

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 308
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, February 22, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

1150S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, and 346.110, RSMo, and to enact in lieu thereof eleven new sections relating to hearing instrument dispensing, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, and 346.110, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 345.015, 345.030, 345.033, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, and 346.110, to read as follows:

345.015. As used in sections 345.010 to 345.080, the following terms mean:

(1) "Audiologist", a person who is licensed as an audiologist pursuant to sections 345.010 to 345.080 to practice audiology;

(2) "Audiology aide", a person who is registered as an audiology aide by the board, who does not act independently but works under the direction and supervision of a licensed audiologist. Such person assists the audiologist with activities which require an understanding of audiology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 be at a minimum:

15 a. Certification of graduation from an accredited high school or its
16 equivalent; and

17 b. On-the-job training;

18 (c) Be employed in a setting in which direct and indirect supervision are
19 provided on a regular and systematic basis by a licensed audiologist.

20 However, the aide shall not administer or interpret hearing screening or
21 diagnostic tests, fit or dispense hearing instruments, make ear impressions, make
22 diagnostic statements, determine case selection, present written reports to anyone
23 other than the supervisor without the signature of the supervisor, make referrals
24 to other professionals or agencies, use a title other than speech-language
25 pathology aide or clinical audiology aide, develop or modify treatment plans,
26 discharge clients from treatment or terminate treatment, disclose clinical
27 information, either orally or in writing, to anyone other than the supervising
28 speech-language pathologist/audiologist, or perform any procedure for which he
29 or she is not qualified, has not been adequately trained or both;

30 (3) "Board", the state board of registration for the healing arts;

31 (4) "Clinical fellowship", the supervised professional employment period
32 following completion of the academic and practicum requirements of an accredited
33 training program as defined in sections 345.010 to 345.080;

34 (5) "Commission", the advisory commission for speech-language
35 pathologists and audiologists;

36 (6) "Hearing instrument" or "hearing aid", any wearable device or
37 instrument designed for or offered for the purpose of aiding or compensating for
38 impaired human hearing and any parts, attachments or accessories, including ear
39 molds, but excluding batteries, cords, receivers and repairs;

40 (7) "Person", any individual, organization, or corporate body, except that
41 only individuals may be licensed pursuant to sections 345.010 to 345.080;

42 (8) "Practice of audiology":

43 (a) The application of accepted audiologic principles, methods and
44 procedures for the measurement, testing, interpretation, appraisal and prediction
45 related to disorders of the auditory system, balance system or related structures
46 and systems;

47 (b) Provides consultation, counseling to the patient, client, student, their
48 family or interested parties;

49 (c) Provides academic, social and medical referrals when appropriate;

50 (d) Provides for establishing goals, implementing strategies, methods and
51 techniques, for habilitation, rehabilitation or aural rehabilitation, related to
52 disorders of the auditory system, balance system or related structures and
53 systems;

54 (e) Provides for involvement in related research, teaching or public
55 education;

56 (f) Provides for rendering of services or participates in the planning,
57 directing or conducting of programs which are designed to modify audition,
58 communicative, balance or cognitive disorder, which may involve speech and
59 language or education issues;

60 (g) Provides and interprets behavioral and neurophysiologic
61 measurements of auditory balance, cognitive processing and related functions,
62 including intraoperative monitoring;

63 (h) Provides involvement in any tasks, procedures, acts or practices that
64 are necessary for evaluation of audition, hearing, training in the use of
65 amplification or assistive listening devices;

66 (i) Provides selection [and], assessment, **fitting, programming, and**
67 **dispensing** of hearing instruments, **assistive listening devices, and other**
68 **amplification systems**;

69 (j) Provides for taking impressions of the ear, making custom ear molds,
70 ear plugs, swim molds and industrial noise protectors;

71 (k) Provides assessment of external ear and cerumen management;

72 (l) Provides advising, fitting, mapping assessment of implantable devices
73 such as cochlear or auditory brain stem devices;

74 (m) Provides information in noise control and hearing conservation
75 including education, equipment selection, equipment calibration, site evaluation
76 and employee evaluation;

77 (n) Provides performing basic speech-language screening test;

78 (o) Provides involvement in social aspects of communication, including
79 challenging behavior and ineffective social skills, lack of communication
80 opportunities;

81 (p) Provides support and training of family members and other
82 communication partners for the individual with auditory balance, cognitive and
83 communication disorders;

84 (q) Provides aural rehabilitation and related services to individuals with
85 hearing loss and their families;

86 (r) Evaluates, collaborates and manages audition problems in the
87 assessment of the central auditory processing disorders and providing
88 intervention for individuals with central auditory processing disorders;

89 (s) Develops and manages academic and clinical problems in
90 communication sciences and disorders;

91 (t) Conducts, disseminates and applies research in communication
92 sciences and disorders;

93 (9) "Practice of speech-language pathology":

94 (a) Provides screening, identification, assessment, diagnosis, treatment,
95 intervention, including but not limited to prevention, restoration, amelioration
96 and compensation, and follow-up services for disorders of:

97 a. Speech: articulation, fluency, voice, including respiration, phonation
98 and resonance;

99 b. Language, involving the parameters of phonology, morphology, syntax,
100 semantics and pragmatic; and including disorders of receptive and expressive
101 communication in oral, written, graphic and manual modalities;

102 c. Oral, pharyngeal, cervical esophageal and related functions, such as
103 dysphagia, including disorders of swallowing and oral functions for feeding;
104 orofacial myofunctional disorders;

105 d. Cognitive aspects of communication, including communication disability
106 and other functional disabilities associated with cognitive impairment;

107 e. Social aspects of communication, including challenging behavior,
108 ineffective social skills, lack of communication opportunities;

109 (b) Provides consultation and counseling and makes referrals when
110 appropriate;

111 (c) Trains and supports family members and other communication
112 partners of individuals with speech, voice, language, communication and
113 swallowing disabilities;

114 (d) Develops and establishes effective augmentative and alternative
115 communication techniques and strategies, including selecting, prescribing and
116 dispensing of augmentative aids and devices; and the training of individuals,
117 their families and other communication partners in their use;

118 (e) Selects, fits and establishes effective use of appropriate
119 prosthetic/adaptive devices for speaking and swallowing, such as
120 tracheoesophageal valves, electrolarynges, or speaking valves;

121 (f) Uses instrumental technology to diagnose and treat disorders of

122 communication and swallowing, such as videofluoroscopy, nasendoscopy,
123 ultrasonography and stroboscopy;

124 (g) Provides aural rehabilitative and related counseling services to
125 individuals with hearing loss and to their families;

126 (h) Collaborates in the assessment of central auditory processing disorders
127 in cases in which there is evidence of speech, language or other cognitive
128 communication disorders; provides intervention for individuals with central
129 auditory processing disorders;

130 (i) Conducts pure-tone air conduction hearing screening and screening
131 tympanometry for the purpose of the initial identification or referral;

132 (j) Enhances speech and language proficiency and communication
133 effectiveness, including but not limited to accent reduction, collaboration with
134 teachers of English as a second language and improvement of voice, performance
135 and singing;

136 (k) Trains and supervises support personnel;

137 (l) Develops and manages academic and clinical programs in
138 communication sciences and disorders;

139 (m) Conducts, disseminates and applies research in communication
140 sciences and disorders;

141 (n) Measures outcomes of treatment and conducts continuous evaluation
142 of the effectiveness of practices and programs to improve and maintain quality
143 of services;

144 (10) "Speech-language pathologist", a person who is licensed as a
145 speech-language pathologist pursuant to sections 345.010 to 345.080; who engages
146 in the practice of speech-language pathology as defined in sections 345.010 to
147 345.080;

148 (11) "Speech-language pathology aide", a person who is registered as a
149 speech-language aide by the board, who does not act independently but works
150 under the direction and supervision of a licensed speech-language
151 pathologist. Such person assists the speech-language pathologist with activities
152 which require an understanding of speech-language pathology but do not require
153 formal training in the relevant academics. To be eligible for registration by the
154 board, each applicant shall submit a registration fee, be of good moral and ethical
155 character; and:

156 (a) Be at least eighteen years of age;

157 (b) Furnish evidence of the person's educational qualifications which shall

158 be at a minimum:

159 a. Certification of graduation from an accredited high school or its
160 equivalent; and

161 b. On-the-job training;

162 (c) Be employed in a setting in which direct and indirect supervision is
163 provided on a regular and systematic basis by a licensed speech-language
164 pathologist. However, the aide shall not administer or interpret hearing
165 screening or diagnostic tests, fit or dispense hearing instruments, make ear
166 impressions, make diagnostic statements, determine case selection, present
167 written reports to anyone other than the supervisor without the signature of the
168 supervisor, make referrals to other professionals or agencies, use a title other
169 than speech-language pathology aide or clinical audiology aide, develop or modify
170 treatment plans, discharge clients from treatment or terminate treatment,
171 disclose clinical information, either orally or in writing, to anyone other than the
172 supervising speech-language pathologist/audiologist, or perform any procedure for
173 which he or she is not qualified, has not been adequately trained or both;

174 (12) "Speech-language pathology assistant", a person who is registered as
175 a speech-language pathology assistant by the board, who does not act
176 independently but works under the direction and supervision of a licensed
177 speech-language pathologist and whose activities require both academic and
178 practical training in the field of speech-language pathology although less training
179 than those established by sections 345.010 to 345.080 as necessary for licensing
180 as a speech-language pathologist. To be eligible for registration by the board,
181 each applicant shall submit the registration fee, be of good moral character and
182 furnish evidence of the person's educational qualifications which meet the
183 following:

184 (a) Hold a bachelor's level degree in the field of speech-language pathology
185 from an institution accredited or approved by a regional accrediting body
186 recognized by the United States Department of Education or its equivalent; and

187 (b) Submit official transcripts from one or more accredited colleges or
188 universities presenting evidence of the completion of bachelor's level course work
189 and clinical practicum requirements equivalent to that required or approved by
190 a regional accrediting body recognized by the United States Department of
191 Education or its equivalent.

345.030. 1. The board shall administer, coordinate, and enforce the
2 provisions of sections 345.010 to 345.080, evaluate the qualifications of

3 applicants, supervise the examination of applicants, issue licenses, and shall
4 investigate persons engaging in practices which appear to violate the provisions
5 of sections 345.010 to 345.080.

6 2. The board shall conduct such hearings and keep such records and
7 minutes as shall be necessary to an orderly dispatch of business.

8 3. The board shall adopt reasonable rules and regulations which establish
9 ethical standards of practice and may amend or repeal the same. **Rules and**
10 **regulations shall be adopted that ensure consumer protection related**
11 **to hearing instrument dispensing that meet or exceed those provided**
12 **under sections 346.007 to 346.250, RSMo, and rules and regulations**
13 **promulgated pursuant thereto.**

14 4. Regular meetings of the commission shall be held at such times and
15 places as it prescribes, and special meetings may be held upon the call of the
16 chairperson or by request of at least two other members of the commission, but
17 at least one regular meeting shall be held each year.

18 5. No rule or portion of a rule promulgated pursuant to the authority of
19 sections 345.010 to 345.080 shall become effective unless it has been promulgated
20 pursuant to the provisions of chapter 536, RSMo.

345.033. 1. Any person licensed under sections 345.010 to 345.080
2 **who dispenses products associated with professional practice to clients**
3 **for remuneration shall deliver to each person supplied with a product**
4 **a completed purchase agreement which shall include the terms of the**
5 **sale clearly stated using ordinary English language and terminology**
6 **which is easily understood by the purchaser. If a product which is not**
7 **new is sold, the purchase agreement and the container thereof shall be**
8 **clearly marked as "used", "recased", or "reconditioned", whichever is**
9 **applicable, with terms of guarantee, if any.**

10 **2. Any audiologist licensed under sections 345.010 to 345.080 who**
11 **dispenses hearing instruments shall include in the purchase agreement**
12 **for a hearing instrument the following:**

13 **(1) The licensee's signature, business address, and license**
14 **number;**

15 **(2) The specifications of the hearing instrument dispensed**
16 **including make, model, and serial number;**

17 **(3) The exact amount of any down payment;**

18 **(4) The length of any trial period provided;**

19 **(5) The amount of any charges or service fees connected with any**
20 **trial period;**

21 **(6) A description of the right of the purchaser to return the**
22 **hearing instrument or written notification that no such right exists;**

23 **(7) The name of the manufacturer of the component parts and**
24 **the assembler or reassembler of the hearing instrument when the**
25 **product sold is remanufactured or assembled by someone other than**
26 **the manufacturer of the component parts.**

 345.045. 1. **Except as otherwise provided in this section, all**
2 **moneys received pursuant to sections 345.010 to 345.080 shall be collected by the**
3 **division of professional registration and shall be transmitted to the department**
4 **of revenue for deposit in the state treasury to the credit of the board of**
5 **registration for the healing arts fund.**

6 **2. Effective July 1, 2008, the board shall, in every odd numbered**
7 **year, transfer from the "Board of Registration for the Healing Arts**
8 **Fund" to the "Hearing Instrument Specialist Fund" an amount not to**
9 **exceed sixty-one thousand dollars per transfer as necessary to replace**
10 **decreased renewal fees received by the board of examiners for hearing**
11 **instrument specialists as a result of the decrease in licensees under**
12 **subsection 2 of section 346.060, RSMo. The initial transfer amount shall**
13 **be equal to the license renewal fees paid during fiscal years 2006 and**
14 **2007 by individuals licensed under subsection 2 of section 346.060,**
15 **RSMo. The amount of subsequent transfers may decrease each odd**
16 **numbered year. Any decrease shall be no more than twenty-five**
17 **percent of the initial transfer amount. The transfer amount shall be**
18 **requested through the legislative budget process by the director of the**
19 **division of professional registration, with the advice and consultation**
20 **of the board and the board of examiners for hearing instrument**
21 **specialists.**

22 **3. Moneys collected and deposited under this section may be**
23 **used to assist in the enforcement of the statutes relating to the fitting**
24 **and dispensing of hearing aids by unlicensed individuals.**

 345.055. 1. **The board shall charge a license or registration renewal fee**
2 **for each license or registration renewed. Persons possessing the required training**
3 **and qualifications to be licensed or registered as both a speech-language**
4 **pathologist and audiologist shall receive both licenses, which for the purposes of**
5 **this section shall be considered as a single license or certificate. Duplicate**

6 licenses or certificates shall be issued without additional charge to persons
7 practicing in more than one location. Persons who allow their licenses to lapse
8 shall submit a reinstatement fee, and if the license has lapsed for more than a
9 three-year period, the board may require reexamination.

10 2. The fees prescribed by section 345.051 and this section shall be
11 exclusive, and notwithstanding any other provision of law, no municipality may
12 require any person licensed pursuant to the provisions of sections 345.010 to
13 345.080 to furnish any bond, pass any examination, or pay any license fee or
14 occupational tax.

15 3. The board shall set the amount of the fees which sections 345.010 to
16 345.080 authorize and require by rules and regulations promulgated pursuant to
17 section 536.021, RSMo. The fees shall be set at a level to produce:

18 (1) Revenue which shall not substantially exceed the cost and expense of
19 administering sections 345.010 to 345.080; and

20 (2) **Effective July 1, 2008, any transfer required from the board**
21 **under subsection 2 of section 345.045.**

346.015. 1. No person shall engage in the practice of fitting hearing
2 instruments or display a sign or in any other way advertise or represent such
3 person by any other words, letters, abbreviations or insignia indicating or
4 implying that the person practices the fitting of hearing instruments unless the
5 person holds a valid license issued by the division as provided in this
6 chapter. The license shall be conspicuously posted in the person's office or place
7 of business. Duplicate licenses shall be issued by the department to valid license
8 holders operating more than one office, without additional payment. A license
9 under this chapter shall confer upon the holder the right to select, fit and sell
10 hearing instruments.

11 2. Each person licensed pursuant to sections 346.010 to 346.250 shall
12 display the license in an appropriate and public manner and shall keep the board
13 informed of the licensee's current address. A license issued pursuant to sections
14 346.010 to 346.250 is the property of the division and must be surrendered on
15 demand in the event of expiration or after a final determination is made with
16 respect to revocation, suspension or probation.

17 3. Nothing in this chapter shall prohibit a corporation, partnership, trust,
18 association or other like organization maintaining an established business
19 address from engaging in the business of selling or offering for sale hearing
20 instruments at retail, provided that it employ only properly licensed hearing

21 instrument specialists **or properly licensed audiologists** in the direct sale
22 and fitting of such instruments. Each corporation, partnership, trust, association
23 or other like organization shall file annually with the board on a form provided
24 by the board, a list of all licensed hearing instrument specialists employed by
25 it. Each organization shall also file with the division a statement, on a form
26 provided by the division, that it agrees to comply with the rules and regulations
27 of the division and the provisions of **this chapter**.

28 4. Any person who violates any provision of this section is guilty of a class
29 B misdemeanor.

346.030. Sections 346.010 to 346.250 [are not intended to prevent] **shall**
2 **not apply to** any audiologist licensed pursuant to chapter 345, RSMo, [from
3 engaging in the practice of measuring human hearing for the purpose of selection
4 of hearing aids, provided such audiologist, or organization employing such
5 audiologist, does not sell hearing instruments, or accessories thereto, except in
6 the case of earmolds provided by an audiologist to be used only for the purpose
7 of audiologic evaluation] **while practicing exclusively under that license**.

346.035. [1.] Sections 346.010 to 346.250 shall not apply to a person who
2 is a physician licensed to practice in Missouri pursuant to chapter 334, RSMo.

3 [2. Sections 346.010 to 346.250 shall not apply to an audiologist, provided
4 such person or organization employing such person does not engage in the sale
5 of hearing aids.]

346.055. 1. An applicant may obtain a license by successfully passing a
2 qualifying examination of the type described in sections 346.010 to 346.250,
3 provided the applicant:

- 4 (1) Is at least twenty-one years of age;
- 5 (2) Is of good moral character; **and**
- 6 (3) **Until December 31, 2008**, has an education equivalent to at least
7 a high school diploma from an accredited high school.

8 **2. Beginning January 1, 2009, an applicant for a hearing**
9 **instrument specialist license or a hearing instrument specialist-in-**
10 **training permit shall demonstrate successful completion of a minimum**
11 **of sixty semester hours, or its equivalent, at a state or regionally**
12 **accredited institution of higher education.**

13 **3. Beginning January 1, 2011, an applicant for a hearing**
14 **instrument specialist license or a hearing instrument specialist-in-**
15 **training permit shall hold an associate's level degree or higher from a**

16 state or regionally accredited institution of higher education.

17 4. Beginning January 1, 2013, or any date thereafter when an
18 associate degree program in hearing instrument sciences is available
19 from a state or regionally accredited institution within Missouri, an
20 applicant for a hearing instrument specialist license or a hearing
21 instrument specialist-in-training permit shall hold:

22 (1) An associate's degree or higher in hearing instrument
23 sciences; or

24 (2) A master's or doctoral degree in audiology from a state or
25 regionally accredited institution.

26 5. The provisions of subsections 2, 3, and 4 of this section shall
27 not apply to any person holding a valid Missouri hearing instrument
28 specialist license under this chapter when applying for the renewal of
29 that license. These provisions shall apply to any person holding a
30 hearing instrument specialist-in-training permit at the time of their
31 application for licensure or renewal of said permit.

346.060. [1.] An applicant for license by examination shall appear at a
2 time, place, and before such persons as the board may designate to be examined
3 by means of written and practical tests in order to demonstrate that the applicant
4 is qualified to engage in the practice of fitting hearing instruments. Nothing in
5 this examination shall imply that the applicant shall possess the degree of
6 medical competence normally expected of physicians.

7 [2. Notwithstanding the provisions of subsection 1 of this section, any
8 applicant who is an audiologist licensed pursuant to chapter 345, RSMo, and who
9 holds the certification of clinical competence or is completing the clinical
10 fellowship year offered by the American Speech-Language-Hearing Association
11 shall not be required to pass either the written exam or the practical exam for
12 licensure as a hearing instrument specialist in this state.]

346.110. No person shall:

2 (1) Sell through the mails, hearing instruments without prior fitting and
3 testing by a hearing instrument specialist **licensed under this chapter or an**
4 **audiologist licensed under chapter 345, RSMo;**

5 (2) Sell, barter, or offer to sell or barter a license;

6 (3) Purchase or procure by barter a license with intent to use it as
7 evidence of the holder's qualification to engage in the practice of fitting hearing
8 instruments;

- 9 (4) Alter a license with fraudulent intent;
10 (5) Use or attempt to use as a valid license a license which has been
11 purchased, fraudulently obtained, counterfeited or materially altered;
12 (6) Willfully make a false statement in an application for license or
13 application for renewal of a license.

Section B. Section A of this act shall become effective on July 1, 2008.

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Bill

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