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BILL



ANALYSIS

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Senate Bill 493 (Substitute S-2 as reported)  
Sponsor: Senator Gilda Z. Jacobs  
Committee: Health Policy

*(as passed by the Senate)*

Date Completed: 6-24-08

**RATIONALE**

Michigan is one of three states that do not regulate speech-language pathologists. The practice of speech-language pathology includes the assessment of speech, language, and voice disorders, as well as swallowing difficulties, and the provision of therapy, rehabilitation, and training to address these impairments. Speech-language pathologists work with individuals of all ages in a variety of settings, including hospitals, schools, clinics, physicians' offices, and nursing homes. Although these health professionals may be certified by the American Speech-Language-Hearing Association, national certification is strictly voluntary. In Michigan, the State does not prescribe education or training requirements for speech-language pathologists, define their scope of practice, or provide for recourse against unqualified practitioners. To protect the interests of consumers, and ensure that speech-language pathologists are properly trained and up to date with advances in medical technology, it has been suggested that Michigan should require the licensure of these professionals.

**CONTENT**

**The bill would add Part 176 (Speech-Language Pathology) to the Public Health Code to do the following:**

- **Prohibit a person from engaging in the practice of speech-language pathology unless licensed by the Department of Community Health (DCH).**
- **Prescribe licensure criteria, including a master's or doctorate degree.**

- **Require the DCH to promulgate rules regarding the performance of speech-language pathology.**
- **Require the DCH, by rule, to prescribe continuing education development as a condition for license renewal.**
- **Create the Michigan Board of Speech-Language Pathology.**

**The bill also would amend the Code to set a \$20 application processing fee and a \$75 annual license fee for an individual licensed or seeking licensure as a speech therapist or speech pathologist under Part 176.**

Practice of Speech-Language Pathology

The bill would define "practice of speech-language pathology" as the application of principles, methods, and procedures related to the development of disorders of human communication, including identifying by history or nonmedical physical examination, assessing, treating with therapy, rehabilitating, and preventing the following:

- Disorders of speech, voice, and language.
- Disorders of oral-pharyngeal function and disorders related to swallowing dysfunction.
- Cognitive-communicative disorders.

The term also would include the following:

- Assessing, selecting, and developing augmentative and alternative communication systems and providing training in their use.

- Providing speech-language treatment or therapy and related counseling services to hearing-impaired individuals and their families.
- Enhancing speech-language proficiency and communication effectiveness.
- Screening of hearing for the purpose of speech-language assessment provided that judgments and descriptive statements about results of that screening were limited to pass-fail determinations.

The practice of speech-language pathology would not include the fitting and dispensing of hearing aids as provided by Article 13 of the Occupational Code; or the practice of medicine or osteopathic medicine and surgery or medical diagnosis, medical management with medication, surgical interventions, ordering medical testing, or medical treatment.

A speech-language pathologist could perform assessment, treatment or therapy, and procedures related to swallowing disorders and medically related communication disorders only on patients who had been referred to him or her by a person licensed in the practice of medicine or osteopathic medicine and surgery.

Limited diagnostic testing, such as endoscopic videolaryngostroboscopy, would have to be performed in collaboration with or under the supervision of a person licensed in the practice of medicine or osteopathic medicine and surgery.

A speech-language pathologist would have to follow procedures in which collaboration among a speech-language pathologist and a person licensed in the practice of medicine or osteopathic medicine and surgery and other licensed health care professionals was regarded to be in the best interests of the patient.

A speech-language pathologist would have to refer a patient to a person licensed in the practice of medicine or osteopathic medicine and surgery if signs or symptoms identified during the practice of speech-language pathology caused the pathologist to suspect that the patient had an underlying medical condition.

## Board of Speech-Language Pathology

The bill would create the Michigan Board of Speech-Language Pathology in the DCH. The Board would have to consist of the following 11 members who met the requirements of Part 161 of the Code:

- Six individuals meeting the requirements of Section 16135(2).
- Three public members
- Two physicians, including one board-certified otolaryngologist.

(Part 161 contains general provisions applicable to health professions. Under Section 16135(1), health profession board members must be currently licensed or registered in Michigan in the health profession, and must have actively practiced that profession and/or taught in an approved educational institution that prepares individuals for licensure or registration in any state for at least the two years preceding appointment. Section 16135(2), however, allows the Governor to appoint board members who are certified or otherwise approved by a national organization or have actively participated in the profession and/or taught for at least the two years before appointment, or both.)

The terms of office of Board members, except those appointed to fill vacancies, would expire four years after appointment on December 31 of the year in which the terms expired. For the members first appointed, however, two would have to serve for one year, three for two years, three for three years, and three for four years.

## License Requirement; Exceptions

An individual would be prohibited from engaging in the practice of speech-language pathology unless licensed under Part 176. Also, a licensee could not perform an act, task, or function within the practice of speech-language pathology unless he or she were trained to do so, and performing that act, task, or function were consistent with the rules promulgated by the DCH.

The proposed license requirement would not prevent an individual licensed or registered under any other part or act from performing activities that were considered speech-language pathology services if those

activities were within the individual's scope of practice and if the individual did not use the titles protected under Part 176 (described below).

The license requirement also would not prevent an individual not licensed under Part 176 from performing activities that were considered speech-language pathology services as long as he or she was engaged in clinical fellowship, was under the supervision of an individual who was licensed under Part 176, and did not hold himself or herself out as an individual licensed under Part 176 or use the protected titles.

In addition, the license requirement would not prevent the practice of speech-language pathology that was an integral part of a program of study by students enrolled in an accredited speech-language pathology educational program approved by the proposed Board, as long as they were identified as students and provided speech-language pathology services only while under the supervision of a licensed speech-language pathologist.

Further, the proposed license requirement would not prevent an individual who met the qualifications established by the State Board of Education as a teacher of the speech- and language-impaired and who was employed or contracted for employment by a school district, intermediate school district (ISD), nonpublic school, or department of State government that provides educational services, from engaging in his or her practice as part of that employment. If a teacher of the speech- and language-impaired engaged in his or her practice outside of his or her employment with a school district, ISD, nonpublic school, or department of State government, the teacher would have to be licensed under Part 176.

Also, the license requirement would not prevent self-care by a patient or uncompensated care by a friend or family member who did not represent or hold himself or herself out to be a licensed speech-language pathologist.

#### Licensure Criteria

Upon submission of a completed application and payment of the appropriate application

processing and license fee, the DCH would have to issue a license under Part 176 to an individual who possessed a master's or doctor of science or doctor of philosophy degree in speech-language pathology acceptable to the proposed Board and who fulfilled either of the following:

- Successfully completed an accredited speech-language pathology training program approved by the DCH and the Board having at least nine months, or the equivalent, of full-time supervised postgraduate clinical experience in speech-language pathology, and passed a national exam acceptable to the Board.
- Had the credential conferred by the American Speech-Language-Hearing Association or its successor organization as a certified speech-language pathologist or its successor credential, acceptable to the Board.

The credential conferred by the American Speech-Language-Hearing Association would be considered the substantial equivalent to the required training program described in the first provision. That credential and the standards of qualifications for it, as they existed on the bill's effective date, would be adopted by reference.

In consultation with the Board, the DCH could promulgate rules necessary or appropriate to fulfill its functions under Article 15 of the Code (health care occupations) or to amend or supplement these licensure requirements, including the updated standards of the American Speech-Language-Hearing Association or any successor organization.

#### Protected Titles

Beginning on the bill's effective date, an individual could not use the title "speech-language pathologist", "speech pathologist", "speech therapist", "speech correctionist", "speech clinician", "language therapist", "language pathologist", "logopedist", "communicologist", "aphasiologist", "phoniatrist", "voice therapist", or "voice pathologist", or similar words that indicated that the individual was a speech-language pathologist, unless he or she were licensed under Part 176 as a speech-language pathologist.

## Rules

In consultation with the Board, the DCH would have to promulgate rules regarding the performance of speech-language pathology, including the performance of procedures for identifying, assessing, treating, rehabilitating, and preventing disorders of oral-pharyngeal function and disorders related to swallowing dysfunction. The rules would have to recognize and incorporate the bill's requirements that a speech-language pathologist perform procedures related to swallowing disorders and medically related communication disorders only on patients referred by a physician, and perform limited diagnostic testing in collaboration with or under the supervision of a physician. The rules also would have to recognize and incorporate the need for collaboration among a speech-language pathologist and a person licensed in medicine or osteopathic medicine and surgery and other licensed health care professionals.

## Other Provisions

Continuing Education. The DCH, by rule, would have to prescribe continuing education development as a condition of license renewal, subject to Section 16204. (Under that section, if continuing education is a condition of renewal of a license or registration, the appropriate board must require an applicant for renewal to complete an appropriate number of hours or courses in pain and symptom management.)

Out-of-State Licensee. The DCH could issue a license by endorsement to an applicant from another state that had licensure requirements substantially equivalent to Part 176, as determined by the Board.

Reimbursement for Services. Part 176 would not require new or additional third party reimbursement or mandated workers' compensation benefits for services rendered by an individual licensed under this part.

Proposed MCL 333.16342 et al.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

## **Supporting Argument**

Currently, there are approximately 3,500 speech-language pathologists in Michigan, according to the Michigan Speech-Language-Hearing Association (MSHA). These professionals provide speech, language, voice, cognition, and swallowing therapy to clients who range from infants to geriatrics. Speech-language pathologists serve as part of medical and educational teams, working closely with other professionals to make life-changing and often complex decisions for their clients.

In the medical setting, for example, three areas of high-volume referrals involve patients with traumatic brain injury, stroke survivors, and patients with cancer involving the head or neck. These individuals may have anything from a mild oral or facial weakness affecting speech to complete loss of the ability to express themselves. In addition to improving communication disorders, addressing swallowing impairments (dysphasia) has become significant to the role of speech-language pathologists, since similar anatomical structures are involved in both speaking and swallowing.

The types of medical conditions referred to speech-language pathologists have become more complex and the knowledge base they need has dramatically expanded. With advances in technology, increasing numbers of techniques and approaches to intervention, and ongoing research, it is essential that speech-language pathologists achieve a high level of training and maintain continued expertise in their field. Licensure is the best way to achieve this. According to the Michigan Health and Hospital Association, the majority of these health professionals have a master's level education from a graduate program accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology, and are required to comply with rigorous standards before practicing. There is nothing in current State law, however, to ensure that these criteria are met or to protect consumers from unqualified or unscrupulous practitioners, whose clients often are literally unable to voice a complaint. There also is no regulatory body to which individuals can report inadequate care or malpractice, or members of the profession can report incompetent practitioners.

Like the 47 other states that regulate speech-language pathologists, Michigan should recognize their profession and preserve the high quality of care that legitimate speech-language pathologists provide.

**Response:** The bill should contain an exemption for direct care staff who provide day-to-day assistance to clients under a plan of service, such as in a group home. Because these care-givers are paid for their work, and are not otherwise licensed, they would not fall under the bill's exemptions for individuals who provide uncompensated care or who are licensed or registered under another act.

### **Supporting Argument**

Speech-language pathologists are integral members of the teams that work to improve the education of students with disabilities. According to testimony presented by the president-elect of the MSHA, of the roughly 1.7 million schoolchildren in Michigan, approximately 240,000 have disabilities, and a majority of these disabilities involve speech and language impairments that require direct therapy or consultation for the children and their teachers from a speech-language pathologist. Some disabilities, such as autism, are defined by a severe language problem, and significant speech and language needs also can be present in students with cognitive disabilities, hearing impairment, traumatic brain injury, and early childhood developmental delay. Reportedly, a full quarter of the students with disabilities, or approximately 60,000, have only speech and language impairments, and another 90,000 have specific learning disabilities—disorders that are usually language-based.

In addition, as a result of medical advances, children who would not have survived in the past now are attending school, sometimes with significant medical needs. Some children depend on a ventilator, have a tracheostomy, or use a feeding tube. Speech-language pathologists lead school teams in addressing feeding and swallowing difficulties—situations in which incompetency could lead to serious injury or death from choking or aspiration.

For students with disabilities, therapy from qualified speech-language pathologists can yield improved educational performance. This, in turn, can help schools to make

adequate yearly progress, as required by the Federal No Child Left Behind Act. Requiring speech-language pathologists to meet prescribed education and training standards, and undergo continuing professional development, would contribute to the accomplishment of these goals.

The proposed licensure requirement also would protect parents who do not know how to assess the credentials of a purported speech-language pathologist. Some parents, seeking assistance for their children, can be misled by unqualified individuals and find themselves paying money they cannot afford to lose for treatment that produces no results. State-level credentialing would prevent untrained practitioners from taking advantage of vulnerable families.

### **Opposing Argument**

Creating a new licensing system for one more profession would increase the size of State government, without a demonstration that the public health or safety is in jeopardy.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would require the State to incur costs associated with the establishment and operations of the Michigan Board of Speech-Language Pathology. In addition, the State could expect to experience a mild increase in administrative costs as a result of processing applications and maintaining a database of licensed speech pathologists.

An estimate by the Michigan Speech-Language-Hearing Association suggests that about 3,500 professionals in Michigan would be eligible to become State-licensed speech pathologists under the standards of this bill. If this estimate is assumed to be valid, then the State could expect to collect approximately \$262,500 per year in license fees.

Fiscal Analyst: Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.