

CHAPTER 53

(SB 58)

AN ACT relating to professions assessing hearing and speech.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. KRS 334.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

- (1) *"Apprentice" means any applicant in training to become a licensed specialist in hearing instruments;*
- (2) *"Apprentice permit" means a permit issued while the applicant is in training to become a licensed specialist in hearing instruments;*
- (3) *"Board" means the Kentucky Licensing Board for Specialists in Hearing Instruments;*
- (4) *"Client" means the user or purchaser of the hearing instrument;*
- (5) *"License" means a license issued by the board under this chapter to specialists in hearing instruments;*
- (6) *"Over-the-counter hearing aid" means air conduction hearing aids that satisfy the requirements in the Over-the-Counter Hearing Aid Controls, 21 C.F.R. sec. 800.30(c) to (f), and are considered available over the counter pursuant to 21 U.S.C. sec. 360j(q)(1)(A)(v), but do not satisfy the regulatory requirements for prescription hearing aids;*
- (7) *"Practice of fitting hearing instruments" means the measurement of human hearing by means of an audiometer for the purpose of making selections, adaptations, and adjustments of hearing instruments, including both over-the-counter hearing aids and prescription hearing aids. The practice of fitting hearing instruments also includes the making of ear mold impressions and custom earmolds and ordering the use of hearing instruments;*
- (8) *"Practice of selling and fitting hearing instruments" means selling, ordering the use of, and fitting prescription hearing aids and over-the-counter hearing aids, including the measurement of human hearing by means of an audiometer for the purpose of making selections, adaptations, and adjustments of hearing instruments. The practice of selling and fitting hearing instruments also includes the making of ear mold impressions and custom earmolds and ordering the use of hearing instruments;*
- (9) *"Prescription hearing aid" means a Class 1 or Class 2 device as defined in the federal Food, Drug and Cosmetic Act, 21 U.S.C. sec. 321(h), that is not an over-the-counter hearing aid as defined in Over-the-Counter Hearing Aid Controls, 21 C.F.R. sec. 800.30, or a hearing aid that does not satisfy the regulatory requirements for over-the-counter hearing aids;*
- (10) *"Sell" or "sale" means any transfer of title or transfer of the right to use by lease, bailment, or any other means;*
- (11) *"Specialist in hearing instruments" means any individual licensed under this chapter;*
- (12) *"Sponsor" means a licensed specialist in hearing instruments qualified under KRS 334.090(8) who assumes professional responsibility for an apprentice; and*
- (13) *"Used" or "not new," with respect to a hearing instrument, means a hearing instrument that has been the subject of a sale and the title to which was held by the client for a period longer than thirty (30) days.*

➔SECTION 2. KRS 334.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Any person licensed to sell hearing instruments under this chapter shall maintain, for not less than three (3) years in a file under the name of the person to whom a hearing instrument was sold, a true copy of the written agreement, offer to purchase, or receipt given the person pursuant to KRS 334.030.*
- (2) *The servicing, marketing, sale, dispensing, customer support, or distribution of over-the-counter hearing aids, or an equivalent activity, whether through in-person transactions, by mail, or online, shall not cause, require, or otherwise obligate a person providing such services to obtain specialized licensing, certification, or any other state or local sanction unless the requirement is generally applicable to the sale of any product or to all places of business regardless of whether they sell over-the-counter hearing aids. A person licensed*

under KRS Chapters 334 and 334A may service, market, sell, dispense, provide customer support for, or distribute over-the-counter hearing aids to any person.

- (3) *Any person licensed under Chapters 334 and 334A to sell hearing aids under this chapter shall abide by the age restriction requirements to sell over-the-counter hearing aids in accordance with the Over-the-Counter Hearing Aid Controls, 21 C.F.R. sec. 800.30(g)(1).*
- (4) *Nothing in this chapter shall apply to the servicing, marketing, sale, dispensing, use, customer support, or distribution of an over-the-counter hearing aid.*

➔SECTION 3. KRS 334A.020 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

- (1) *"Assisting in the practice of speech pathology" means the provision of certain specific components of a speech or language service program provided by a speech-language pathology assistant under the supervision and direction of an appropriately qualified supervisor;*
- (2) *"Audiologist" means one who is licensed to practice audiology. An audiologist may describe himself or herself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," "aural rehabilitationist," or "hearing conservationist";*
- (3) *"Board" means the Kentucky Board of Speech-Language Pathology and Audiology;*
- (4) *"Continuing professional education" in speech-language pathology and audiology consists of planned learning experiences beyond a basic educational program leading to a degree. These experiences are designed to promote knowledge, skills, and attitudes of speech-language pathology and audiology practitioners to enable them to provide professional services in their areas of training that are based on current research and best practices;*
- (5) *"Interim license" means a license issued by the board pursuant to KRS 334A.035 to a person for the purpose of completing the supervised postgraduate professional experience required under that section prior to an application for licensure as a speech-language pathologist or a speech-language pathology assistant;*
- (6) *"Person" means any individual, organization, or corporate body, except that only individuals can be licensed under this chapter;*
- (7) *"Practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related to hearing loss; planning, directing, conducting, or participating in identification and hearing conservation programs; and habilitative and rehabilitative programs, including hearing aid recommendations and evaluation, prescribing, ordering the use of, selling and fitting hearing instruments, including the selling and fitting of both prescription hearing aids and over-the-counter hearing aids, auditory training, or speech reading;*
- (8) *"Practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, evaluation, consultation, remediation, counseling, instruction, and research related to the development and disorders of speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensorimotor competencies for the purpose of designing and implementing programs for the amelioration of these disorders and conditions. Any representation to the public by title or by description of services, methods, or procedures for the evaluation, counseling, remediation, consultation, measurement, testing, audiometric screening, identification, appraisal, instruction, and research of persons diagnosed with conditions or disorders affecting speech, voice, verbal, and written language, cognition/communication, or oral and pharyngeal sensorimotor competencies shall be considered to be the practice of speech-language pathology;*
- (9) *"Speech-language pathologist" means one who practices speech-language pathology. A speech-language pathologist may describe himself or herself to the public by any title or description of services incorporating the words "speech-language pathologist," "speech-language pathology," "speech-language therapy," "speech-language correction," "speech-language correctionist," "speech-language therapist," "speech*

clinic," "speech clinician," "speech pathologist," "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatrist," "communication disorders," or "verbal therapist";

- (10) *"Speech-language pathology assistant" means one who assists in the practice of speech-language pathology only under the supervision and direction of an appropriately qualified supervisor and only within the public school system in the Commonwealth. Any speech-language pathology services provided without appropriate supervision or outside the public school system shall be deemed to be the unlicensed practice of speech-language pathology and shall subject the offending party to penalties established in KRS 334A.990;*
- (11) *"Supervisor" means a person who holds a Kentucky license as a speech-language pathologist or who holds Education Professional Standards Board master's level certification as a teacher of exceptional children in the areas of speech and communication disorders as established by administrative regulation; and*
- (12) *"Temporary license" means a license that may be issued by the board administrator pursuant to KRS 334A.181 to any applicant who has met all the requirements for permanent licensure in accordance with that section.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *If the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to a speech-language pathology assistant:*
- (a) *Conduct speech-language and hearing screenings without interpretation following specified screening protocols developed by a speech-language pathologist and audiologist, respectively;*
 - (b) *Follow documented treatment plans or protocols as prescribed by the supervisor;*
 - (c) *Document student progress toward meeting established objectives as stated in the treatment plan;*
 - (d) *Provide direct treatment assistance to identified students under the supervision of the supervisor;*
 - (e) *Assist with clerical and other related duties as directed by the supervisor;*
 - (f) *Report to the supervisor about the treatment plan based on a student's performance;*
 - (g) *Schedule activities, prepare charts, records, graphs, or otherwise display data. This shall not include report generation;*
 - (h) *Perform simple checks and maintenance of equipment;*
 - (i) *Participate with the supervisor in research projects, in-service training, and public relations programs;*
 - (j) *Assist in the development and maintenance of an appropriate schedule for service delivery;*
 - (k) *Assist in implementing collaborative activities with other professionals;*
 - (l) *Assist in administering tests for diagnostic evaluations and progress monitoring; and*
 - (m) *Participate in parent conferences, case conferences, or any interdisciplinary team in consultation with, or in the presence of, the supervisor.*
- (2) *The following activities shall be outside the scope of practice of the speech-language pathology assistant:*
- (a) *Performing any activity which violates the code of ethics promulgated by the board in administrative regulation;*
 - (b) *Interpreting test results or performing diagnostic evaluations without supervision;*
 - (c) *Conducting client or family counseling without the recommendation, guidance, and approval of the supervisor;*
 - (d) *Writing, developing, or modifying a student's individualized treatment plan in any way without the recommendation, guidance, and approval of the supervisor;*
 - (e) *Treating students without following the individualized treatment plan prepared by the supervisor or without access to supervision;*

- (f) *Signing any due process document without the cosignature of the supervisor;*
- (g) *Selecting or discharging students;*
- (h) *Disclosing clinical or confidential information, either orally or in writing, to anyone not designated by the supervisor;*
- (i) *Making referrals for additional services; and*
- (j) *Representing himself or herself as something other than a speech-language pathology assistant.*

➔Section 5. KRS 334.040 is amended to read as follows:

- (1) This chapter shall not apply to a person while he *or she* is engaged in the practice of fitting hearing instruments and assistive listening devices if his *or her* practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution or nonprofit organization, which is primarily supported by voluntary contributions.
- (2) This chapter shall not be construed to prevent any person who is:
 - (a) A medical or osteopathic physician licensed to practice in the Commonwealth of Kentucky from treating or fitting hearing instruments to the human ear, which includes the making of ear molds; ~~†~~ or ~~††~~
 - (b) An audiologist holding a certificate of clinical competence in audiology from the American Speech-Language-Hearing Association so long as they do not engage in the sale of hearing instruments.

➔Section 6. KRS 334A.040 is amended to read as follows:

- (1) Nothing in this chapter shall be construed to prevent a qualified person licensed in this state under any other law from engaging in the profession for which the person is licensed.
- (2) Nothing in this chapter shall be construed to prevent qualified hearing aid dispensers from engaging in those practices and procedures used solely for the fitting and selling of hearing aids.
- (3) Nothing in this chapter shall be construed as restricting or preventing activities of a speech-language pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons:
 - (a) Speech-language pathologists or audiologists employed by the federal government, if they are performing such activities solely within the confines or under the jurisdiction of the organization in which they are employed and do not offer to render speech-language pathology or audiology services as defined in ~~subsections (4) and (6) of~~ KRS 334A.020 to the public outside of the institutions or organizations in which they are employed. However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter; or
 - (b) Registered and practical nurses or others trained to perform audiometric testing under the direct supervision of a licensed physician or surgeon.
- (4) Nothing in this chapter shall be construed as restricting the activities and services of a student or speech-language pathology intern pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, if these activities and services constitute a part of the planned course of study and if such persons are designated by such title as "speech-language pathology intern," "speech-language pathology trainee," or other such title clearly indicating the training status appropriate to his or her level of training under the supervision of a licensed speech-language pathologist.
- (5) Nothing in this chapter shall be construed as restricting the activities and services of a student or audiology intern pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, if these activities and services constitute a part of the planned course of study and if such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his or her level of training, under supervision of a licensed audiologist.
- (6) Nothing in this chapter shall be construed as restricting a speech-language pathologist or audiologist from another state from offering his or her speech-language pathology or audiology services in this state if the

services are performed for no more than five (5) days in any calendar year and if that person meets the qualifications and requirements stated in the section on qualifications, except that such person need not apply for licensure under this chapter.

- (7) This chapter shall not apply to a person while he or she is engaged in the practice of fitting hearing instruments and assistive listening devices if his or her practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution, or nonprofit organization, which is primarily supported by voluntary contributions.
- (8) This chapter shall not be construed to prevent any person who is a medical or osteopathic physician licensed to practice in the Commonwealth of Kentucky from treating or fitting hearing instruments to the human ear, which includes the making of ear molds~~[, so long as he or she does not engage in the sale of hearing instruments]~~.

Signed by Governor March 22, 2023.