

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 161

(Delegate Kelly)

Health and Government Operations

Education, Health, and Environmental Affairs

Health Occupation – Licensing of Audiology Assistants

This bill requires an individual, on or after October 1, 2022, to be licensed by the State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists as an “audiology assistant” before the individual may assist a licensed audiologist in the practice of audiology. An audiology assistant must assist the practice of audiology under the “general supervision” of a licensed audiologist. Unless licensed by board, an individual may not represent to the public, as specified, that the person is authorized to practice as an audiology assistant in the State or assist in the practice of audiology. The board must promulgate regulations to establish the term of a license and any renewal or reinstatement requirements.

Fiscal Summary

State Effect: The board can handle the bill’s requirements with existing budgeted resources. Minimal increase in board special fund revenues beginning as early as FY 2022 from license fees, as discussed below. The bill’s imposition of existing penalty provisions does not have a material impact on State finances or operations.

Local Effect: The bill’s imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Audiology assistant” means an individual who (1) meets the minimum qualifications established under the bill and in regulations adopted by the board; (2) does

not work independently; and (3) works under the general supervision of a licensed audiologist (who may or may not be present when the licensed audiology assistant assists in the practice of audiology). A licensed audiologist may not provide general supervision for more than two licensed audiology assistants at any time.

To qualify for a license, an applicant must:

- be of good moral character;
- hold a high school diploma or equivalent;
- demonstrate oral competency;
- submit to a criminal history records check;
- submit an application to the board on the required form; and
- pay the application fee set by the board.

The board may waive any application requirements in regulations. The board must issue a license to any applicant who meets specified requirements. The board may not adopt regulations to establish qualifications that are more stringent than the qualifications for a license to practice audiology.

The board may allow an audiology assistant licensed in another state to assist in the practice of audiology without a Maryland license if the audiology assistant has a completed application for licensure pending before the board.

A person may not knowingly make a false, material statement in an application for an initial or renewal license or materially alter, transfer, or offer to transfer a license. An audiology assistant may not engage in an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA) or violate any provision of the Hearing Aid Sales Act.

A licensed audiology assistant or an applicant must be subject to specified provisions of law relating to medical examination, misleading advertising, unlawful inducements, unfair or deceptive trade practices in the provision of hearing aids, provision of receipts for hearing aids, and reinstatement of a suspended or revoked license in the same manner as those provisions apply to an applicant for a license to practice audiology and a licensed audiologist.

Current Law: Practice audiology means to apply the principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction that relate to the development and disorders of hearing, vestibular functions, and related language and speech disorders, to prevent or modify the disorders or assist individuals in hearing and auditory and related skills for communication. Practice audiology includes fitting or selling hearing aids.

In general, an individual must be licensed by the board before the individual may practice audiology or provide hearing aid services, with specified exceptions. A license may be renewed for a two-year term. A person may not assist, attempt to assist, or offer to assist in the practice of audiology unless licensed by the board.

An audiologist must ensure that patients have received a medical examination prior to providing hearing aid services. Audiologists may not (1) place misleading or untruthful advertisements for hearing aids or (2) falsely represent the use or availability of services or advice of a physician for providing hearing aid services. An audiologist may not give or offer to give anything of value to another person who provides professional services to clients if given to induce or influence the person to buy a product or service from the person giving the thing of value or refrain from buying a product or service from a competitor. With each sale of a hearing aid, an audiologist must provide a specified receipt to the patient.

The board may deny a license to any applicant, reprimand or place on probation any licensee, or suspend or revoke a license for specified reasons. Unless the board agrees to accept the surrender of a license, an individual may not allow their license to lapse while under investigation. As a result of any disciplinary action, licensees have the right to a hearing before the board. If, after a hearing, the board finds that there are grounds to suspend or revoke a license, reprimand a licensee, or place a licensee on probation, the board may impose an additional penalty of up to \$5,000. Any penalties are paid to the general fund.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind, which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division in the Office of the Attorney General is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any

civil penalties, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

State Revenues: The board estimates that special fund revenues increase by approximately \$10,000 from audiology assistant license fees beginning as early as fiscal 2022. Although not required until October 1, 2022 (fiscal 2023), to the extent the new audiology assistant license program is in place sooner, the board could begin licensure in fiscal 2022. Although the application fee is not established under the bill, the board advises that both the license and renewal fee will be approximately \$100. The board expects 100 initial applicants for licensure and estimates that licenses will be renewed for a two-year term. However, the Department of Legislative Services (DLS) notes that the board must promulgate regulations to designate the license term and renewal fees under the bill. Thus, DLS assumes that board special fund revenues increase by a minimal amount beginning as early as fiscal 2022.

Small Business Effect: Individuals may practice as licensed audiology assistants in the State but must be licensed by the board (including paying a fee) by October 1, 2022.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 379 (Senator Lam) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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