701-4, R.C.M. 1947, is amended  
22 to read as follows:

23 "93-701-4. Persons in certain relations cannot be  
24 examined. There are particular relations in which it is the  
25 policy of the law to encourage confidence and to preserve it

1 inviolate; therefore, a person cannot be examined as a  
2 witness in the following cases:

3 1. A husband cannot be examined for or against his  
4 wife without her consent; nor a wife for or against her  
5 husband without his consent; nor can either, during the  
6 marriage or afterward, be, without the consent of the other,  
7 examined as to any communication made by one to the other  
8 during the marriage; but this exception does not apply to a  
9 civil action or proceeding by one against the other, nor to  
10 a criminal action or proceeding for a crime committed by one  
11 against the other.

12 2. An attorney cannot, without the consent of his  
13 client, be examined as to any communication made by the  
14 client to him, or his advice given thereon in the course of  
15 professional employment.

16 3. A clergyman or priest cannot, without the consent  
17 of the person making the confession, be examined as to any  
18 confession made to him in his professional character in the  
19 course of discipline enjoined by the church to which he  
20 belongs.

21 4. A licensed physician or surgeon cannot, without the  
22 consent of his patient, be examined in a civil action as to  
23 any information acquired in attending the patient, which was  
24 necessary to enable him to prescribe or act for the patient.

25 5. A public officer cannot be examined as to

1 communications made to him in official confidence, when the  
2 public interests would suffer by the disclosure.

3 6. Any person engaged in teaching psychology in any  
4 school, or who acting as such is engaged in the study and  
5 observation of child mentality, shall not without the  
6 consent of the parent or guardian of such child being so  
7 taught or observed testify in any civil action as to any  
8 information so obtained.

9 7. A counselor, psychologist, nurse, or teacher,  
10 employed by any educational institution, cannot be examined  
11 as to communications made to him in confidence by a duly  
12 registered student of such institution, provided however,  
13 that this provision shall not apply where consent has been  
14 given by the student, if not a minor, or if he is a minor,  
15 by the student and his parent or legal guardian.

16 8. A publisher, editor, reporter or other person  
17 connected with or employed upon a newspaper, or by a press  
18 association or wire service, or any person who has been so  
19 connected or employed, cannot without his consent be  
20 examined as to any communication made to him in confidence  
21 for the purpose of proper publication nor shall he be  
22 adjudged in contempt by a court, the legislature or any  
23 administrative body for refusing to disclose the source of  
24 any information procured while so connected or employed for  
25 publication and published in a newspaper.

1 Nor can a radio or television news reporter or other  
2 person connected with or employed by a radio or television  
3 station, or any person who has been so connected or  
4 employed, without his consent be examined as to any  
5 communication made to him in confidence for the purpose of  
6 proper publication nor shall he be so adjudged in contempt  
7 for refusing to disclose the source of any information  
8 procured while so connected or employed for news or news  
9 commentary purposes on radio or television.

10 9. A speech pathologist or audiologist cannot, without  
11 the consent of his client, be examined IN A CIVIL ACTION as  
12 to any communication made by the client to him."

-End-