

No. 2000-71

AN ACT

HB 398

Amending the act of December 21, 1984 (P.L.1253, No.238), entitled "An act regulating the practice of speech-language pathologists, audiologists and teachers of the hearing impaired; creating the State Board of Examiners in Speech-Language and Hearing with certain powers and duties; and prescribing penalties," further providing for powers and duties of the board; and providing for impaired professionals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 5 of the act of December 21, 1984 (P.L.1253, No.238), known as the Speech-Language and Hearing Licensure Act, is amended to read:

Section 5. Powers and duties of board.

The board shall have the power and its duties shall be:

(1) To approve the qualifications and fitness of applicants for licensure, and to adopt and revise rules and regulations requiring applicants to pass examinations relating to their qualifications as a prerequisite to the issuance of a license.

(2) To adopt and revise rules and regulations consistent with the law as may be necessary to implement the provisions of this act. These rules and regulations shall include, but not be limited to, codes of ethics for speech-language pathologists, audiologists and teachers of the hearing impaired. The codes of ethics shall provide further that, whereas speech-language pathologists, audiologists and teachers of the hearing impaired provide nonmedical and nonsurgical services, medical diagnosis and medical treatment by these persons are specifically to be considered unethical and illegal.

(3) To examine for, deny, approve, issue, revoke, suspend or renew the licenses of speech-language pathologist, audiologist and teacher of the hearing impaired applicants.

(4) To conduct hearings upon complaints of violations of this act and the rules and regulations adopted pursuant to this act, and to prosecute and enjoin all such violations.

(5) To spend funds necessary for the proper performance of its assigned duties in accordance with the fiscal and other laws of this Commonwealth and upon approval by the Commissioner of Professional and Occupational Affairs.

(6) To waive examination and educational requirements and grant a license as provided in sections 6 and 7.

(7) To establish standards of eligibility for license renewal. *These standards shall include, but not be limited to, the demonstration of*

satisfactory completion of 20 clock hours of continuing education related to the practice of speech-language pathology, audiology or teaching the hearing impaired in accordance with board regulations. No credit may be given for courses in office management or practice building. The board may waive all or part of the continuing education requirement to a licensee who shows to the satisfaction of the board that the licensee was unable to complete the requirement due to illness, emergency or hardship. The request for a waiver must be made in writing, with appropriate documentation, and must include a description of the circumstances sufficient to show why a licensee is unable to comply with the continuing education requirement. Waiver requests shall be evaluated by the board on a case-by-case basis. The board shall send the licensee written notification of its approval or denial of a waiver request. The requirement to demonstrate the satisfactory completion of continuing education shall begin with the biennial renewal period to be designated by regulation of the board and following written notice to licensees.

(8) To promulgate rules and regulations regarding persons functioning under the direction of audiologists, speech-language pathologists and teachers of the hearing impaired.

Section 2. The act is amended by adding a section to read:

Section 17.1. Impaired professionals.

(a) Appointment of professional consultant.—The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board or such other professional as the board may determine with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. This consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups that are approved by the board and provide services to licensees under this act.

(b) Board action against impaired professionals.—

(1) The board may deter and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program.

(2) An approved program provider shall, upon request, disclose to the consultant any information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States.

(3) The disclosure of information by an approved program provider under this section shall apply in the case of an impaired professional who:

(i) Enters an agreement in accordance with this section.

(ii) Is the subject of a board investigation or disciplinary proceeding.

(iii) Voluntarily enters a treatment program other than under the provisions of this section, but who fails to complete the program successfully or to adhere to an aftercare plan developed by the program provider.

(4) The provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country.

(c) Board agreement with impaired professional.—An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked. Enforcement of that suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on this practice imposed by the board to protect the public. Failure to enter into an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d) Consultant disclosure to board.—If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in the consultant's possession regarding this professional, and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license should be vacated.

(e) Immunity to approved program provider.—An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for the disclosure or its consequences.

(f) Mandatory reporting to board.—

(1) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of that professional's license shall make or cause to be made a report to the board.

(2) Any person or facility who acts in a treatment capacity to an impaired speech-language pathologist, audiologist or as a teacher of the hearing impaired in an approved treatment program shall be exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports under this subsection in good faith and without malice shall be immune from any civil or criminal liability arising from the report.

(3) Failure to provide the report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed \$1,000. The board shall impose the penalty only after affording the accused party the opportunity for a hearing as provided in 2 Pa.C.S. (relating to administrative law and procedure).

Section 3. This act shall take effect in 60 days.

APPROVED—The 18th day of October, A.D. 2000.

THOMAS J. RIDGE