

SENATE BILL 103

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(PRE-FILED)

2lr0400
CF HB 155

By: **Senator Augustine**

Requested: August 24, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 8, 2022

CHAPTER _____

1 AN ACT concerning

2 **State Board of Examiners for Audiologists, Hearing Aid Dispensers,**
3 **Speech–Language Pathologists, and Music Therapists – Revisions**

4 FOR the purpose of altering certain requirements for the licensing and regulation of
5 audiologists, hearing aid dispensers, speech–language pathologists, and music
6 therapists, including clarifying quorum requirements for the State Board of
7 Examiners for Audiologists, Hearing Aid Dispensers, Speech–Language
8 Pathologists, and Music Therapists, license reciprocity, professional disciplinary
9 grounds, and delegation authority for audiologists; and generally relating to the
10 State Board of Examiners for Audiologists, Hearing Aid Dispensers,
11 Speech–Language Pathologists, and Music Therapists.

12 BY repealing and reenacting, without amendments,

13 Article – Health Occupations

14 Section 2–201

15 Annotated Code of Maryland

16 (2021 Replacement Volume)

17 BY repealing and reenacting, with amendments,

18 Article – Health Occupations

19 Section 2–204(a), 2–205.1, 2–301, 2–314, 2–319, 2–4A–14, and 2–4A–21

20 Annotated Code of Maryland

21 (2021 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health Occupations

2–201.

There is a State Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech–Language Pathologists, and Music Therapists in the Department.

2–204.

(a) A majority of the members currently serving on the Board, with at least 1 [member of each profession] **AUDIOLOGIST, HEARING AID DISPENSER, SPEECH–LANGUAGE PATHOLOGIST, AND MUSIC THERAPIST** regulated under the provisions of this title being present, is a quorum to do business.

2–205.1.

(a) While investigating an allegation against a licensee under this title, the Board may require the licensee to submit to an appropriate examination by a health care provider designated by the Board if the Board has reason to believe that the licensee may cause harm to a person affected by the licensee’s practice of audiology, hearing aid dispensing, [or] speech–language pathology, **OR MUSIC THERAPY**, or assistance in the practice of speech–language pathology **OR AUDIOLOGY**.

(b) In return for the privilege given to a licensee to practice audiology, hearing aid dispensing, [or] speech–language pathology, **OR MUSIC THERAPY**, or assist in the practice of speech–language pathology **OR AUDIOLOGY** in the State, the licensee is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or reports of a health care provider who examines the licensee.

(c) The failure or refusal of the licensee to submit to an examination required under subsection (b) of this section is prima facie evidence of the licensee’s inability to practice audiology, hearing aid dispensing, [or] speech–language pathology, **OR MUSIC THERAPY**, or assist in the practice of speech–language pathology **OR AUDIOLOGY** competently, unless the Board finds that the failure or refusal was beyond the control of the licensee.

(d) The Board shall pay the cost of any examination made under this section.

1 2-301.

2 (a) (1) Except as otherwise provided in this title, an individual shall be
3 licensed by the Board before the individual may practice audiology, hearing aid dispensing,
4 [or] speech-language pathology, **OR MUSIC THERAPY**, or assist in the practice of
5 speech-language pathology **OR AUDIOLOGY** in this State.

6 (2) On or after October 1, 2007, an individual hired by a Maryland local
7 public school system, State-approved nonpublic school for handicapped children, or
8 chartered educational institution of the State to practice speech-language pathology or
9 assist in the practice of speech-language pathology, shall be licensed by the Board.

10 (b) (1) This section does not apply:

11 (i) To an individual employed by any agency of the federal
12 government performing the duties of that employment;

13 (ii) To an individual continuously employed to practice audiology
14 since June 30, 1988, by a county public school system, a State-approved nonpublic school
15 for handicapped children, a chartered institution of the State, or the State Department of
16 Education while performing the duties of that employment;

17 (iii) To an individual employed by a Maryland local public school
18 system, State-approved nonpublic school for handicapped children, or chartered
19 educational institution of the State or the State Department of Education to practice
20 speech-language pathology continuously since on or before September 30, 2007, while
21 performing the duties of that employment;

22 (iv) To a student or trainee in audiology or speech-language
23 pathology while pursuing a supervised course of study at an accredited university or college
24 or a recognized training center while the student is obtaining clinical practicum hours;

25 (v) To a volunteer while working in free speech and hearing
26 screening programs; or

27 (vi) To an individual licensed to practice audiology or
28 speech-language pathology in another state or a foreign country while the individual:

29 1. Provides a clinical demonstration at a training or an
30 educational event in the State; or

31 2. Receives clinical training at a training or an educational
32 event in the State.

33 (2) The Board may allow an audiologist, hearing aid dispenser,
34 speech-language pathologist, [or] **MUSIC THERAPIST**, speech-language pathology
35 assistant, **OR AUDIOLOGY ASSISTANT** licensed in another state to practice audiology,

1 hearing aid dispensing, [or] speech–language pathology, **OR MUSIC THERAPY**, or assist in
2 the practice of speech–language pathology **OR AUDIOLOGY** in this State without a license
3 if the [audiologist, hearing aid dispenser, speech–language pathologist, or speech–language
4 pathology assistant] **APPLICANT** has [a completed application for a license pending before
5 the Board]:

6 (I) **BEEN GRANTED PRELIMINARY APPROVAL BY THE BOARD**
7 **TO PRACTICE; AND**

8 (II) **A COMPLETED APPLICATION FOR A LICENSE PENDING**
9 **BEFORE THE BOARD.**

10 2–314.

11 Subject to the hearing provisions of § 2–315 of this subtitle, the Board may deny a
12 license or limited license to any applicant, reprimand any licensee or holder of a limited
13 license, place any licensee or holder of a limited license on probation, or suspend or revoke
14 a license or limited license if the applicant, licensee, or holder:

15 (1) Fraudulently or deceptively obtains or attempts to obtain a license or
16 limited license for the applicant, licensee, or holder or for another;

17 (2) Fraudulently or deceptively uses a license or limited license;

18 (3) Commits fraud or deceit in the practice of audiology, hearing aid
19 dispensing, or speech–language pathology, or assistance of the practice of speech–language
20 pathology **OR AUDIOLOGY**;

21 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
22 crime involving moral turpitude, whether or not any appeal or other proceeding is pending
23 to have the conviction or plea set aside;

24 (5) Obtains a fee through fraud or misrepresentation;

25 (6) Directly or indirectly employs any unlicensed person or any person
26 whose license or limited license has been suspended;

27 (7) Uses or promotes or causes the use of any misleading, deceiving,
28 improbable, or untruthful advertising matter, promotional literature, testimonial,
29 guarantee, warranty, label, brand, insignia, or other representation;

30 (8) In the practice of audiology, hearing aid dispensing, or
31 speech–language pathology, or assistance of the practice of
32 speech–language pathology **OR AUDIOLOGY**:

33 (i) Falsely represents the use or availability of services or advice of

1 a physician; or

2 (ii) Misrepresents the applicant, licensee, or holder by using the
3 word “doctor” or any similar word, abbreviation, or symbol if the use is not accurate;

4 (9) Permits another person to use the license of the licensee or limited
5 license of the holder;

6 (10) Commits any act of unprofessional conduct in the practice of audiology,
7 hearing aid dispensing, or speech–language pathology, or the assistance of the practice of
8 speech–language pathology **OR AUDIOLOGY**;

9 (11) Violates any lawful order given or regulation adopted by the Board;

10 (12) Violates any provision of this title;

11 (13) Provides professional services while:

12 (i) Under the influence of alcohol; or

13 (ii) Using any narcotic or controlled dangerous substance, as defined
14 in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic
15 amounts or without valid medical indication;

16 (14) Is disciplined by a licensing or disciplinary authority of any other state
17 or country or convicted or disciplined by a court of any state or country for an act that would
18 be grounds for disciplinary action under this section;

19 (15) Practices audiology, hearing aid dispensing, or speech–language
20 pathology, or assists in the practice of speech–language pathology **OR AUDIOLOGY** with an
21 unauthorized person or supervises or aids an unauthorized person in the practice of
22 audiology, hearing aid dispensing, or speech–language pathology, or assistance of the
23 practice of speech–language pathology **OR AUDIOLOGY**;

24 (16) Knowingly makes or files a false report or record in the practice of
25 audiology, hearing aid dispensing, or speech–language pathology, or assistance in the
26 practice of speech–language pathology **OR AUDIOLOGY**;

27 (17) Knowingly fails to file or record any report as required by law, willfully
28 impedes or obstructs the filing or recording of the report, or induces another to fail to file
29 or record the report;

30 (18) Submits a false statement to collect a fee;

31 (19) Is professionally, physically, or mentally incompetent;

32 (20) Promotes the sale of devices, appliances, or goods to a patient so as to

exploit the patient for financial gain;

(21) Behaves immorally in the practice of audiology, hearing aid dispensing, or speech–language pathology, or assistance of the practice of speech–language pathology
OR AUDIOLOGY;

(22) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(23) Pays or agrees to pay any sum to any person for bringing or referring a patient;

(24) Fails to submit to a criminal history records check in accordance with § 2–303.1 of this subtitle; or

(25) Supervises or aids an unauthorized individual in the assistance of audiology.

2–319.

(a) **(1)** A licensed speech–language pathologist may delegate duties to an assistant within the scope of practice and supervision guidelines in the regulations adopted under [subsection (b) of this section] **PARAGRAPH (2) OF THIS SUBSECTION.**

[(b)] (2) The Board shall adopt regulations to establish qualifications and scope of practice for the position of a speech–language pathology assistant and the requirements for the supervision of a speech–language pathology assistant by a supervisor of a speech–language pathology assistant.

(B) (1) A LICENSED AUDIOLOGIST MAY DELEGATE DUTIES TO AN ASSISTANT WITHIN THE SCOPE OF PRACTICE AND SUPERVISION GUIDELINES IN THE REGULATIONS ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH QUALIFICATIONS AND SCOPE OF PRACTICE FOR THE POSITION OF AN AUDIOLOGY ASSISTANT AND THE REQUIREMENTS FOR THE SUPERVISION OF AN AUDIOLOGY ASSISTANT BY A SUPERVISOR OF AN AUDIOLOGY ASSISTANT.

2–4A–14.

Subject to the hearing provisions of § 2–4A–16 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

1 (1) Fraudulently or deceptively obtains or attempts to obtain a license for
2 the applicant or licensee or for another;

3 (2) Fraudulently or deceptively uses a license;

4 (3) Is convicted of or pleads guilty or nolo contendere to a felony or a crime
5 involving moral turpitude, whether or not an appeal or other proceeding is pending to have
6 the conviction or plea set aside;

7 (4) Aids or abets an unauthorized person in practicing music therapy or
8 self-representing as a music therapist;

9 (5) Practices music therapy fraudulently or deceitfully;

10 (6) Violates the code of ethics adopted by the Board under § 2-4A-03(2) of
11 this subtitle;

12 (7) Willfully fails to file or record any report as required under law,
13 willfully impedes or obstructs the filing or recording of a report, or induces another to fail
14 to file or record a report;

15 (8) Submits a false statement to collect a fee;

16 (9) Willfully makes or files a false report or record in the practice of music
17 therapy;

18 (10) Is disciplined by a licensing or disciplinary authority of any state or
19 country, convicted or disciplined by a court of any state or country, or disciplined by any
20 branch of the United States uniformed services or the United States Department of
21 Veterans Affairs for an act that would be grounds for disciplinary action under this section;

22 (11) Violates any provision of this subtitle or any regulation adopted by the
23 Board;

24 (12) Uses or promotes or causes the use or promotion of any misleading,
25 deceiving, or untruthful advertising matter, promotional literature, or testimonial;

26 (13) Is professionally, physically, or mentally incompetent;

27 (14) Promotes the sale of devices, appliances, or goods to a patient so as to
28 exploit the patient for financial gain;

29 (15) Behaves immorally in the practice of music therapy;

30 (16) Commits an act of unprofessional conduct in the practice of music
31 therapy;

(17) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(18) Fails to cooperate with a lawful investigation conducted by the Board;

(19) Commits an act that is inconsistent with generally accepted professional standards in the practice of music therapy;

(20) Fails to submit to a criminal history records check in accordance with § 2–303.1 of this title;

(21) Habitually is intoxicated;

(22) Provides professional services while under the influence of alcohol or while using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication; [or]

(23) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(24) IN THE PRACTICE OF MUSIC THERAPY:

(I) FALSELY REPRESENTS THE USE OR AVAILABILITY OF SERVICES OR ADVICE OF A PHYSICIAN; OR

(II) MISREPRESENTS THE APPLICANT, LICENSEE, OR HOLDER BY USING THE WORD “DOCTOR” OR ANY SIMILAR WORD, ABBREVIATION, OR SYMBOL IF THE USE IS NOT ACCURATE; OR

(25) PRACTICES MUSIC THERAPY WITH AN UNAUTHORIZED PERSON OR SUPERVISES OR AIDS AN UNAUTHORIZED PERSON IN THE PRACTICE OF MUSIC THERAPY.

2–4A–21.

(a) In this section, “music therapist rehabilitation [subcommittee] COMMITTEE” means a [subcommittee] COMMITTEE of the Board that:

(1) Is recognized by the Board;

(2) Includes music therapists; and

(3) Evaluates and provides assistance to any music therapist in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other

1 physical, emotional, or mental condition.

2 (b) The music therapist rehabilitation [subcommittee] COMMITTEE may
3 function:

4 (1) Solely for the Board; or

5 (2) Jointly with a rehabilitation committee representing another board or
6 boards.

7 (c) (1) Except as otherwise provided in this subsection, the proceedings,
8 records, and files of the music therapist rehabilitation [subcommittee] COMMITTEE are
9 not discoverable and are not admissible in evidence in any civil action arising out of the
10 matters that are being or have been reviewed and evaluated by the music therapist
11 rehabilitation [subcommittee] COMMITTEE.

12 (2) Paragraph (1) of this subsection does not apply to any record or
13 document that is considered by the music therapist rehabilitation [subcommittee]
14 COMMITTEE and that otherwise would be subject to discovery or introduction into evidence
15 in a civil action.

16 (3) For purposes of this subsection, civil action does not include a
17 proceeding before the Board or judicial review of a proceeding before the Board.

18 (d) An individual who acts in good faith and within the scope of jurisdiction of the
19 music therapist rehabilitation [subcommittee] COMMITTEE is not civilly liable for any
20 action as a member of the music therapist rehabilitation [subcommittee] COMMITTEE or
21 for giving information to, participating in, or contributing to the function of the music
22 therapist rehabilitation [subcommittee] COMMITTEE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
24 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.