

State Board of Examiners for Speech-Language Pathology and Audiology

Project Manager: Erick Fajardo

Board at a Glance

The State Board of Examiners for Speech-Language Pathology and Audiology (the Board) regulates speech-language pathologists (SLPs) and audiologists in Texas. Speech-Language Pathologists evaluate and treat disorders related to communication, language, and swallowing, and must obtain a masters-level degree to be licensed. Audiologists evaluate and treat ailments related to hearing and vestibular functions, including the fitting and dispensing of hearing instruments. As of January 1, 2007, licensed audiologists must obtain a doctorate-level degree.

The Board's mission is to protect and promote public health by designing and enforcing licensure rules and regulations for SLPs and audiologists. To achieve its mission, the Board carries out the following key activities.

- Develops and updates standards of practice for licensed speech-language pathologists and audiologists.
- Issues and renews licenses to qualified individuals as SLPs, SLP interns, and SLP assistants as well as audiologists, audiologist interns, and audiologist assistants.
- Receives and investigates complaints concerning licensees, and takes disciplinary actions against individuals who violate the Board's statute or rules.

The Board is administratively attached to the Texas Department of State Health Services (DSHS), housed within its Professional Licensing and Certification Unit. DSHS provides staff, facilities, and infrastructure necessary to execute the Board's duties. DSHS also houses the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (the Committee), that licenses and regulates individuals who fit and dispense hearing instruments.

Summary

As part of this review, the Sunset Commission considered both the Board and the Committee, since both are housed within and administered by DSHS' Professional Licensing and Certification Unit and both license and regulate individuals who fit and dispense hearing instruments. The Sunset Commission considered the need to regulate these professions jointly, but concluded that they should be continued separately since the practice of speech-

Some elements of the Board's regulatory functions do not conform to common licensing standards.

language pathology and audiology is focused on providing a healthcare service to consumers, while the practice of fitting and dispensing hearing instruments is focused more on providing a product to consumers. Additionally, since the same DSHS staff administers both the Board and the Committee, consolidation would not yield any significant efficiencies or cost savings.

The Sunset Commission found several inconsistencies in the Board and Committee's regulation of hearing instrument sales, particularly with respect to written contracts, recordkeeping, and the 30-day trial period. The Commission also compared the Board's statute against standard licensing practices and identified several changes that would enhance efficiency, fairness, and public protection, and improve the consistency of the Board's operations. The following material summarizes the Sunset Commission's recommendations on the State Board of Examiners for Speech-Language Pathology and Audiology. Material on the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments can be found in a separate section of this report.

Issue 1

Texas Has a Continuing Need for the State Board of Examiners for Speech-Language Pathology and Audiology.

The Board regulates speech-language pathologists who evaluate and treat disorders related to communication, language, and swallowing; and audiologists who evaluate and treat ailments related to hearing and vestibular functions. The Sunset Commission found the State has a continuing need to license and regulate these professions to protect Texas consumers and to improve and maintain professional standards for these occupations, particularly as the complexity of the conditions and treatments these healthcare professions address will continue to evolve.

However, the Sunset Commission concluded the Board should only be continued for six years so that its next Sunset review would coincide with the review of several other licensing programs within DSHS' Professional Licensing and Certification Unit. Performing these reviews at the same time would allow their structure and administration to be evaluated together, and would provide sufficient time for the Board to implement any changes resulting from this review as well as the upcoming Sunset review of DSHS in 2013.

Recommendations

Change in Statute

1.1 Continue the State Board of Examiners for Speech-Language Pathology and Audiology for six years.

This recommendation would continue the Board for six years, administratively attached to DSHS. This shorter Sunset date would enable the Sunset Commission to evaluate the Board together with six other licensing programs administered by DSHS' Professional Licensing and Certification Unit that are scheduled for Sunset review in 2017.

1.2 Apply the standard Sunset across-the-board requirements to the State Board of Examiners for Speech-Language Pathology and Audiology.

- **Public membership.** Under this recommendation, a person would be prohibited from being appointed as a public member of the Board if the person's spouse is registered, certified, or licensed

by a regulatory agency in the field of speech-language pathology or audiology. This recommendation would also prohibit a person from serving as a public member of the Board if the person or the person's spouse uses or receives a substantial amount of tangible goods, services, or money from the Board other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses.

- **Conflict of interest.** This recommendation would define "Texas trade association" and prohibit an individual from serving as a member of the Board if the person or the person's spouse is an officer, employee, or paid consultant of a Texas trade association in the field of health care.
- **Presiding officer designation.** This recommendation would require the Governor to designate a member of the Board as the presiding officer to serve in that capacity at the pleasure of the Governor, rather than the Board selecting the presiding officer, as it does currently.
- **Grounds for removal.** This recommendation would specify the grounds for removal for Board members and the notification procedure for when a potential ground for removal exists. This recommendation would also clarify that if a ground for removal of a Board member exists, actions taken by the Board are still valid.
- **Board member training.** This recommendation would clearly establish the type of information to be included in the Board member training. The training would need to provide Board members with information regarding the legislation that created the Board; its programs, functions, rules, and budget; the results of its most recent formal audit; the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies.

Issue 2

Having Different Rules Governing the Sale of Hearing Instruments Treats Customers Inequitably and Causes Confusion.

Both the Board and the Committee have authority to adopt rules regarding the sale of hearing instruments. The Sunset Commission found several inconsistencies in the Board's and the Committee's rules relating to the standards for hearing instrument sales, including different requirements for the written purchase contract, recordkeeping, and 30-day trial period. Having inconsistent rules regarding hearing instrument sales is unfair to consumers and creates confusion for both consumers and licensees. Requiring the Board and the Committee to jointly adopt rules for hearing instrument sales would ensure consumers who purchase hearing instruments from audiologists receive the same information about their purchase as consumers who purchase hearing instruments from hearing instrument fitters and dispensers.

Recommendation

Change in Statute

- 2.1 Require the Board and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments to jointly develop and adopt rules for hearing instrument sales.**

Under this recommendation, the Board and the Committee would be statutorily required to work together to develop and adopt common rules for hearing instrument sales, including the written contract, recordkeeping, and 30-day trial period for hearing instrument sales. The written contract and 30-day trial period policy for hearing instruments would be required to be written in clear, plain language. To help ensure fairness and consistency, DSHS staff should facilitate this process, bringing together the expertise of the professional members of both the Board and Committee. The Board and Committee should adopt the common rules by May 1, 2012.

Issue 3

Key Elements of the Board's Licensing and Regulatory Functions Do Not Conform to Common Licensing Standards.

Over the past 32 years, the Sunset Commission has reviewed more than 98 occupational licensing agencies. In doing so, the Commission has identified standards that are common practices throughout the agencies' statutes, rules, and procedures. In reviewing the Board's licensing functions, the Sunset Commission found that certain licensing and enforcement processes in the agency's statute do not match these model standards. Based on these variations, the Sunset Commission identified changes needed to bring the Board in line with model standards to more fairly treat licensees and better protect the public.

Recommendations

Change in Statute

3.1 Require the Board to conduct a fingerprint-based criminal background check of SLP and audiologist licensees.

This recommendation would require the Board to conduct fingerprint criminal background checks, through the Department of Public Safety (DPS), on all licensees, except speech-language pathologists and assistants in speech-language pathology working in the Texas state school system, who are already subject to fingerprint-based criminal background checks as a condition of their employment. Licensees would use the State's fingerprint vendor to collect and submit fingerprints. The DPS system provides automatic updates, eliminating the need for additional background checks when investigating a complaint or conducting an audit. New prospective licensees would provide fingerprints at the time of application, and existing licensees would provide fingerprints upon renewal.

3.2 Authorize the Board to order direct refunds to consumers as part of the 30-day trial period complaint settlement process for hearing instruments.

This recommendation would authorize the Board to mandate that a licensee issue a refund to a consumer who is entitled to it according to the terms of the 30-day trial period policy for hearing instruments.

3.3 Require Board members to recuse themselves from voting on disciplinary actions in cases in which they participated in investigations.

This recommendation would require Board members to recuse themselves from voting on disciplinary actions in cases in which they played a role at the investigatory level. Recusing Board members who have a prior interest in a case would promote objective decision making and ensure that the respondent receives a fair hearing.

3.4 Grant cease-and-desist authority to the Board for unlicensed practice of speech-language pathology and audiology.

This recommendation would authorize the Board to assess administrative penalties against individuals who violate cease-and-desist orders, to better protect the public from unlicensed speech-language pathologists and audiologists.

Fiscal Implication Summary _____

These recommendations would have no fiscal impact to the State.

