

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 1623

S.P. 567

March 21, 2007

An Act To Create the Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

A handwritten signature in black ink, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BROMLEY of Cumberland.

Cosponsored by Representative MacDONALD of Boothbay and Senators: COURTNEY of York, PERRY of Penobscot, Representatives: CLEARY of Houlton, RECTOR of Thomaston.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **PART A**

3 **Sec. A-1. 5 MRSA §5301, sub-§2, ¶E**, as amended by PL 2005, c. 347, Pt. A,
4 §1, is further amended to read:

5 E. Convictions for which incarceration for less than one year may be imposed and
6 that involve sexual misconduct by an applicant for massage therapy licensure or a
7 licensed massage therapist or an applicant or licensee of the Board of Licensure in
8 Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the
9 State Board of Examiners of Psychologists, the State Board of Social Worker
10 Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in
11 Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of
12 Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the
13 Board of Occupational Therapy Practice, the Board of ~~Examiners on~~ Speech-
14 language Pathology and, Audiology, the Board of and Hearing Aid Dealers Dealing
15 and Fitters Fitting, the Radiologic Technology Board of Examiners, the Nursing
16 Home Administrators Licensing Board, the Board of Licensure of Podiatric
17 Medicine, the Board of Complementary Health Care Providers, the Maine Board of
18 Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State
19 Board of Nursing and the Emergency Medical Services' Board.

20 **Sec. A-2. 5 MRSA §5303, sub-§2**, as amended by PL 2005, c. 347, Pt. A, §2, is
21 further amended to read:

22 **2. Ten-year limits.** For applicants to and licensees and registrants of the Board of
23 Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental
24 Examiners, the State Board of Examiners of Psychologists, the State Board of Social
25 Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the
26 Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners
27 in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of
28 Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the
29 Board of Occupational Therapy Practice, the Board of ~~Examiners on~~ Speech-language
30 Pathology and, Audiology, the Board of and Hearing Aid Dealers Dealing and Fitters
31 Fitting, the Radiologic Technology Board of Examiners, the Nursing Home
32 Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board
33 of Complementary Health Care Providers, the Maine Board of Pharmacy, and the
34 Emergency Medical Services' Board and applicants for massage therapy licensure or
35 licensed massage therapists, the following apply.

36 A. The procedures outlined in sections 5301 and 5302 for the consideration of prior
37 criminal conviction as an element of fitness to practice a licensed profession, trade or
38 occupation apply within 10 years of the applicant's or licensee's final discharge, if
39 any, from the correctional system.

40 B. Beyond the 10-year period, ex-offender applicants or licensees with no
41 additional convictions must be considered in the same manner as applicants or
42 licensees possessing no prior criminal record for the purposes of licensing decisions.

1 C. There is no time limitation for consideration of a registrant's, an applicant's or
2 licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise
3 a ground for disciplinary action.

4 **Sec. A-3. 5 MRSA §12004-A, sub-§20**, as enacted by PL 1987, c. 786, §5, is
5 repealed.

6 **Sec. A-4. 5 MRSA §12004-A, sub-§39**, as amended by PL 1999, c. 687, Pt. B,
7 §1, is repealed.

8 **Sec. A-5. 5 MRSA §12004-A, sub-§48** is enacted to read:

9 **48.**

10 <u>Board of Speech-language</u>	<u>\$35/Day</u>	<u>32 MRSA §17201</u>
11 <u>Pathology, Audiology and</u>		
12 <u>Hearing Aid Dealing and</u>		
13 <u>Fitting</u>		

14 **PART B**

15 **Sec. B-1. 10 MRSA §1500, sub-§1**, as enacted by PL 1997, c. 235, §1, is
16 amended to read:

17 **1. Assistive device.** "Assistive device" means any device that a consumer purchases
18 or accepts transfer of in this State that is used within manufacturer specifications by a
19 person with a disability within the meaning of the federal Americans with Disabilities Act
20 to offset the effect of the disability and enhance function in carrying out a major life
21 activity. "Assistive device" includes, but is not limited to, manual wheelchairs, motorized
22 wheelchairs, motorized scooters and other aids that enhance the mobility of the
23 individual; hearing aids, telephone communications devices for the deaf, or TDD,
24 assistive listening devices and other aids that enhance an individual's ability to hear; voice
25 synthesized computer modules, optical scanners, talking software, braille printers and
26 other devices that enhance a sight-impaired individual's ability to communicate; and any
27 other assistive device that enables a person with a disability to communicate, see, hear or
28 maneuver. "Assistive device" does not include a hearing aid as defined by Title 32,
29 section ~~1658~~ 17101, subsection ~~5~~ 8.

30 **Sec. B-2. 10 MRSA §8001, sub-§38, ¶P**, as enacted by PL 1995, c. 397, §11, is
31 repealed.

32 **Sec. B-3. 10 MRSA §8001, sub-§38, ¶FF**, as enacted by PL 1995, c. 397, §11,
33 is repealed.

34 **Sec. B-4. 10 MRSA §8001, sub-§38, ¶KK**, as enacted by PL 1995, c. 560, Pt.
35 H, §4 and affected by §17, is amended to read:

36 **KK.** Board of Boiler Rules; and

1 **5. Calibration.** "Calibration" means the objective adjustment of a machine to an
2 accepted standard. The board shall adopt rules to define recalibration, accepted standards
3 and calibration check.

4 **6. Code of ethics.** "Code of ethics" means the code of ethics pertaining to the
5 practices of speech-language pathology, audiology and hearing aid dealing and fitting
6 adopted by the board.

7 **7. Commissioner.** "Commissioner" means the Commissioner of Professional and
8 Financial Regulation.

9 **8. Hearing aid.** "Hearing aid" means a wearable instrument or device designed for
10 or offered for the purpose of aiding or compensating for impaired human hearing and any
11 parts, attachments or accessories, including ear molds, but excluding batteries and cords.

12 **9. Hearing aid dealer and fitter.** "Hearing aid dealer and fitter" means an individual
13 licensed under this chapter who engages in the practice of dealing in and fitting of
14 hearing aids.

15 **10. Practice of dealing in and fitting of hearing aids.** "Practice of dealing in and
16 fitting of hearing aids" means, but is not limited to, the selection, adaptation or sale of
17 hearing aids, or parts of hearing aids; the testing of hearing by means of an audiometer or
18 equivalent measurement of hearing; the making of impressions for ear molds; and hearing
19 aid orientation that includes instruction in use and care of the instrument, information
20 regarding expectations and limitations, information regarding the availability of
21 additional services to meet associated needs, auditory rehabilitation, communication
22 therapy and additional special counseling services and information regarding follow-up
23 services, malfunctioning of hearing aids, mechanical adjustment or repair or remakes of
24 hearing aids or ear molds.

25 **11. Sell or sale.** "Sell" or "sale" means a transfer of title or of the right to use by
26 lease, bailment or any other contract, between a licensed hearing aid dealer and fitter or a
27 licensed audiologist and a purchaser, but does not include wholesale transactions.

28 **12. Speech-language pathologist.** "Speech-language pathologist" means an
29 individual who is licensed under this chapter and who practices speech-language
30 pathology and who by virtue of academic and practical training presents the individual to
31 the public by any title or description of services incorporating the words speech
32 pathologist, speech therapist, speech correctionist, speech clinician, language pathologist,
33 language therapist, logopedist, communicologist, voice therapist, voice pathologist or any
34 similar title or description of service.

35 **13. Speech-language pathologist and audiologist.** "Speech-language pathologist
36 and audiologist" means an individual who is dually licensed under this chapter and who
37 practices speech-language pathology and audiology.

38 **14. Speech-language pathology.** "Speech-language pathology" means the
39 application of theories, principles and procedures related to development and disorders of
40 language and speech for purposes of assessment and treatment.

1 **15. Speech-language pathology aide.** "Speech-language pathology aide" means an
2 individual who meets minimum qualifications that the board may establish for speech-
3 language pathology aides that are less than those qualifications established by this chapter
4 as necessary for licensure as a speech-language pathologist and less than those
5 established by the Department of Education for school personnel and who works under
6 the supervision of a licensed speech-language pathologist.

7 **16. Speech-language pathology assistant.** "Speech-language pathology assistant"
8 means an individual who meets minimum qualifications that the board may establish for
9 speech-language pathology assistants, that are less than those qualifications established
10 by this chapter for licensure, but must include an associate's degree or its equivalent as
11 determined by the board, in the field of communication disorders.

12 **17. Supervision.** "Supervision" means the direct observation of work and the
13 assessment of written records of service by a licensed speech pathologist, licensed
14 audiologist, licensed physician or licensed hearing aid dealer and fitter licensed under this
15 chapter commensurate with the skills of the individual as determined by the supervisor.

16 **18. Temporary license.** "Temporary license" means an individual who is licensed
17 under this chapter and practices audiology or speech-language pathology while under
18 supervision and training of an individual who holds a valid license in good standing in the
19 appropriate specialty under this chapter.

20 **19. Trainee permit.** "Trainee permit" means an individual licensed under this
21 chapter who practices in hearing aid dealing and fitting while under supervision and
22 training of an individual who holds a valid license in good standing to practice hearing
23 aid dealing and fitting under this chapter.

24 **§17102. Individual license**

25 Only an individual may be licensed under this chapter and only a licensed individual
26 may provide services for which a license is required under this chapter.

27 **§17103. License required**

28 The board shall issue a license to an individual that meets the eligibility requirements
29 of this chapter and files an application accompanied by the fees as set under section
30 17309.

31 **1. Audiology.** Licensure may be granted to an individual who meets the minimum
32 qualifications established by the board. An individual may not practice or present that
33 individual as an audiologist in this State unless licensed in accordance with the laws of
34 this State.

35 **2. Hearing aid dealing and fitting.** Licensure may be granted to an individual who
36 meets the minimum qualifications established by the board. A license issued under this
37 section confers on the holder the right to select, fit and sell hearing aids. An individual
38 may not engage in the sale of or practice of dealing in and fitting of in hearing aids or
39 display a sign or present that individual to be an individual who practices the fitting of,
40 dealing in and sale of hearing aids unless licensed under this chapter.

1 3. **Speech-language pathology.** Licensure may be granted to an individual who
2 meets the minimum qualifications established by the board. An individual may not
3 practice or present that individual as a speech-language pathologist unless licensed in
4 accordance with the laws of this State.

5 4. **Speech-language pathology and audiology.** Licensure may be granted to an
6 individual who meets the minimum qualifications established by the board. An
7 individual may not practice or present that individual as a speech-language pathologist or
8 audiologist unless licensed in accordance with the laws of this State.

9 5. **Speech-language pathology aides.** Registration may be granted to an individual
10 who meets the minimum qualifications established by the board for a speech-language
11 pathology aide and who submits:

12 A. Evidence of 2 years of postsecondary education;

13 B. A training plan submitted by a licensed speech-language pathologist; and

14 C. A valid registration as a speech-language pathology aide under former section
15 6004, subsection 2 on December 31, 2004.

16 This subsection is repealed January 1, 2008.

17 6. **Speech-language pathology assistants.** Registration may be granted to an
18 individual who meets the minimum qualifications for a speech-language pathology
19 assistant established by the board and who is supervised by a licensed speech-language
20 pathologist, as set forth by the board by rule. Rules adopted pursuant to this subsection
21 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

22 **§17104. Exemptions to audiology and speech-language pathology**

23 Nothing in this chapter may be construed as preventing or restricting:

24 1. **Hearing aid dealer and fitter.** A hearing aid dealer and fitter licensed under this
25 chapter or the holder of a trainee permit under this chapter from the fitting of hearing aids
26 or the testing of hearing for the purpose of fitting hearing aids;

27 2. **Individual holding valid and current credential.** An individual who holds a
28 valid and current credential as a speech-language or hearing clinician, issued by the
29 Department of Education, from providing services within a local educational agency or
30 an individual employed as a speech-language pathologist or audiologist by the Federal
31 Government, if the individual performs speech-language pathology or audiology services
32 solely within the confines or under the jurisdiction of the organization by which that
33 individual is employed. The individual may, without obtaining a license under this
34 chapter, consult with or disseminate research findings and other scientific information to
35 speech-language pathologists and audiologists outside the jurisdiction of the organization
36 by which that individual is employed. The individual may also offer lectures to the public
37 for a fee, monetary or other, without being licensed under this chapter. The individual
38 may additionally elect to be subject to this chapter; or

1 aids, respectively. The additional member is a public member as defined in Title 5,
2 section 12004-A.

3 Appointments are for 3-year terms. Appointments of members must comply with
4 section 60. A board member may be removed by the Governor for cause.

5 **§17202. Meetings; chair; quorum**

6 The board shall meet at least once a year to conduct its business and to elect a chair.
7 Additional meetings are held as necessary to conduct the business of the board and may
8 be convened at the call of the chair or a majority of the board members. Four members of
9 the board constitute a quorum for all purposes.

10 **§17203. Powers and duties**

11 The board has the following powers and duties.

12 **1. Board to administer, coordinate and enforce.** The board shall administer,
13 coordinate and enforce this chapter and evaluate the qualifications of and approve the
14 examinations to be taken by applicants for licensure under this chapter.

15 **2. Rules.** The board may, in accordance with the Maine Administrative Procedure
16 Act, adopt rules commensurate with the authority vested in it by this chapter, including,
17 but not limited to, rules relating to professional conduct and establishing ethical standards
18 of practice. The board, by rule, shall set the standard of professional conduct of every
19 individual that holds a license under this chapter.

20 **SUBCHAPTER 3**

21 **LICENSE**

22 **§17301. Eligibility for license**

23 The board shall issue a license to an applicant who meets the following eligibility
24 requirements of this chapter and who files an application accompanied by the fees as set
25 under section 17309.

26 **1. Audiologist.** An audiologist must have a master's degree, a doctoral degree or a
27 degree determined by the board to be equivalent, from an accredited institution that is
28 consistent with the requirements for the American Speech-Language-Hearing Association
29 Certificate of Clinical Competency in Audiology or the requirements of its successor or
30 other organization approved by the board. The board may establish the requirements for
31 academic course work, supervised clinical practice, supervised professional employment
32 and written examination.

33 **2. Hearing aid dealer and fitter.** A hearing aid dealer and fitter must pass a
34 qualifying examination approved by the board and must:

35 A. Be at least 18 years of age;

1 B. Have a high school diploma or its equivalency; and

2 C. Have obtained a trainee permit pursuant to subsection 7 and have received a
3 minimum of 750 hours of training in the practice of dealing in and fitting of hearing
4 aids under the direct supervision of a licensed hearing aid dealer and fitter or licensed
5 audiologist during a period of not fewer than 6 months nor more than 18 months.

6 3. **Speech-language pathologist.** A speech-language pathologist must have a
7 master's degree, a doctoral degree or a degree determined by the board to be equivalent
8 from an accredited institution that is consistent with the requirements for the American
9 Speech-Language-Hearing Association Certificate of Clinical Competency in Speech
10 Pathology or the requirements of its successor or other organization approved by the
11 board. The board may establish the requirements for academic course work, supervised
12 clinical practice, supervised professional employment and written examination.

13 4. **Speech-language pathologist and audiologist.** A speech-language pathologist
14 and audiologist must have a master's degree, a doctoral degree or a degree determined by
15 the board to be equivalent, from an accredited institution that is consistent with the
16 requirements for the American Speech-Language-Hearing Association Certificate of
17 Clinical Competency in Speech Pathology and Audiology or the requirements of its
18 successor or other organization approved by the board. The board may establish the
19 requirements for academic course work, supervised clinical practice, supervised
20 professional employment and written examination.

21 5. **Speech-language pathology assistant.** A speech-language pathology assistant
22 must have an associate's degree from an accredited institution in the field of
23 communication disorders, or its equivalent as determined by the board, and must meet
24 such other minimum qualifications as the board may establish.

25 6. **Temporary license.** An applicant for a temporary license must meet the education
26 requirements for licensure as outlined in section 17301, subsection 1, 3 or 4 and show to
27 the satisfaction of the board that the applicant is supervised and trained by an individual
28 who holds a license under this chapter in the appropriate specialty, which entitles the
29 applicant to practice speech-language pathology or audiology under supervision while
30 completing the requirements for licensure. The temporary license is effective for one year
31 and may be renewed once by the board.

32 7. **Trainee permit.** An applicant for a trainee permit must meet the licensure
33 requirements as set forth in subsection 2, paragraphs A and B and provide the signature of
34 the licensed hearing aid dealer and fitter or licensed audiologist who is licensed under this
35 chapter and who is responsible for the direct supervision of the trainee. A trainee permit
36 is valid for 18 months. The board may approve the renewal of a trainee permit once. An
37 individual holding a trainee permit may not engage in the practice of dealing in or fitting
38 of hearing aids except while under supervision of a licensed hearing aid dealer and fitter
39 or licensed audiologist licensed under this chapter.

40 An individual who holds a trainee permit shall notify the board in writing upon
41 completion of the training required under subsection 2, paragraph C and shall sit for the
42 next scheduled licensing examination. If the holder of a trainee permit successfully passes

1 the examination, the board may issue a license upon the payment of the fees as set under
2 section 17309.

3 If the holder of a trainee permit fails the examination, that individual may retake the
4 examination, upon payment of the fees as set under section 17309, within one year after
5 completing the training under subsection 2, paragraph C.

6 **§17302. Examination requirements**

7 **1. Audiology and speech-language pathology.** Each applicant for licensure as a
8 speech-language pathologist or audiologist under this chapter must pass an examination
9 approved by the board.

10 **2. Hearing aid dealer and fitter.** Each applicant for licensure as a hearing aid dealer
11 and fitter under this chapter must pass an examination approved by the board. The
12 qualifying examination consists of, but is not limited to:

13 A. Tests of knowledge in the following areas as they pertain to the fitting and sale of
14 hearing aids:

- 15 (1) Basic physics of sound;
- 16 (2) The anatomy and physiology of the ear;
- 17 (3) The function of hearing aids; and
- 18 (4). Types of hearing loss and deafness; and

19 B. Practical tests of proficiency in the following techniques as they pertain to the
20 fitting of hearing aids:

- 21 (1) Pure tone audiometry, including air conduction testing and bone conduction
22 testing;
- 23 (2) Live voice or recorded voice speech audiometry, including speech reception
24 threshold testing and speech recognition testing;
- 25 (3) Criteria for masking;
- 26 (4) Recording and evaluation of audiograms and speech audiometry to determine
27 proper selection and adaptation of a hearing aid;
- 28 (5) Taking ear mold impressions; and
- 29 (6) Evidence of knowledge regarding consumer laws as they apply to licensees
30 and trainees.

31 **§17303. Licensure; another jurisdiction**

32 An applicant who is licensed under the laws of another jurisdiction is governed by
33 this subsection. The board may waive the examination and grant licensure to an applicant
34 who presents proof of current licensure in another jurisdiction that maintains professional
35 standards determined by the board to be substantially equivalent to those set forth in this
36 chapter, if no cause exists for denial of a license under section 17307.

1 **§17304. Scope of practice; audiologists**

2 Audiologists identify, assess and provide treatment for individuals of all ages with
3 hearing and balance disorders, including the dispensing of hearing aids. Audiologists
4 also manage and supervise programs and services related to human communication and
5 its disorders; counsel families, individuals, and caregivers; and provide consultation,
6 make referrals and develop preventative programs.

7 The provisions of this section pertaining to the scope of practice for audiologists
8 neither limit nor infringe upon licensure laws of other regulated professions in this State.

9 **§17305. Hearing aid dealing and fitting practice standards**

10 For the purpose of this section, "dealer-licensee" means an individual licensed under
11 this chapter as a hearing aid dealer and fitter or audiologist who engages in the practice of
12 dealing in and fitting of hearing aids as defined under section 17101, subsection 10.

13 **1. Payment; trial period.** The dealer-licensee may require the purchaser to pay the
14 full purchase price for the hearing aid or aids at the time of delivery.

15 A. On the date of delivery, a 30-day trial period begins. If within this trial period the
16 purchaser notifies the dealer-licensee of the purchaser's wish to cancel the
17 transaction, the dealer-licensee shall make a full refund of the purchase price, less the
18 reasonable price of the ear mold or molds and lab fees, at the time the purchaser
19 returns the hearing aid or aids. The dealer-licensee shall also return to the purchaser
20 any hearing aids, devices, accessories and ear molds that the dealer-licensee has
21 received from the purchaser. The dealer-licensee shall contact the purchaser and
22 provide any service, fitting or repair that may be necessary for the beneficial and
23 comfortable use of the hearing aid.

24 **2. Return for medical reasons.** The purchaser may cancel the transaction by
25 submitting to the dealer-licensee within 60 calendar days from the date of delivery of the
26 hearing aid or aids a written opinion from a physician or audiologist stating that the
27 hearing aid or aids are not advisable for the purchaser. Upon receipt of the statement and
28 return by the purchaser of the hearing aid or aids, the dealer-licensee shall make a full
29 refund of the purchase price, less the reasonable price of the ear mold or molds and lab
30 fees. The dealer-licensee shall also return to the purchaser any hearing aids, devices,
31 accessories and ear molds that the dealer-licensee has received from the purchaser.

32 **3. Violations.** A provision of a contract that limits or conditions in any way the
33 rights guaranteed to purchasers by this section is against public policy and void. A
34 violation of the requirements of this section, in addition to being unethical conduct under
35 section 17307, constitutes a violation of the Maine Unfair Trade Practices Act.

36 **4. Dealer records.** Each dealer-licensee shall keep records for at least 6 years on
37 each person who purchases a hearing aid to include:

38 A. Results of measurement of known hearing;

39 B. Medical clearance for a hearing aid when indicated under this section or
40 purchaser's waiver of need for medical clearance;

- 1 C. A copy of the warranty;
- 2 D. Date and type of hearing aid sold to purchaser;
- 3 E. Date and type of replacement hearing aids; and
- 4 F. Type of ear mold and other pertinent information such as reports from speech and
- 5 hearing centers.

6 **5. Calibration.** Each audiometer used in the measurement of hearing when testing
7 and fitting a hearing aid must meet calibration standards as defined in the board's rules.
8 Dealer-licensees shall obtain an objective calibration check on permanently installed and
9 portable audiometers at least once a year. If an objective calibration check shows an
10 audiometer to deviate more than 10 decibels from the calibration standard, the audiometer
11 must be recalibrated by either a calibration laboratory or the audiometer manufacturer
12 before it may be used to test hearing. Date of the last calibration check or recalibration
13 must be prominently displayed on the audiometer.

14 **6. Purchase agreement.** A dealer-licensee who practices the fitting of and dealing in
15 or sale of hearing aids shall deliver to each person supplied with a hearing aid a written
16 notice prior to or at the time the hearing aid is purchased. The notice must include all of
17 the provisions prescribed in this section. The board shall prepare a model notice
18 containing all the requirements of this section and shall furnish copies upon request.

19 A. The notice must include the dealer-licensee's signature, address of place of
20 business and license number.

21 B. The notice must include the mailing address of the board.

22 C. The notice must include specifications as to the make and model of the hearing
23 aid furnished, including:

24 (1) The brand name or manufacturer's name and the model;

25 (2) The serial number, notification of which must be given in writing later if not
26 known at the time of the notice; and

27 (3) The condition of the hearing aid, whether new, used or reconditioned.

28 D. The notice must include the full terms of sale, including the following terms.

29 (1) There must be a full and complete disclosure of the cost of financing the
30 purchase of the hearing aid.

31 (2) The notice must include the complete terms of service, including cost of
32 service, what services are available, by whom and for how long the service is
33 provided, including house or office calls, when applicable, and the terms of
34 aftercare fitting.

35 (3) If the initial price of the hearing aid furnished is reduced by trade-in
36 allowance or discount, the notice must conspicuously include the initial price of
37 the hearing aid before trade-in allowance or discount, the amount of the trade-in
38 allowance or discount and the final price to the consumer.

- 1 (4) The notice must include the provisions of the 30-day trial period and 60-day
2 medical return period as set out under this section.
- 3 E. The notice must include the date of the sale.
- 4 F. The notice must include the terms of guarantee or warranty, including:
- 5 (1) The characteristics or properties of the hearing aid or parts of the hearing aid
6 covered by or excluded from the guarantee or warranty;
- 7 (2) The duration of the guarantee or warranty;
- 8 (3) The conditions, if any, that the purchaser must fulfill before the guarantor or
9 warrantor must perform the guarantor's or warrantor's obligations;
- 10 (4) The obligations of the guarantor or warrantor, including obligations as to
11 repair or replacement of hearing aids and refunding of the purchase price or part
12 of the purchase price; and
- 13 (5) The identity and address of the guarantor or warrantor.
- 14 G. When an individual practicing the fitting and sale of hearing aids furnishes to a
15 purchaser a hearing aid of a different make, model or specification than requested, the
16 notice must include a statement of this fact.
- 17 H. The notice must conspicuously include the following: "An examination or
18 representation made by a dealer-licensee in connection with the fitting and selling of
19 a hearing aid or aids is not an examination, diagnosis or prescription by an individual
20 licensed to practice medicine in this State and may not be regarded as medical
21 opinion or advice."
- 22 I. The board may adopt rules to define further the requirements of this section in
23 order to provide the purchaser with additional information to be contained in the
24 notice provisions. Rules adopted pursuant to this paragraph are routine technical
25 rules as defined in Title 5, chapter 375, subchapter 2-A.
- 26 J. A provision of a contract that limits or conditions in any way the right guaranteed
27 to purchasers by this section is deemed to be against public policy and void. A
28 violation of the requirements of this section, in addition to being unethical conduct as
29 defined by the regulations pursuant to section 17307, constitutes a violation of the
30 Maine Unfair Trade Practices Act.
- 31 K. A dealer-licensee may not sell or furnish a hearing aid to a person 18 years of age
32 or younger without a written statement, signed by a physician with specialized
33 training in the field of otolaryngology, that the person has had an ear or hearing
34 examination within 90 days of the purchase or furnishing of the hearing aid and that a
35 hearing aid is recommended for the person. The board shall adopt rules for the
36 requirements for reexamination. Rules adopted pursuant to this paragraph are routine
37 technical rules as defined in Title 5, chapter 375, subchapter 2-A.
- 38 The board shall by rule list and define certain medical conditions affecting hearing. If
39 a dealer has notice of the existence of one or more of the conditions in the case of a
40 prospective purchaser of a hearing aid, whether by the dealer-licensee's observation
41 of the prospective purchaser or by information furnished by the prospective

1 purchaser, fitting of the hearing aid must be delayed until the purchaser has had an
2 ear or hearing examination administered by a physician with specialized training in
3 the field of otolaryngology or by an audiologist who, as a result of such an
4 examination, recommends in writing a hearing aid for the prospective purchaser.

5 Nothing in this chapter may be construed to require an ear or hearing examination by
6 a physician or audiologist of a person who objects to the examination on the grounds
7 that the examination conflicts with the tenets and practices of a church or religious
8 denomination of which the person is a member or adherent.

9 **§17306. Scope of practice; speech-language pathologist**

10 Speech-language pathologists identify, assess and provide treatment for individuals
11 of all ages with communication and swallowing disorders. Speech-language pathologists
12 may:

13 **1. Human communication.** Manage and supervise programs and services related to
14 human communication and its disorders;

15 **2. Speech-language pathology.** Counsel families, individuals and caregivers with
16 respect to speech-language pathology; and

17 **3. Consultation; referrals; programs.** Provide consultation, make referrals and
18 develop preventative programs.

19 The provisions of this section pertaining to the scope of practice for speech-language
20 pathologists neither limit nor infringe upon licensure laws of other regulated professions
21 in this State.

22 **§17307. Denial or refusal to renew license; disciplinary action**

23 The board has authority to investigate all complaints made to it and all cases of
24 noncompliance with or violation of this chapter. In addition to the grounds enumerated in
25 Title 10, section 8003, subsection 5, paragraph A, the board may deny a license, refuse to
26 renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003,
27 subsection 5, paragraphs B and C for:

28 **1. Unfair and deceptive practices.** Engaging in unfair or deceptive practices as
29 defined by the rules established by the board or violating the code of ethics adopted and
30 published by the board, including selling or causing to be sold a hearing aid to a person
31 who has not been given tests such as pure tone, air and bone audiometry or other hearing
32 assessments as determined by the board. The results of these tests must be permanently
33 filed; or

34 **2. Negligence.** Incompetence, negligence or neglect in the conduct of the practice of
35 dealing in and fitting of hearing aids, including, but not limited to, the improper fitting of
36 a hearing aid, the sale of a hearing aid to a person with normal hearing, making an ear
37 mold impression or fitting an ear mold without prior inspection of the external ear canal,
38 making an ear mold impression or fitting an ear mold after prior inspection revealed the
39 presence of, or impacted, cerumen in the ear canal, the failure to indicate the need for

1 medical or audiological evaluation when the prospective purchaser's history reveals a
2 probable risk of disease or progressive hearing impairment, the failure to make the
3 required medical referrals, the incorrect reporting of hearing test results to a person, the
4 failure to be present to fit the final hearing aid in the ear of the purchaser and the
5 tampering with a satisfactorily performing hearing aid owned by a purchaser or potential
6 purchaser to cause that hearing aid to no longer perform correctly.

7 **§17308. License; renewal**

8 A license issued under this chapter expires at a time that the commissioner may
9 designate. Every individual licensed under this chapter shall pay the renewal fee as set
10 under section 17309. Renewals are contingent upon evidence of participation in
11 continuing professional education as determined by the board; temporary licenses and
12 trainee permits are exempt from this requirement. A license may be renewed up to 90
13 days after the date of its expiration upon payment of the late fee and renewal fee under
14 section 17309. An individual who submits an application for renewal more than 90 days
15 after the license expiration date is subject to all requirements governing new applicants
16 under this chapter, except that the board may, in its discretion, waive examination if that
17 renewal application is received together with the late fee and renewal fee under section
18 17309 within 2 years from the date of the expiration.

19 **§17309. Fees**

20 The Director of the Office of Licensing and Registration within the Department of
21 Professional and Financial Regulation may establish by rule fees for the purposes
22 authorized under this chapter in amounts that are reasonable and necessary for their
23 respective purposes, except that a fee for any one purpose may not exceed \$325 annually.
24 Rules adopted pursuant to this section are routine technical rules pursuant to Title 5,
25 chapter 375, subchapter 2-A.

26 **§17310. Inactive status**

27 The board shall adopt rules that provide that an individual licensed under this chapter
28 may, upon written request, be placed on inactive status. The board may place the licensee
29 on inactive status only upon proper application by the licensee. During inactive status, the
30 licensee must renew the license and pay the license fees as set under section 17309, but is
31 not required to meet the continuing education requirements under section 17308. The
32 board shall adopt rules by which a license in an inactive status may be reactivated. Rules
33 adopted pursuant to this section are routine technical rules as defined by Title 5, chapter
34 375, subchapter 2-A.

35 **Sec. C-4. Transition provision.** The reconfiguration of the membership of the
36 Board of Examiners of Speech-Language Pathology and Audiology and the Board of
37 Hearing Aid Dealing and Fitting must be achieved by attrition. All appointments to
38 positions eliminated by this Act that become vacant or expire after December 1, 2007
39 may not be filled. A business license issued under the former Maine Revised Statutes,
40 Title 32, chapter 23-A is not valid after December 1, 2007. A hearing aid dealers and
41 fitters license issued to a licensed audiologist under the former Title 32, chapter 23-A is
42 no longer necessary after December 1, 2007. The rules adopted under former Title 32,

1 chapter 23-A and chapter 77 remain in effect until the board adopts rules pursuant to this
2 Act.

3 **Sec. C-5. Effective date.** This Act takes effect December 1, 2007.

4 **SUMMARY**

5 Part A and Part B of this bill reflect the creation of the Board of Speech-language
6 Pathology, Audiology and Hearing Aid Dealing and Fitting.

7 Part C of this bill repeals the Maine Revised Statutes, Title 32, chapters 23-A and 77,
8 which govern the regulation of speech-language pathology, audiology and hearing aid
9 dealing and fitting, and combine the chapters into one authorizing statute. The bill
10 eliminates the need for a Licensed Audiologist to hold a separate license as a Hearing Aid
11 Dealer and Fitter, as well as eliminates the requirement of a business license. This bill
12 reflects the current practice standards in the delivery of audiology and hearing aid
13 services, while providing an appropriate level of public protection.