

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

information provided by law enforcement agencies and prosecution authorities. ~~Identified perpetrators may also submit information and, at its sole discretion, may receive and consider relevant information from any other source.~~

Sec. 11. 5 MRSA §§3360-G and 3360-H, as enacted by PL 1991, c. 806, §3, are amended to read:

§3360-G. Appeal

Only a claimant under this chapter may appeal a decision of the board. An appeal of the board's final decisions must be to the Superior Court as provided for other administrative actions under chapter 375, subchapter VII. Board decisions and the amount of awards must be upheld unless the court finds no rational basis for the decision or that the board abused its discretion.

§3360-H. Victims' Compensation Fund

There is created a special fund, known as the "Victims' Compensation Fund," for the purpose of providing for the payment of claims arising under this chapter and for the payment of all necessary and proper expenses incurred by the board. The Attorney General shall administer the fund.

All administrative costs of the board must be paid out of money collected pursuant to section 3360-I and deposited in the Victims' Compensation Fund. The fund may receive private donations, federal funds and state funds designated by law that may be used for the payment of claims and for administrative costs.

Sec. 12. 5 MRSA §3360-J, sub-§1, as enacted by PL 1991, c. 806, §3, is amended to read:

1. Administrative expenses. Administrative expenses of the board may be paid from the Victims' Compensation Fund. ~~After the first year, the Attorney General may use no more than 7.5% of the Victims' Compensation Fund to defray the administrative expenses of the board.~~

Sec. 13. 15 MRSA §3308, sub-§9 is enacted to read:

9. Records of Juvenile Court. Notwithstanding any other provision of this section, records of Juvenile Court proceedings and the police records and other records described in subsection 5 must be open to inspection by the Victims' Compensation Board at any time if a juvenile is alleged to have committed an offense upon which an application to the board is based.

Sec. 14. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1997-98 1998-99

**ATTORNEY GENERAL,
DEPARTMENT OF THE**

**Victims' Compensation
Board**

Positions - Legislative Count	(0.500)	(0.500)
Personal Services	\$10,910	\$11,473

Allocates funds to increase one part-time Research Assistant position from 20 hours per week to 30 hours per week to assist in handling additional workload.

See title page for effective date.

CHAPTER 379

H.P. 1234 - L.D. 1751

**An Act to Amend the Licensure Act
for Speech Pathologists and
Audiologists**

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

Sec. 1. 32 MRSA c. 77, first 2 lines are repealed and the following enacted in their place:

CHAPTER 77

**SPEECH-LANGUAGE PATHOLOGISTS AND
AUDIOLOGISTS**

Sec. 2. 32 MRSA §§6001 and 6002, as enacted by PL 1975, c. 705, §4, are amended to read:

§6001. Title

This chapter may be cited as the "Licensure Act for ~~Speech~~ Speech-language Pathologists and Audiologists."

§6002. Statement of purpose

It is declared to be a policy of the State that in order to safeguard the public health, safety and welfare; to protect the public from being misled by incompetent, unscrupulous and unauthorized persons and from unprofessional conduct on the part of qualified ~~speech~~ speech-language pathologists and audiologists; and to help ~~assure~~ ensure the availability of the highest possible quality ~~speech~~ speech-language pathology and audiology services to the communicatively handicapped people of this State, it is necessary

to provide regulatory authority over persons offering ~~speech~~ speech-language pathology and audiology services to the public.

Sec. 3. 32 MRSA §6003, sub-§3, as enacted by PL 1975, c. 705, §4, is amended to read:

3. Board. "Board" means the State Board of Examiners on ~~Speech~~ Speech-language Pathology and Audiology, established pursuant to section 6010.

Sec. 4. 32 MRSA §6003, sub-§3-A is enacted to read:

3-A. Code of ethics. "Code of ethics" means the code of ethics pertaining to the practices of speech-language pathology and audiology adopted by the board.

Sec. 5. 32 MRSA §6003, sub-§§5 and 6, as enacted by PL 1975, c. 705, §4, are amended to read:

5. Speech-language pathologist. "~~Speech~~ Speech-language pathologist" means an individual who practices ~~speech~~ speech-language pathology and who by virtue of academic and practical training presents ~~himself~~ the individual to the public by any title or description of services incorporating the words speech pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, logopedist, communicologist, voice therapist, voice pathologist or any similar title or description of service.

6. Speech-language pathology. "~~Speech~~ Speech-language pathology" means the application of theories, principles and procedures related to development and disorders of language and speech for purposes of assessment and treatment.

Sec. 6. 32 MRSA §6003, sub-§7, as amended by PL 1989, c. 700, Pt. A, §150, is further amended to read:

7. Speech-language pathology aide. "~~Speech~~ Speech-language pathology aide" means an individual who meets minimum qualifications ~~which that~~ the board may establish for ~~speech~~ speech-language pathology aides, which ~~qualifications shall be~~ are less than those qualifications established by this chapter as necessary for licensure as a ~~speech~~ speech-language pathologist, and less than those established by the Department of Education for school personnel, and who works under the supervision of a licensed ~~speech~~ speech-language pathologist.

Sec. 7. 32 MRSA §6003, sub-§7-A is enacted to read:

7-A. Speech-language pathology assistant. "Speech-language pathology assistant" means an individual who meets minimum qualifications that the

board may establish for speech-language pathology assistants, which are less than those qualifications established by this chapter for licensure, but which must include an associate's degree or its equivalent as determined by the board, in the field of communication disorders.

Sec. 8. 32 MRSA §6004, as enacted by PL 1975, c. 705, §4, is repealed and the following enacted in its place:

§6004. Persons and practices affected

1. Speech-language pathologists and audiologists. Licensure may be granted in speech-language pathology or audiology independently. A person may be licensed in both areas if that person meets the respective qualifications. A person may not practice or represent as a speech-language pathologist or audiologist in this State unless licensed in accordance with the laws of this State.

2. Speech-language pathology aides. Registration may be granted to a person who meets the minimum qualifications established by the board for a speech-language pathology aide and who is supervised by a speech-language pathologist. A person holding this credential may continue to practice as a speech-language pathology aide until January 1, 2005. Any speech-language pathology aide registered after October 1, 1997 must demonstrate 2 years of post-secondary education and submit a training plan endorsed by a licensee. All speech-language pathology aides must meet the minimum qualifications for a speech-language pathology assistant adopted by the board no later than January 1, 2005.

3. Speech-language pathology assistants. Registration must be granted to a person who meets the minimum qualifications for a speech-language pathology assistant established by the board and who is supervised by a licensed speech-language pathologist, as set forth by the board by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 9. 32 MRSA §6005, as amended by PL 1989, c. 700, Pt. A, §151, is further amended to read:

§6005. Persons and practices not affected

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

1. Physicians. A physician or osteopathic physician licensed by this State from testing, diagnosing and treating medical problems related to disorders of language, speech or hearing, nor as permitting a ~~speech~~ speech-language pathologist or audiologist to practice medicine, surgery or other healing arts;

2. Hearing aid dealers. A hearing aid dealer licensed under chapter 23-A or the holder of a trainee permit under chapter 23-A from the fitting of hearing aids or the testing of hearing for the purpose of fitting hearing aids;

3. Person holding valid and current credential. A person who holds a valid and current credential as a ~~speech~~ speech-language or hearing clinician, issued by the Department of Education, from providing such services within a local educational agency, or a person employed as a ~~speech~~ speech-language pathologist or audiologist by the Government of the United States, if such person performs ~~speech~~ speech-language pathology or audiology services solely within the confines or under the jurisdiction of the organization by which that person is employed. Such person may, without obtaining a license under this chapter, consult with or disseminate research findings and other scientific information to ~~speech~~ speech-language pathologists and audiologists outside the jurisdiction of the organization by which that person is employed. Such person may also offer lectures to the public for a fee, monetary or other, without being licensed under this chapter. Such person may additionally elect to be subject to this chapter;

4. Persons pursuing course of study in speech-language pathology. The activities and services of persons pursuing a course of study leading to a degree in ~~speech~~ speech-language pathology at an accredited college or accredited university, if such activities and services constitute a part of the course of study and such person is designated ~~speech~~ speech-language pathology intern, ~~speech~~ speech-language pathology trainee or by other such title clearly indicating the training status appropriate to ~~his~~ that person's level of training;

5. Persons pursuing course of study in audiology. The activities and services of a person pursuing a course of study leading to a degree in audiology at an accredited college or accredited university, if such activities and services constitute a part of the course of study and such person is designated audiology intern, audiology trainee or by any other title clearly indicating the training status appropriate to such person's level of training; and

6. Person not a resident of this State. The performance of ~~speech~~ speech-language pathology or audiology services in this State by any person not a resident of this State who is not licensed under this chapter, if such services are performed for no more than 5 days in any calendar year and in cooperation with a ~~speech~~ speech-language pathologist or audiologist licensed under this chapter; and if such person meets the qualifications and requirements for application for licensure described in section ~~6020, subsections 1 to 3~~ 6020-A. A person not a resident of this

State who is not licensed under this chapter, but who is licensed under the laws of another state ~~which that~~ has established licensure requirements at least equivalent to those established by section ~~6020~~ 6020-A or who is the holder of the American Speech and Hearing Association Certificate of Clinical Competency in ~~Speech~~ Speech-language Pathology or Audiology or its equivalent, may offer ~~speech~~ speech-language pathology or audiology services in this State for not more than 60 days in any calendar year, if such services are performed in cooperation with a ~~speech~~ speech-language pathologist or audiologist licensed under this chapter.

Sec. 10. 32 MRSA c. 77, sub-c. II, first 3 lines, are repealed and the following enacted in their place:

SUBCHAPTER II

BOARD OF EXAMINERS ON SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

Sec. 11. 32 MRSA §6010, as amended by PL 1993, c. 600, Pt. A, §255, is further amended to read:

§6010. Membership; terms

The Board of Examiners on ~~Speech~~ Speech-language Pathology and Audiology, as established by Title 5, section 12004-A, subsection 39, ~~shall consist~~ consists of 7 members appointed by the Governor. All members ~~shall~~ must have been residents of this State for at least one year immediately preceding their appointment. Two members ~~shall~~ must have been engaged full time in the practice of ~~speech~~ speech-language pathology for at least one year immediately preceding ~~their~~ their appointment. Two members ~~shall~~ must have been engaged full time in the practice of audiology for at least one year immediately preceding ~~their~~ their appointment. All such professional members ~~shall~~ must be holders of valid licenses for the practice of ~~speech~~ speech-language pathology or audiology. The additional members ~~shall~~ consist of a physician, licensed pursuant to chapter 48, with specialized training in the field of otolaryngology and of 2 representatives of the public.

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

Sec. 12. 32 MRSA §6011, as repealed and replaced by PL 1983, c. 413, §198, is amended to read:

§6011. Meetings; chairman; quorum

The board shall meet at least once a year to conduct its business and to elect a ~~chairman~~ chair and a

secretary. Additional meetings ~~shall be~~ are held as necessary to conduct the business of the board, and may be convened at the call of the ~~chairman chair~~ or a majority of the board members. All meetings of the board ~~shall be~~ are open to the public, except that the board may hold closed sessions to prepare, approve, grade or administer examinations, or to prepare or provide a response upon request of an applicant for review of ~~his that applicant's~~ examination. Four members of the board ~~shall~~ constitute a quorum for all purposes.

Sec. 13. 32 MRSA §6013, first ¶, as enacted by PL 1975, c. 705, §4, is amended to read:

The Board of Examiners on ~~Speech~~ Speech-language Pathology and Audiology ~~shall have~~ has the powers and duties set forth in this section.

Sec. 14. 32 MRSA §6013, sub-§2, as repealed and replaced by PL 1983, c. 413, §200, is amended to read:

2. Rules. The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt rules commensurate with the authority vested in it by this chapter including, but not limited to, rules relating to professional conduct and establishing ethical standards of practice. ~~The rules adopted by the board, by rule,~~ shall govern and control the professional conduct of every person who holds a license to practice ~~speech~~ speech-language pathology or audiology in this State. A copy of all rules adopted by vote of the board ~~shall~~ must be sent forthwith to all persons licensed under this chapter.

Sec. 15. 32 MRSA §6013, sub-§3, as repealed and replaced by PL 1983, c. 413, §201, is amended to read:

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise ~~deemed~~ determined necessary to the fulfillment of its responsibilities under this chapter.

The board ~~shall~~ may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of ~~his the applicant's~~ application, the reasons therefor and ~~his the applicant's~~ right to request a hearing. Hearings ~~shall~~ must be conducted in conformity with the Maine Administra-

tive Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 16. 32 MRSA §6020, as enacted by PL 1975, c. 705, §4, is repealed.

Sec. 17. 32 MRSA §§6020-A and 6020-B are enacted to read:

§6020-A. Eligibility for license

To be eligible for licensure by the board as a speech-language pathologist or audiologist, a person must possess:

1. Speech-language pathologists or audiologists. A masters degree or its equivalent, as determined by the board, which is consistent with the requirements for the American Speech and Hearing Association Certificate of Clinical Competency in Speech Pathology or Audiology. The board may establish the requirements for academic course work, supervised clinical practicum, supervised professional employment and written examination.

2. Speech-language pathology assistants. An associates degree in the field of communication disorders, or its equivalent as determined by the board, and must meet such other minimal qualifications as the board may establish.

§6020-B. Scope of practice

Speech-language pathologists identify, assess and provide treatment for individuals of all ages with communication and swallowing disorders. Audiologists identify, assess and provide habilitation and rehabilitation for individuals of all ages with either peripheral or central auditory impairment. In respective areas, speech-language pathologists and audiologists may:

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

2. Speech-language pathology or audiology. Counsel families, individuals and caregivers with respect to speech-language pathology or audiology; and

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

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

Sec. 18. 32 MRSA §§6021 and 6022, as enacted by PL 1975, c. 705, §4, are amended to read:

§6021. Application

A person eligible for licensure under section ~~6020~~ 6020-A shall make application ~~for examination to the board at least 30 days prior to the date of examination, upon a form and in such manner as the board shall may prescribe. Any An application shall must be accompanied by the a nonrefundable fee prescribed by section 6028, which fee shall in no case be refunded. A person who fails an examination may make application for reexamination.~~

~~A person certified by the American Speech and Hearing Association or licensed under the laws of another state, a territory of the United States or the District of Columbia, which has established licensure requirements at least equivalent to those established by section 6020 as a speech pathologist or audiologist, who has applied for examination under this section, may perform speech pathology and audiology services in this State prior to a determination by the board that such person has successfully completed examination for licensure or is eligible for waiver of the examination in accordance with section 6023.~~

§6022. Examination

Each applicant for licensure under this chapter ~~shall be examined~~ must provide documentation of successful completion of an examination approved by the board in written examination. Standards for acceptable performance ~~shall must~~ be established by the board. Applicants for licensure ~~shall must~~ be examined at the time and place and under such supervision as the board may determine. ~~Examinations shall be given at such places within this State as the board may determine at least twice each year and the board shall make public, in a manner it considers appropriate, notice of such examinations at least 60 days prior to their administration, and shall appropriately notify all individual examination applicants of the time and place of their administration.~~ The board may examine in whatever theoretical or applied fields of ~~speech~~ speech-language pathology and audiology it considers appropriate and may examine with regard to a person's professional skills and judgment in the utilization of ~~speech~~ speech-language pathology or audiology techniques and methods. The board shall maintain a permanent record of all examination scores.

Sec. 19. 32 MRSA §6025, as amended by PL 1987, c. 735, §66, is further amended to read:

§6025. Temporary license

An applicant, who fulfills all the requirements for licensure except professional employment or

examination, may apply to the board for a temporary license. Upon receiving an application, accompanied by the fee established in section 6028, the board shall issue a temporary license, which entitles the applicant to practice ~~speech~~ speech-language pathology or audiology under supervision while completing the requirements for licensure. ~~No A~~ temporary license may ~~not~~ be issued by the board under this section unless the applicant shows to the satisfaction of the board that ~~he the applicant~~ is or will be supervised and trained by a person who holds a license or the Certificate of Clinical Competency of the American Speech and Hearing Association in the appropriate specialty. The temporary license ~~shall be~~ is effective for one year and may be renewed once by the board.

Sec. 20. 32 MRSA §6026, first ¶, as amended by PL 1983, c. 413, §205, is further amended to read:

The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license of a ~~speech~~ speech-language pathologist or audiologist for any of the following reasons:

Sec. 21. 32 MRSA §6026, sub-§4, as amended by PL 1983, c. 413, §205, is further amended to read:

4. Conviction of a criminal offense. Subject to the limitations of Title 5, chapter 341, being convicted of a felony in any court of this State ~~or~~ the United States if the acts for which ~~she or he~~ a speech-language pathologist or audiologist is convicted are found by the board to have a direct bearing on whether ~~she or he~~ that person should be entrusted to serve the public in the capacity of a ~~speech~~ speech-language pathologist or audiologist; or

Sec. 22. 32 MRSA §6027, first ¶, as amended by PL 1983, c. 413, §206, is further amended to read:

~~Licenses~~ A license issued under this chapter ~~expire expires~~ biennially ~~and become invalid at midnight, January 31st of every other year on the date indicated on the license, or at such other times~~ time as the Commissioner of Professional and Financial Regulation may designate, ~~if not renewed.~~ Every person licensed under this chapter shall, on or before the biennial expiration date, pay a fee for renewal of license to the board. The board shall notify every person licensed under this chapter of the date of expiration of ~~his~~ that person's license and the amount of the fee required for its renewal for a 2-year period. The notice ~~shall must~~ be mailed to ~~such~~ the person's

last known address at least 30 days in advance of the expiration of ~~such~~ the license. Renewals are contingent upon evidence of participation in continuing professional education, such as attending professional meetings and regional ~~inservice~~ in-service programs, as determined by the board. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date ~~shall be~~ is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of the expiration.

Sec. 23. 32 MRSA §6030, as amended by PL 1983, c. 816, Pt. A, §37, is further amended to read:

§6030. Continuing professional education

The board shall require the applicant for license renewal to present evidence of ~~his~~ the applicant's satisfactory completion of continuing professional education in accordance with rules adopted by the board.

See title page for effective date.

CHAPTER 380

H.P. 1236 - L.D. 1753

An Act to Preserve the Solvency of the Unemployment Compensation Fund

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

Sec. 1. 26 MRSA §1191, sub-§2, as amended by PL 1995, c. 9, §2, is further amended to read:

2. Weekly benefit amount for total unemployment. Each eligible individual establishing a benefit year on or after October 1, 1983 who is totally unemployed in any week must be paid with respect to that week benefits equal to 1/22 of the wages, rounded to the nearest lower full dollar amount, paid to that individual in the high quarter of the base period, but not less than \$12. The maximum weekly benefit amount for claimants requesting insured status determination beginning October 1, 1983 and thereafter from June 1st of a calendar year to May 31st of the next calendar year may not exceed 52% of the annual average weekly wage, rounded to the nearest lower full dollar amount, paid in the calendar year preceding June 1st of that calendar year. No increase

in the maximum weekly benefit amount may occur for the period from June 1, 1992 to October 28, 1995. For the ~~period~~ periods from October 29, 1995 to May 31, 1997 and from September 28, 1997 to September 26, 1998, the maximum weekly benefit amount is limited to 94% of the amount calculated previously in this subsection, rounded to the nearest lower full dollar amount. For claimants requesting insured status determination on or after April 1, 1993 and before January 1, 1995, the weekly benefit amount must be the amount determined by this subsection minus \$6. For claimants requesting insured status determination on or after April 1, 1995 and before January 1, ~~1998~~ 1999, the weekly benefit amount must be the amount determined by this subsection minus \$3.

Sec. 2. 26 MRSA §1221, sub-§2, ¶C, as amended by PL 1995, c. 9, §5 and affected by §6, is further amended to read:

C. Each employer subject to this chapter, other than those liable for payments in lieu of contributions, shall pay, in addition to the contribution rate as prescribed in subsection 4, 7/10 of 1% of the wages paid by the employer with respect to employment during the calendar year 1993, 8/10 of 1% of the wages paid by the employer with respect to employment during the calendar year 1994 and 4/10 of 1% of the wages paid by the employer with respect to employment during calendar years 1995, 1996 ~~and~~ and 1998.

Sec. 3. 26 MRSA §1221, sub-§4, ¶C, as amended by PL 1981, c. 16, §2, is further amended to read:

C. To designate the contribution rate schedule to be effective for a rate year, a reserve multiple ~~shall~~ must be determined. The reserve multiple ~~shall~~ must be determined by dividing the fund reserve ratio by the composite cost rate. The determination date ~~shall be~~ is September 30th of each calendar year, and the schedule of contribution rates to apply for the 12-month period commencing January 1st, ~~shall be as~~ is determined by this reserve multiple, except that for the 1998 rate year Schedule P is in effect.

See title page for effective date.

CHAPTER 381

S.P. 597 - L.D. 1776

An Act to Establish Guidelines for Putting Certain Social Service Contracts out to Bid